
FW: Item 10.3: Chick-fil-A on San Carlos is Wrong Project in Wrong Place

From City Clerk <city.clerk@sanjoseca.gov>
Date Thu 9/11/2025 10:19 AM
To Agendadesk <Agendadesk@sanjoseca.gov>

From: Tunnel Girl [REDACTED]
Sent: Thursday, September 11, 2025 10:18 AM
To: City Clerk <city.clerk@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; Kamei, Rosemary <Rosemary.Kamei@sanjoseca.gov>; Campos, Pamela <Pamela.Campos@sanjoseca.gov>; Tordillos, Anthony <Anthony.Tordillos@sanjoseca.gov>; Cohen, David <David.Cohen@sanjoseca.gov>; Ortiz, Peter <Peter.Ortiz@sanjoseca.gov>; Mulcahy, Michael <Michael.Mulcahy@sanjoseca.gov>; Doan, Bien <Bien.Doan@sanjoseca.gov>; Candelas, Domingo <Domingo.Candelas@sanjoseca.gov>; Foley, Pam <Pam.Foley@sanjoseca.gov>; Casey, George <George.Casey@sanjoseca.gov>; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; Burton, Chris <Christopher.Burton@sanjoseca.gov>; Lee, Jason <Jason.Lee@sanjoseca.gov>; Tu, John <john.tu@sanjoseca.gov>; Do, Sylvia <sylvia.do@sanjoseca.gov>; Zelalich, Blage <blage.zelalich@sanjoseca.gov>; Rocha, Vincent <Vincent.Rocha@sanjoseca.gov>; [REDACTED]
Subject: Item 10.3: Chick-fil-A on San Carlos is Wrong Project in Wrong Place

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To the San José City Council,

I am writing to express my opposition to the proposed Chick-fil-A at 1301 W San Carlos Street. This project is at odds with San José's vision for West San Carlos and what I want to see in this neighborhood.

The West San Carlos Urban Village Plan describes the site of the proposed development as an area with "higher-density mixed-use and residential development drawing energy from nearby Downtown San José and the Diridon Station. Development is proposed to range between three and seven stories with residential uses above a mix of active ground-floor retail."

A single-story, 5,139-square-foot fast-food restaurant does not align with this description. It actively works against the atmosphere that an urban village is supposed to foster by encouraging customers to travel by car. This location is right along VTA's 523/23 bus line and just a few minutes away from light rail on foot.

Additionally, construction of the larger parking lot detailed in the proposal would require demolishing two existing local businesses. This new restaurant should not need a parking lot larger than the one that supported the previous fast-food establishment that occupied the corner of this site.

As is currently proposed, a standalone Chick-fil-A and a large parking lot are not acceptable uses of the extremely limited land where higher-density, mixed-use development is allowed and needed in San José.

Please stand by the principles and plans we have created to guide our city and region into a better, more sustainable future. Please tell Chick-fil-A to majorly re-work its San Carlos St proposal or locate elsewhere.

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FW: Item 10.3: Chick-fil-A on San Carlos is Wrong Project in Wrong Place

From City Clerk <city.clerk@sanjoseca.gov>
Date Thu 9/11/2025 10:27 AM
To Agendadesk <Agendadesk@sanjoseca.gov>

From: David Gotlieb [REDACTED]
Sent: Thursday, September 11, 2025 10:22 AM
To: City Clerk <city.clerk@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; +district7@sanjoseca.gov; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; Kamei, Rosemary <Rosemary.Kamei@sanjoseca.gov>; Campos, Pamela <Pamela.Campos@sanjoseca.gov>; Tordillos, Anthony <Anthony.Tordillos@sanjoseca.gov>; Cohen, David <David.Cohen@sanjoseca.gov>; Ortiz, Peter <Peter.Ortiz@sanjoseca.gov>; Mulcahy, Michael <Michael.Mulcahy@sanjoseca.gov>; Doan, Bien <Bien.Doan@sanjoseca.gov>; Candelas, Domingo <Domingo.Candelas@sanjoseca.gov>; Foley, Pam <Pam.Foley@sanjoseca.gov>; Casey, George <George.Casey@sanjoseca.gov>; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; Burton, Chris <Christopher.Burton@sanjoseca.gov>; Lee, Jason <Jason.Lee@sanjoseca.gov>; Tu, John <john.tu@sanjoseca.gov>; Do, Sylvia <sylvia.do@sanjoseca.gov>; Zelalich, Blage <blage.zelalich@sanjoseca.gov>; Rocha, Vincent <Vincent.Rocha@sanjoseca.gov>; [REDACTED]
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FW: Public Comment on Chick Fil A

