

## **EXHIBIT B**

### **RECOMMENDED CONDITIONS OF APPROVAL**

**PLN20-0024**

**1788 Fairway Drive APN 77B-855-7-8**

**Michael Huffaker, Prime Now LLC (Applicant)**

**Prologis USLV NEWCA 7 LLC (Property Owner)**

#### **I. COMPLIANCE WITH APPROVED PLANS**

1. The Project shall comply with the Plans and Exhibits, attached to the staff report dated January 6, 2022, 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.

Exhibit A- Sheet A0.0: Title Sheet

Exhibit B- Sheet A0.5: Existing Overall Site Plan

Exhibit C- Sheet A0.5a: Proposed Site Plan

Exhibit D- Sheet A2.1: Overall Floor Plan

Exhibit E- Sheet A2.2: Enlarged Floor Plan

Exhibit F- Sheet C1: Circulation Plan

Exhibit G- Sheet C2: Signage and Striping Area 1

Exhibit H- Sheet C3: Signage and Striping Area 2

Exhibit I- Sheet C4: Landscaping Coverage Plan

Exhibit J- Sheet C5: Details

Exhibit K- Sheet C6: Details

Exhibit L: Sheet L-1: Planting Sheet

Exhibit M: Sheet L-2: Irrigation Sheet

Exhibit N: Sheet L-3: Landscape Details

Exhibit O: Applicant Statement dated November 5, 2021

Exhibit P: Parking Analysis prepared by DKS Associates dated November 9, 2021

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.
3. Pursuant to [Zoning Code Chapter 5.08](#), this approval shall lapse on December 2, 2022, unless a permit has been issued for the improvements identified with this Conditional Use Permit, coupled with diligent progress evidencing good faith intention to commence the intended use.

4. The Project and use shall remain in substantial compliance with the approved plans and exhibits. Proposed changes to the Conditional Use Permit or the approved plans shall be made in writing to the Zoning Enforcement Official, who may either administratively approve a minor modification or bring it back to the Board of Zoning Adjustments for review.

## **II. PERMITTED USE**

5. Scope of Work. The approval of the Conditional Use Permit and a Parking Exception application allows for a Supermarket with public access and delivery to operate in conjunction with a Warehouse and Distribution Facility on the subject Property zoned Industrial General (IG) located at 1788 Fairway Drive (Prologis). This approval includes the sale of alcoholic beverages for off-site consumption.

## **III. USE RESTRICTIONS**

6. Parking. The Project shall be subject to the minimum parking requirements provided in the parking and traffic study dated November 9, 2021 by DKS Associates. There shall be a minimum of 81 parking spaces available for the warehouse and distribution space and one parking space available for the supermarket use.
7. ABC Licensing. Tenant and/or property owner shall obtain the necessary permits for off sale of alcoholic beverages in the City of San Leandro and any necessary permits required under State law or regulations.
8. No On-Site Alcohol Consumption. No alcoholic beverages shall be consumed on the subject property.
9. No Temporary Sales. Temporary or mobile third-party vendors shall be prohibited from operating tent sales or sidewalk sales on the premises.
10. No Outdoor Merchandise. No merchandise shall be stored or permitted for display outdoors.
11. Loading and Unloading. Loading and unloading from the parking lot and loading docks shall be conducted in a measured and organized manner. Delivery scheduling shall be monitored and metered to avoid site congestion so that the number of delivery vehicles do not exceed the capacity of the designated parking spaces and loading areas at any given time.
12. Alcoholic Beverage Advertising. No alcoholic beverage advertising shall be visible from outside the building in which the alcoholic beverage is sold.
13. Alcoholic Beverage Delivery. The licensee authorized by the California Department of Alcoholic Beverage Control ("ABC") shall be responsible for the sale and delivery of alcoholic beverages from the site. All employees, contractors and persons who participate in the sale and delivery of alcoholic beverages from this facility shall validate customer age at the point of sale and point of delivery to ensure that alcoholic beverages are sold and received by customers age 21 or over.

