

City of San Leandro Board of Zoning Adjustments**RESOLUTION NO. 2023-005****A RESOLUTION OF THE BOARD OF ZONING ADJUSTMENTS
OF THE CITY OF SAN LEANDRO**

**A RESOLUTION APPROVING
CONDITIONAL USE PERMIT PLN22-0047
1971 DAVIS STREET**

WHEREAS, Caleb Weaver, on behalf of Ridwell, Inc. ("Applicant") and AMB US Logistics Fund LP ("Property Owner") submitted an application for Conditional Use Permit authorization for a 12,960 square-foot, Small Scale Hazardous Waste Center, within an existing building at 1971 Davis Street, zoned IG, Industrial General, (PLN22-0047) ("Project"); and

WHEREAS, 1971 Davis Street ("Property"), comprises one parcel of approximately 16 acres (APN: 79A-395-2-28) occupied by two buildings, each with a floor area of approximately 155,000 square feet; and

WHEREAS, the Property is zoned IG, Industrial General, and is designated General Industrial in the General Plan; and

WHEREAS, a Conditional Use Permit is required for a Small Scale Hazardous Waste Center use in the IG District in accordance with Zoning Code Section 2.12.200; and

WHEREAS, this project is categorically exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines, Article 19, Section 15301(e), Existing Facilities; and

WHEREAS, the Board of Zoning Adjustments held a duly noticed public hearing on June 1, 2023, regarding the proposed project, at which time all interested parties had the opportunity to be heard; and

WHEREAS, the Board of Zoning Adjustments fully considered the Project application and entitlements, applicant's statements, staff report, findings of fact, conditions of approval, public comments, and all other testimony and evidence presented at the public hearing; and

WHEREAS, the Board of Zoning Adjustments finds that the staff report, Categorical Exemption from CEQA, and standards for approval reflect the City's independent judgement and analysis of the Project; and

WHEREAS, the Board of Zoning Adjustments finds that the evidence in the record constitutes substantial evidence to support the actions taken and the Project does satisfy the requisite Findings of Fact necessary for approval as further explained in the staff report and attachments, and that the Findings of Fact are supported by substantial evidence in the record, including testimony received at the public hearing, the staff presentations, the staff report and all materials in the project files. There is no substantial evidence, nor are there other facts, that negate the findings made in this Resolution. This Board of Zoning Adjustments expressly declares that it considered all evidence presented and reached these Findings after due consideration of all evidence presented to it; and

WHEREAS, the City's General Plan and the Zoning Code are incorporated herein by reference and are available for review at City Hall during normal business hours and on the City's website.

NOW, THEREFORE, BE IT RESOLVED THAT: The foregoing recitals are true and correct and made part of this resolution; and

BE IT FURTHER RESOLVED THAT: The Board of Zoning Adjustments thoroughly reviewed the evidence received to date and does hereby make the following Findings of Fact associated with this Resolution as required by Section 5.08.124.A of the City of San Leandro Zoning Code:

1. That the Project is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines, Article 19, Section 15301(e), Existing Facilities involving negligible expansion of an existing structure; and
2. That the proposed location of the use is in accord with the objectives of this Code and the purposes of the IG, General Industrial, District in which the site is located.

The proposed use and its proposed location in an existing warehouse in the IG, General Industrial, District, is in accord with the objectives of the Zoning Code, which is to protect and promote the public health, safety, and general welfare, and to implement the policies of the City of San Leandro General Plan, and the stated purpose of the IG District, which is to provide and protect existing industrial sites and allow for continued operation of existing general industry, subject to performance standards.

3. That the proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing, or working in, or adjacent to, the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the city.

The proposed location of the use and the proposed conditions under which it would be operated are consistent with the General Plan, which allows for a wide-range of uses in IG Districts (including manufacturing, transportation, warehousing, vehicle storage, office-flex, and distribution) and there is no residential use nearby. The proposed operations are consistent with the performance standards of IG District and the Recommended Conditions of Approval placed on the project will ensure that the use will not be detrimental to the public health, safety or welfare of persons residing, or working in, or adjacent to, the neighborhood of such use and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City. A condition of approval is included to ensure that Ridwell complies with the City's franchise agreement for waste hauling.

4. That the proposed use will comply with the provisions of the Zoning Code, including any specific condition required for the proposed use in the district in which it would be located.

The proposed use will comply with the applicable Zoning Code requirements and there will be no significant physical change to the site or building. The required parking for the use is met. The proposed use will comply with the applicable performance standards in the Code as the business will operate entirely indoors, have standard business hours, and will adhere to the applicable standards of Section 4.04.232, for Recycling Facilities, which have been incorporated into the Recommended Conditions of Approval.