From City Clerk <city.clerk@sanjoseca.gov>
Date Thu 9/11/2025 1:12 PM
To Agendadesk <Agendadesk@sanjoseca.gov>

 1 attachment (578 KB)
San Jose ChickFilA letter 4 (Sep 11).pdf;

From: Greg Ripa <[REDACTED]>
Sent: Thursday, September 11, 2025 12:55 PM
To: City Clerk <city.clerk@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>
Subject: Public Comment on Chick Fil A

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District 6 Councilmember Michael Mulcahy, Mayor Matt Mahan, & the San Jose City Council:

Attached is my public comment letter regarding the Chick Fil A appeal.

- On Council Agenda: 9/16/2025
- File #: 25-981
- Re: project H24-046
Administrative Hearing on the Appeal of the Planning Director's Approval of a Site Development Permit Located at 1301 West San Carlos Street.

Thank you for your consideration to deny this appeal and retain Condition 6.

Greg Ripa

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

To: District 6 Councilmember Michael Mulcahy, Mayor Matt Mahan, & the San Jose City Council

From: Greg Ripa, *nearby resident on Lincoln Ave between Park and San Carlos*

Re: File No. H24-046 (1301 W San Carlos)

Date: September 11, 2025

Recommendation

Please deny the environmental and planning appeal while retaining Condition 6.

Outcome

Denying the appeal and retaining Condition 6 would best align with the goals, policies, and standards of the San Jose General Plan, the West San Carlos Urban Village Plan, and the San Jose Citywide Design Standards and Guidelines. Upholding the Planning Director's decision would require the owner/applicant to preserve the existing 3,817-square-foot commercial building, while still allowing for the construction of the new 5,139-square-foot quick-service restaurant with an outdoor patio at 1301 West San Carlos Street.

Commentary

The Hearing Officer's decision was based on a thorough analysis of all available information, as required to make the necessary findings. The claim that Condition 6 is infeasible can be refuted based on an analysis of the applicant's own documents. Technical documentation provided by Kimley Horn does not justify the elimination of Condition 6, as other feasible solutions exist to retain the current building while constructing the new one. Further, the project best supports the goals, objectives, and policies of the General Plan and Urban Village Plan with Condition 6 in place since multiple policies support the retention of the existing building.

Rebuttal to Staff Report

The staff report text is denoted in *italics* and my comments are in regular text.

On June 11, 2025, the Hearing Officer at the Director's Hearing approved the project, but with a condition to retain the existing commercial building (Condition 6), which has since been proven infeasible through the appeal and additional documentation submitted by the owner/appellant. However, the decision by the Hearing Officer did not factor in whether the applicant was amenable to this condition, and did not factor in all information to make the findings for the demolition permit. Hence, staff recommends approving the original project.

As shown in further detail below, the project is feasible with retaining the existing building. The project's feasibility with the retention of the existing building demonstrates that Condition 6 can and should be upheld. The City is not required to determine a property owner's amenability to a decision. This principle is analogous to situations where building plans must undergo expensive changes to implement life-safety measures or correct deficient designs, and the property owner's amenability is not a factor. It should not be a factor in this case either.

Furthermore, the additional information provided by Kimley Horn does not warrant the elimination of Condition 6, as their analysis is inadequate and does not look at all alternatives and potential solutions. The detailed rebuttal to their memorandum, as outlined below, provides further evidence supporting this position.

Director's Hearing Summary

...However, the Hearing Officer concluded that the applicant had not met the San José Municipal Code criteria justifying demolition of the existing structure, as no compelling evidence was presented that rehabilitation or adaptive reuse was infeasible.