14. **Mandatory Training.** All employees, contractors and persons who participate in the sale and delivery of alcoholic beverages from this facility shall attend and complete the California Department of Alcoholic Beverage Control (ABC) Licensee Education on Alcohol and Drugs (LEAD) training program or a comparable equivalent if the program is no longer available. Completion shall be within three months of hire/start of work and renewed every two years thereafter.
15. **Alcoholic Beverage Delivery Employee and Contractor Identification.** The business shall maintain an up-to-date registry containing the name, address and contact information of all persons who deliver alcoholic products from the facility. This contact information shall be provided to the City and the California Department of Alcoholic Beverage Control upon request.
16. 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.

#### **IV. REQUIRED ON-SITE IMPROVEMENTS**

17. **Landscape Improvements and Maintenance.** All landscaping improvements shall be maintained in a healthy, growing, and weed-free condition at all times. Any missing, dead, or damaged plant and groundcover material shall be promptly replaced with a material similar in type and comparable in size to the plant(s) or groundcover being removed.
18. **Sanitation Facilities.** Temporary portable toilets and handwashing stations shall be removed from the property. The business shall provide all employees, contractors and affiliated delivery persons access to adequate and readily accessible permanent indoor sanitation facilities in accord with Occupational Safety and Health Standards (OSHA) sanitation standards.
19. **Circulation Improvements.** Access and circulation improvements identified in the proposed site plan and circulation plans shall be constructed. Circulation improvements include limiting the Miller Street driveway access to entry only, redirecting traffic to exit the site underneath the Fairway Drive viaduct and the removal of parallel parking spaces from the existing fire lane along the frontage of the building. Final design shall be subject to approval by the Engineering and Transportation Director and the Community Development Director.

#### **V. ENGINEERING AND TRANSPORTATION DEPARTMENT REQUIREMENTS**

20. Pursuant to Government Code Section 66020, including Section 66020 (d) (1), the City HEREBY NOTIFIES the applicant for this Project that the 90-day approval period (in which the applicant 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 fails to file a protest within this 90-day period, complying with all the requirements of Government Code Section 66020, the applicant will be legally barred from later challenging any such fees, dedications, reservations or other exactions.

21. 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 Principal Engineer.
22. The below notes shall be included on the Improvement Plans submitted for permitting:
  - a. The applicant shall obtain an Encroachment Permit from the Engineering and Transportation Department for any work within the public right-of-way including the use of lifting equipment or the staging of materials. Barricades, traffic cones, and/or caution ribbon shall be positioned around any equipment or materials within the right-of-way to provide a barrier to public access and assure public safety. Any damage to the right-of-way improvements must be promptly repaired by the applicant according to the City's adopted standards.
  - b. The applicant shall comply with the following high standards for 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 permit compliance, will be performed to ensure compliance of the Applicant and contractors with respect to this requirement.
  - c. The applicant shall implement construction best management practices during construction to control erosion, keep sediment from leaving the Project site and prevent storm water pollution. The applicant shall protect existing storm drain inlets and conveyances within the Project area to prevent sediment from construction activities from entering the storm drain system.
23. The applicant shall install additional signs to encourage the use of Fairway Drive to access Floor & Décor.
24. The applicant shall install additional signs to prohibit the use of the Miller Street driveway as an exit.
25. A signal retiming or implementation of adaptive signal control at Fairway Drive and Miller Street shall be warranted if on-site circulation issues are not mitigated. Final determination of a warrant shall be at the discretion of the Engineering and Transportation Director.
26. The applicant shall implement a staging plan on Miller Street for vehicles in queue for delivery pick up.
27. The applicant shall locate all new electric and communications utilities serving the site underground.
28. The applicant shall obtain an Encroachment Permit from the Engineering and Transportation Department for any work within 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.

29. The City's traffic impact fee program is called "Development Fee for Street Improvements" (DFSI). Existing facility was previously used as warehouse which is considered as "General Industrial" use in the City of San Leandro's adopted Fee Schedule and the DFSI fee rate is \$13.05 per gross square-foot. Proposed use of Grocery Store is considered as "General Retail" in the adopted Fee Schedule, and the DFSI fee rate is \$4.76 per gross square-foot. The Marina -880 DFSI fee is an additional \$1.88 per square foot. There is a credit of \$2.37 for the warehouse space. Therefore, DFSI will be assessed for the proposed Project at a cost of \$1686.65.
30. To mitigate existing circulation issues, site ingress shall be via Miller Street. Egress shall be limited to Fairway Drive only. Signing and pavement markings shall be installed to limit and direct ingress and egress.
31. Remove all curbside parking for fire lane. Remove all existing parking T's and curb paint.