5. That the proposed use will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities, which cannot be mitigated.

The proposed use will not create adverse impacts on traffic, nor create demands that will exceed the capacity of public services and facilities because Davis Street is a major road and designated truck route. Further, the company limits each vehicle to no more than three (3) round trips per day.

BE IT FURTHER RESOLVED THAT: Based on the above findings and determinations, the Board of Zoning Adjustments of the City of San Leandro does hereby approve PLN22-0047 for a Conditional Use Permit authorization for a 12,960 square-foot, Small Scale Hazardous Waste Center, located at 1971 Davis Street, subject to the following Conditions of Approval:

COMPLIANCE WITH APPROVED PLANS

1. The project shall comply with Exhibit A, Operational Statement, and Exhibit B, Project Plans, except as hereinafter modified. (Exhibits are on file at the City of San Leandro, Community Development Department, 835 East 14th Street, San Leandro, California, 94577).
2. The applicant and/or property owner shall be responsible for assuring that any successor in interest who assumes responsibility for this zoning approval is informed of its terms and conditions. The City may request that the approvals granted as a result of this application, including the Conditions of Approval, be recorded in the Office of the County Recorder of Alameda County.
3. The Conditional Use Permit authorization shall lapse on **May 31, 2025**, unless:
 - a. A building permit has been issued, coupled with diligent progress evidencing a good faith intent to commence the intended use; or
 - b. A certificate of occupancy has been issued; or
 - c. The use is established; or
 - d. The approval is granted a one-year extension by the Zoning Enforcement Official upon receipt of a written application with the required fee within two years of the date of the approval.

PERMITTED USE

4. This Conditional Use Permit authorizes a "Small Scale Hazardous Waste Center" use, as described in Exhibit A, Operational Statement, and Exhibit B, Project Plans, in a 12,960 square foot tenant space at 1971 Davis Street, APN: 79A-395-2-28.
5. The operation of the use shall remain in substantial compliance with the approved exhibits and plans in Exhibit A, Operational Statement, and Exhibit B, Project Plans. The Zoning Enforcement Official may approve changes to approved plans or in conditions of approval without a public hearing upon determining that the changes in conditions are minor and are consistent with the intent of the original approval. Revisions involving substantial changes in project design or conditions of approval shall be treated as new applications, to be reviewed as a new project.

PLANNING DIVISION REQUIREMENTS

6. The Project shall demonstrate compliance with all of the minimum requirements in the Zoning Code, including all applicable provisions of Section 4.04.232.
7. The Applicant/Property Owner shall obtain (and maintain) a valid business license and pay any outstanding Planning Services deposit fees or balance prior to issuance of a business license.

8. The Applicant/Property Owner shall adhere to the applicable provisions of the franchise agreements that the City has in place with its waste haulers, Alameda County Industries and Ora Loma/Waste Management.
9. The City shall maintain the ability to revoke this Conditional Use Permit and set a new public hearing date in order to impose additional conditions to correct problems that may arise such as property maintenance and related Code violations and excessive nuisance related responses from code enforcement.

ENGINEERING AND TRANSPORTATION REQUIREMENTS

10. Protest Within a 90-day Period. Pursuant to Government Code Section 66020, including Section 66020 (d) (1), the City HEREBY NOTIFIES the Applicant and/or Property Owner for this Project that the 90-day approval period (in which the Applicant and/or Property Owner may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) will begin on the date of the conditional approval of this Project. If the Applicant and/or Property Owner fails to file a protest within this 90-day period, complying with all the requirements of Government Code Section 66020, the Applicant and/or Property Owner will be legally barred from later challenging any such fees, dedications, reservations or other exactions.
11. Compliance. The proposed development shall comply with City ordinances, policies and regulations. All improvements shall be in accordance with the City's Design Standards, Specifications and Standard Plans unless otherwise specifically approved by the City Engineer.
12. Encroachment Permit from Engineering and Transportation. The applicant shall obtain an Encroachment Permit from the Engineering and Transportation Department for any work within the public right-of-way. Contractors must be properly licensed, have a valid Business License, and submit proof of insurance. Applicable fees/deposits must be paid. The Encroachment Permit Application and requirements can be found on the City website here: <https://www.sanleandro.org/953/Permits>.
13. Compliance with Standards of Sanitation During Construction. The Applicant and/or Property Owner shall comply with the following high standards of sanitation during construction of improvements: garbage cans, construction dumpsters, and debris piles shall be removed on a minimum weekly basis. All food related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in closed containers only and shall be regularly removed from the site. Inspections, conducted as part of the regular construction compliance, will be conducted to ensure compliance of the Applicant and/or Property Owner and contractors with these requirements.