As demonstrated below, the project is feasible with the retention of the existing building, and therefore, Condition 6 should be upheld. The project applicant has not provided sufficient evidence to justify the demolition of the existing structure or to prove that its rehabilitation or adaptive reuse is infeasible. The concerns regarding traffic, circulation, drainage, and pervious areas can be effectively

eliminated through alternative options and these alternatives are entirely feasible to implement.

Project Appeal

The permit appeal (Exhibit D) states six concerns in regard to Condition 6, requiring the retention of the existing commercial building.

1. Condition 6 Is a Poison Pill that Sabotages the Project by Making it Legally and Practically Infeasible; ...

Staff has carefully reviewed the appeal and the additional technical evidence provided. While staff finds that most of the appellant's legal and procedural arguments do not warrant removal of Condition 6, the new information under Appeal Point 1 does demonstrate that retention of the existing commercial building would make the project legally and practically infeasible. Specifically, the appellant has included information from Kimley-Horn (Jennifer Kirby), engineers for the project, finding that the retention of the existing building would render the project physically infeasible, in that the condition would restrict ingress and egress from the site, make truck maneuverability impractical due to insufficient turn radii, and make on-site stormwater treatment infeasible. Therefore, the appellants argue that the Hearing Officer's imposition of Condition 6 renders the project infeasible, in which case the demolition criteria would be met, as the existing building could not be reused or rehabilitated in the context of the approval of new development on the site. San Carlos.

As a former transportation engineer and planner, I find that the analysis by Kimley Horn is inadequate and does not look at all alternatives and potential solutions. The detailed rebuttal to their memorandum, as outlined below, provides further evidence supporting this position. In summary, Kimley Horn assumed that each building would receive their own driveway; however, the existing site and single ownership do not necessitate separate driveways and the two buildings/ parcels could use a shared driveway and/or cross connections between the two parcels similar to how businesses in a shopping center share access driveways. Therefore, the additional information provided by Kimley Horn does not warrant the elimination of Condition 6 since these alternative solutions are entirely feasible to implement.

Rebuttal to Exhibit D's Kimley Horn Memorandum

The Kimley Horn Memorandum text is denoted in *italics* and my comments are in regular text.

The purpose of this memorandum is to evaluate the infeasibility of one of the Conditions of Approval for the Chick-fil-A project located at 1301 West San Carlos Street, San Jose, CA 95126. The Condition of Approval of interest requires the existing multitenant building located at 261 Race Street, San Jose, CA 95126, to remain, thus resulting in a two-building project, rather than the single building proposed..

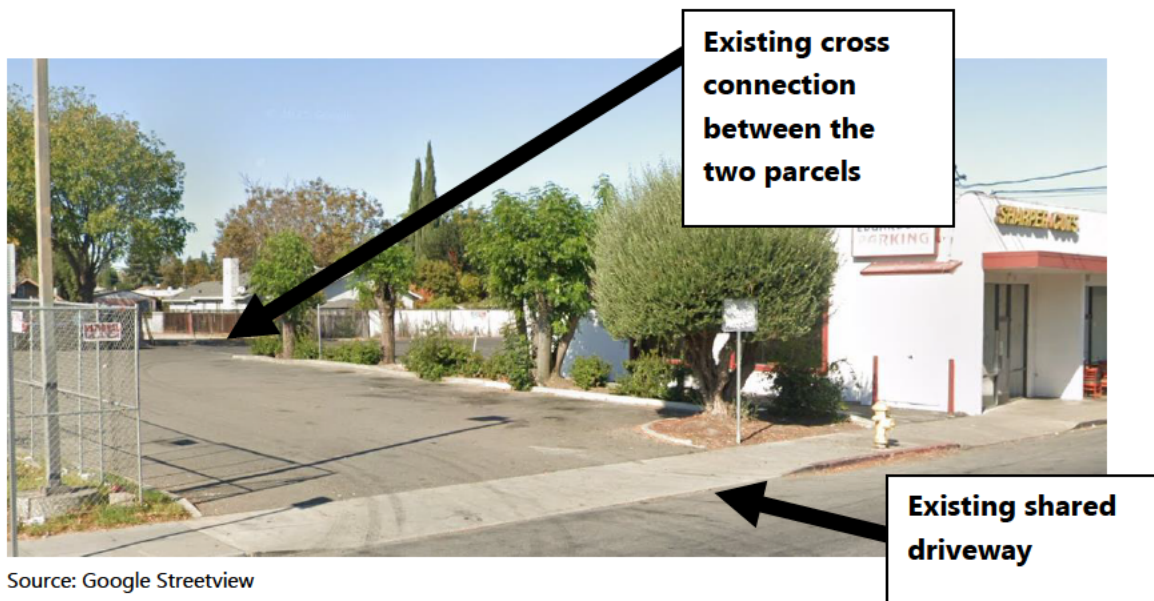
Unfortunately, this memorandum appears to have been written to support a predetermined conclusion: specifically, to "evaluate the infeasibility of one of the Conditions of Approval." It does not seem to represent a good-faith effort to objectively determine whether retaining Condition 6 is feasible.