## **VI. BUILDING AND SAFETY SERVICES**

32. Building Codes and Ordinances. All Project construction shall conform to all building codes and ordinances in effect at the time of building permit submittal.
33. Construction Hours. Construction on the Project site shall not begin prior to 7:00 am Monday through Friday, and prior to 8:00 am on Saturday and Sunday, and shall cease by 7:00 pm each evening, unless otherwise approved by the Chief Building Official. There shall be no construction on Federal holidays. Interior construction shall be permitted outside the above hours provided that construction noise shall not be detectable outside of the structures being built.
34. Construction Activity. Construction activity shall not create dust, noise or safety hazards for adjacent residents and properties. Dirt and mud shall not be tracked onto surrounding streets from the Project site during construction.

## **VII. ALAMEDA COUNTY FIRE DEPARTMENT REQUIREMENTS**

A formal plan check review will be completed at time of building permit submittal. The building and parking lot will need to comply with all building and fire code requirements in effect at time of building permit submittal.

35. All areas designated as part of fire access, including roads, driveways, turnouts, turnaround areas, and fire ground operation areas, when required to be posted as fire lanes, shall be in the accordance with the following:
  - a. Fire lane areas shall be clearly marked with red striping no less than 6 inches in width, running along the edge of the roadway. Painted upon the red striping, in white letters no less than 6 inches in height, shall be the words "FIRE LANE" at 20-foot intervals. For curbs, red striping shall be provided along the face and top of the curb. In white letters, the word "Fire Lane", no smaller than 4 inches in height, shall be painted on the face of the curb every 30 feet.
  - b. Fire lane signs shall be posted immediately adjacent to and visible from designated fire lane areas. Signs shall meet Caltrans specification standards (R26F CA).

- c. Signs shall be required at the beginning of the designated fire lane area, at the end of the designated area, and in between so such signs are Clearly visible.

## **VIII. ENVIRONMENTAL SERVICES**

36. Any changes that affect the information reported in the site's Hazardous Materials Business Plan in the California Environmental Reporting System (CERS ID: 10414651) require update and resubmittal of the Plan. Per Government Code Section 65850.2, the City shall not issue a final certificate of occupancy or its equivalent until the HMBP requirements are met. The resubmittal requirement will be an Environmental Services condition of approval for the building permit final.
37. Discharge of anything other than rainwater to the stormwater collection system, which includes area drains, sidewalks, parking areas, street curb and gutter, is prohibited.
38. The elimination of outdoor exposure of materials, processes, or equipment to the maximum extent practicable is necessary to prevent contamination of rainwater. Exposures that cannot be eliminated require use of Best Management Practices (BMPs), both engineered and administrative, to prevent any exposure from impacting rainwater runoff.
39. The generation or discharge of wastewaters, other than domestic sewage, may require a pretreatment permit for discharge to the sanitary sewer. More information is required regarding the intensity of use for the wash bay to make a determination. Will the wash bay be used solely for exterior (non-undercarriage) washing, or will it include undercarriage and/or engine cleaning? If a permit is required, submittal of an application to the Environmental Services Section is required prior to finaling the building permit or commencing the discharge, whichever occurs first. Pretreatment program information and permit application forms are available on the City's website at <https://www.sanleandro.org/depts/pw/env/envsewer.asp>. Please note that mop sinks will be required to be plumbed to the sand/oil separator.
40. If the facility stores petroleum products, including mixtures with any concentration of petroleum, in a quantity equal to or greater than 1,320 gallons as an aggregate of all individual aboveground "tanks" equal to or greater than 55 gallons shell capacity (including drums, tanks, containers, totes, oil-filled electrical equipment, oil-filled manufacturing equipment and oil-filled operational equipment), the facility shall comply with the requirements of the CA Aboveground Petroleum Storage Act (APSA) in Chapter 6.67 of the CA Health & Safety Code and develop and implement a Spill Prevention, Control, and Countermeasure Plan (SPCC) in conformance with 40 CFR 112.
41. Accessible and secure monitoring facilities (sampling manhole) shall be constructed at the site's final combined sanitary sewer outfall to allow for the City to install sampling equipment and collect wastewater samples to determine the facility's compliance with wastewater discharge regulations.

