

FW: Rezoning for General Plan Conformance - File#C22-101, Council Agenda – June 6, 2023

City Clerk <city.clerk@sanjoseca.gov>

Tue 5/23/2023 3:14 PM

To: Agendadesk <Agendadesk@sanjoseca.gov>

📎 1 attachments (204 KB)

Letter to SJ City Council re Rezoning to GP Conformance File C22-101 4867-3587-5430 v.2.pdf;

From: Lacuesta, Jesse [REDACTED] >

Sent: Tuesday, May 23, 2023 3:14 PM

To: City Clerk <city.clerk@sanjoseca.gov>

Cc: joe [REDACTED]; ker [REDACTED]; Burton, Chris <Christopher.Burton@sanjoseca.gov>; Davis, Martina <Martina.Davis@sanjoseca.gov>; Upadhyay, Ami <ami.upadhyay@sanjoseca.gov>

Subject: Re: Rezoning for General Plan Conformance - File#C22-101, Council Agenda – June 6, 2023

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Good afternoon, Mayor and Members of the City Council:

Please see attached correspondence from Mr. Faber. Should you encounter any problems viewing the attachment or have any questions, please contact our office. Thank you.

Jesse Lacuesta | Secretary
Jesse.Lacuesta@berliner.com



San Jose | Modesto | Merced

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May 23, 2023

Mayor and City Council
City of San Jose
200 E. Santa Clara St.
San Jose, CA 95113

Re: Rezoning for General Plan Conformance - File#C22-101
Council Agenda – June 6, 2023

Dear Mayor and Members of the City Council:

We represent Joseph Ziegler and Ken Hoffman, principals for the owners of four parcels located at 463 Blossom Hill Road and 524 Giuffrida Avenue (APNs 464-14-005, -006, -024 and -025) (“Property”), which are included in the proposed Rezoning and General Plan Alignment project. These parcels are currently zoned LI (Light Industrial) and are developed with an auto-service related building, a car wash, and a restaurant. The purpose of this letter is to request confirmation that the existing structures and use of the property will be allowed to continue in operation as such, until such a time as the property owners are ready and able to redevelop the Property.

The Property was originally developed in 1969-1971 with an auto-related service and retail building, restaurant, and a car wash. The site was originally zoned M-1 (Manufacturing), and later LI (Light Industrial), which permits a full range of service and repair uses, including auto-related uses. The following is a list of uses that have occupied the Property:

- Car stereo installation, repairs, and auto interior modifications
- Fast food Restaurant – no drive-thru
- Hair salon, manicure, pedicure, foot/shoulder massage

City Council
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Full-service tire shop
Auto window tinting and glass replacement
General auto repair and auto electric specialization
Applied silk screening to clothing
General auto repair
Muffler Shop (Open Flame/Welding)
Auto transmission rebuild and installation.
Self-service car wash

While these are uses that are currently permitted by right in the LI District and consistent with the light industrial design of the building, the rezoning of this Property to Commercial Pedestrian (CP) will result in most of these auto-related service uses becoming legal-nonconforming. While the Notice of Rezoning that was mailed to the owners and the information listed on the city's Rezoning and General Plan Alignment website state that "a legal nonconforming use may continue to exist indefinitely", our clients are concerned about how this rezoning will affect future changes in tenancy. Of particular concern is that under the San Jose Municipal Code (SJMC) Section 20.150.070 – Change of use, the requirement is that where a change in tenancy happens in a legal nonconforming use a determination of "like nature" by the Director of Planning may trigger the need for a requirement for special use permit to make this determination. This type of process can significantly impact the owner's ability to retain potential new replacements tenants, as the special use permit process can be time consuming and onerous.

As described above, these auto-service related buildings were designed as light-industrial buildings, which cannot be easily transformed to commercial pedestrian uses as desired in the CP district without a major tear-down and/or redevelopment of the buildings. Accordingly, our clients understand and assume that the replacement of uses in tenant spaces be allowed with auto-related and services uses consistent with those that have occupied this Property for over 50 years, without the need for a special use permit. The Property will likely be redeveloped with a commercial pedestrian project when the time and market are ready for such redevelopment.

Very truly yours,

BERLINER COHEN, LLP


ANDREW L. FABER


cc: Joseph Ziegler
Ken Hoffman
Chris Burton
Martina Davis
Ami Upadhyay