14. Outdoor Storage. All outdoor storage of parts and equipment, if any, shall be raised and covered.
15. Outdoor Process Activities/Equipment. Wastewater from vehicle and equipment washing operations shall not be discharged into the storm drain system.
16. Process Activities/Equipment. Process activities shall be performed indoors.
17. Outdoor Equipment/Materials Storage. Secondary containment shall be provided for exterior work areas where motor oil, brake fluid, gasoline, diesel fuel, radiator fluid, acid-containing batteries or other hazardous materials or hazardous wastes are used or stored. Drains shall not be installed within the secondary containment areas.

BUILDING DIVISION REQUIREMENTS

18. Plans submitted for Building Permit review and issuance shall include the following information to the satisfaction of the Chief Building Official. All comments listed below are based on the initial Planning submittal and shall be addressed prior to submitting to Building for permit, as applicable.
 - Plans need to be prepared by a California licensed professional
 - Clarify if existing mechanical ventilation meets requirements for the proposed use
 - Clarify the maximum time materials will be stored on site before pick-up
 - Clarify stored material partition wall construction
 - Plans shall list occupancy type and occupant load of all spaces for Ridwell's proposed tenant space
 - Clarify if there will be any containment areas
 - If using forklifts, clarify whether they will be propane or diesel
19. All submittals shall include required Mechanical, Electrical, and Plumbing (MEP) plans. No deferred MEP's is allowed.
20. Title 24 is required.
21. Construction and Demolition per CalGreen is required.
22. CalGreen Non-Residential Mandatory Measures Checklist.
23. Provide van and standard accessible parking space with signage and stripping.
24. Provide accessible path of travel from public right of way and accessible parking to new office common area, private office, material storage areas, and restrooms.
25. Provide accessible clearances for all accessible spaces.

- 26. All exterior walking surfaces shall be ADA compliant.
- 27. All exterior walkways and parking shall be illuminated, provide fixture location and fixture foot candles.
- 28. Information provided on civil plans such as accessible path of travel, accessible parking, utilities, and exterior lighting locations shall be shown on architectural site plan.
- 29. If revision clouds and deltas were added during Planning approval, they must be removed prior to submitting to Building for permit.

ALAMEDA COUNTY FIRE DEPARTMENT REQUIREMENTS

- 30. Plans to meet building and fire codes adopted at time of building plan submittal.
- 31. Any fire operational permits if required will be issued at time of final fire inspection.

ENVIRONMENTAL SERVICES DIVISION

- 32. Ridwell has submitted a Notice of Intent to the Department of Toxic Substances Control on 10/4/2022 as a Universal Waste handler/collector. Ridwell's notification as a UW collector places them under DTSC oversight. Hazardous Waste Generator (EPA ID) number CAL000473452 obtained 9/26/22.
- 33. CERS ID 10922131 - Please correct the address error on the facility summary page and submit the Facility Information element to the State (the information is completed, but must be submitted and approved) prior to business license issuance.

OPERATIONS AND MAINTENANCE

- 34. Overnight truck parking by third party vendors is prohibited.
- 35. Any graffiti shall be promptly removed from building walls, perimeter soundwalls and/or fences. The developer and its successors in interest shall comply with the rules and regulations of the City's graffiti removal program and shall grant a license and right of entry as requested to enforce the terms of such program.
- 36. All fencing and walls on the project site shall be structurally sound, graffiti-free, and well maintained at all times.
- 37. The solid waste and recycle containers shall be kept inside the designated space and kept out of public view, except when it is necessary to place them

at the trash staging area on days that the contents of the containers are picked up for disposal.

38. The property shall comply with all City noise ordinance standards.
39. No use, activity, or process shall produce vibrations that are perceptible without instruments by a reasonable person at the property lines of a site.
40. No use, process, or activity shall produce dust that is perceptible without instruments by a reasonable person at the property lines of a site.
41. No objectionable odors or vibration emanating from the project site shall be detectable beyond the subject property. The City may require installation of vibration control measures or odor control measures including but not limited to the installation of air filters, misting systems, carbon adsorbers, odor control blocks, passive or active vibration control measures, or wind screens and/or require changes in site operations.
42. Vehicle idling shall be actively discouraged and restricted to a maximum of two minutes. A sign up to 3 square feet in size shall be clearly posted at the entry to notify drivers of this requirement.
43. No vehicles shall be repaired or serviced outdoors.

PASSED, CONDITIONALLY APPROVED, AND ADOPTED, on this 1st day of June 2023 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Litha Zuber
Chair of the Board of Zoning Adjustments

ATTEST:

Avalon Schultz, AICP
Secretary to the Board of Zoning Adjustments