42. Provide in the building permit submittal a plumbing plan that includes all sanitary sewer lines and depicts which drainage fixtures will be routed to the interceptor. Provide manufacturer cut sheets for the interceptor and provide on the plan the criteria used to size the interceptor.

## **IX. GENERAL CONDITIONS**

43. The property owner, occupants, and tenants shall maintain the Project site and ensure that it is free of litter, weeds, and other debris in accordance with San Leandro Municipal Code §3-15-215.
44. The tenant and/or property owner shall regularly maintain the parking areas and shall be responsible for the prompt clean up and removal of litter, oil stains and spilled vehicle fluids. Parking areas shall be well maintained and kept free of litter and debris at all times.
45. Employees, vendors and contractors shall not load or unload from the public right-of-way without prior approval of an encroachment permit. Loading and unloading shall not obstruct the flow of traffic in driving aisles or on surrounding streets. Fire lanes shall be clear of vehicles and equipment and accessible to emergency vehicles at all times.
46. The conditional use permit conditions of approval shall be made accessible to all employees and vendors on the property.
47. No automotive repair, oil change, maintenance or servicing work shall be conducted outside the building.
48. Vehicle idling shall be actively discouraged and restricted to a maximum of two minutes. A sign shall be prominently posted to identify this requirement to drivers.
49. Outdoor loudspeakers and public announcement systems shall be prohibited from installation and use.
50. At no time shall vehicles or trailers be displayed for rent or sale from the subject property.
51. No wrecked vehicles, discarded auto parts, or any auto parts or related products shall be stored or displayed outside the building on the property.
52. Solid Waste Service Requirement. Applicant is required to have sufficient number and size of containers and service frequency for all waste generated (garbage, recycling and organics). Management of trash, solid waste and/or recyclables containers shall be required to prevent exposure to or contamination of rainwater, creating illicit discharges or impacting receiving surface waters.
53. All dumpsters or trash containers shall be kept in the trash enclosure except for the day(s) the collection company is scheduled for pick-up. Immediately after pick-up all dumpsters or trash containers shall be returned to the trash enclosure, out of public view.
54. All uses and activities shall comply with the provisions of the San Leandro Noise Regulations (Title IV, Chapter 1 of the Municipal Code). Tenants shall take proactive measures to avoid and reduce noise generated by delivery vehicles' audible reverse back-up signals and to ensure that loading and delivery activities

- are in compliance during the City's established quiet hours and do not pose a public nuisance during other times.
55. No use, activity, or process shall produce vibrations that are perceptible without instruments by a reasonable person at the property lines of a site.
  56. No use, process, or activity shall produce dust that is perceptible without instruments by a reasonable person at the property lines of a site.
  57. All exterior mechanical equipment such as air conditioning/heating units, emergency generators, wireless antennas and exhaust systems shall be fully screened from view so as not to be visible from adjacent properties or streets to the satisfaction of the Zoning Enforcement Official.
  58. Any graffiti shall be promptly removed from the property. Any graffiti shall be promptly removed from building walls. 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.
  59. Sidewalk areas shall be kept free of obstruction and available for their designated use at all times. Building egress and accessible paths of travel shall remain unobstructed.
  60. On-Site Lighting. New or replacement on-site lighting shall be LED or other energy-conserving lighting and shall be fully shielded, designed and located so as to not interfere with traffic on adjacent streets and so as not to shine on adjacent properties, details subject to the approval of the City Engineer and the Community Development Director. After installation, the Community Development Director reserves the right to require adjustment of light fixtures to comply with this requirement.
  61. The Project and use shall remain in substantial compliance with the approved plans and exhibits.
  62. Recorded Approvals and Conditions of Approval. The approvals granted by the City as a result of this application, as well as the Conditions of Approval, shall be recorded in the office of the County Recorder of Alameda County.
  63. Any outstanding Planning, Engineering or Building deposit fees or balances shall be paid prior to issuance of a permit.
  64. Amendments. No application for amendment of the application or Conditions of Approval may be accepted or submitted for processing by the City unless (i) there is full compliance with all terms of the application and Conditions of Approval; or (ii) the Zoning Enforcement official waives compliance with the terms of the application and Conditions of Approval pending application for the amendment.