1. Retaining the existing multitenant building limits the extents of offsite improvements on Race Street (a widened, detached sidewalk, curb and gutter, additional landscape, etc.). The existing driveway on the northern parcel will remain to maintain access to the multitenant building. Assuming CFA retains one of its proposed driveways, there will still be a minimum of two driveways along Race Street between CFA and the northern parcel – one that serves CFA, one that serves the three tenants in the existing building. It is assumed that there will be no cross access between the two parcels, and ingress and egress to each parcel will be channelized through their own driveway.

As noted previously, Kimley Horn assumed that each building would receive their own driveway and that there would "be no cross access between the two parcels". However, the existing site already includes existing cross access between the two parcels.



2024 Imagery with parcel lines overlaid. Source: <https://gis.sanjoseca.gov/maps/publicgisviewer/>



The single ownership of all parcels does not necessitate separate driveways and the two buildings could use cross connectivity between the two parcels and/or a shared driveway at the parcel line adjacent to the existing building. This would be similar to how businesses in a shopping center share access driveways. Therefore, this comment can be solved through other alternative and feasible means so this comment does not apply and Condition 6 can be retained.

2. Assuming the City holds CFA to one driveway, all access to the site will circulate through the proposed driveway (located closer to West San Carlos St.) as shown... With a compressed site, truck circulation through the proposed parking field is further constrained by insufficient turn radii. At a minimum, site circulation for passenger vehicles needs to be maintained. A two parcel project would drastically reduce the parking count and create a site circulation pattern that may affect onsite operations and offsite flow. The full ramifications of a proposed site plan with one driveway will need to be reanalyzed for trips, queueing, and traffic impacts as the current findings of the traffic study only support a site plan with two driveways for exclusive use by CFA. The striping improvements to lengthen the southbound left-turn pocket in Race St. as requested by the City would also need to be modified or disregarded.

The City is not required to limit the development with Condition 6 to a single driveway. As previously mentioned, a cross-connection and/or shared driveway between the two parcels with a shared access agreement provides a viable

The site plan illustrates the proposed driveway and its relationship to existing infrastructure. Key features include:

- Parking Stalls:** EV Accessible Charging Stalls (2 spaces) and ADA Van Accessible Parking Stalls (1 space).
- Easements:** A Proposed 1' Landscape Easement and a Proposed 50.0' Extension of Left Turn Pocket by CFA.
- Property Lines:** Existing Property Line and Approximate Civil Right-of-Way.
- Other Features:** 35' Flagpole, Building Setback, and Race Street.

Extended left turn pocket

Approximate location of potential shared driveway allows for on-site circulation with two driveways and is also outside of the extended left turn pocket

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assumed that these two parcels would need to be hydraulically separate and that no cross drainage would be permitted.

As shown above, the existing parcels have a cross-connection, and it is likely that cross-drainage is also in place. The City does not necessarily prohibit cross-drainage, assuming a drainage easement can be established. The original project plans show that stormwater treatment facilities can be placed under the proposed parking stalls. The project applicant could therefore create an underground stormwater treatment facility beneath the northern parcel's parking lot by utilizing a drainage easement. Thus, this issue can be resolved through other means and does not provide a valid reason to remove Condition 6.

4. Approximately 40% of the project's pervious areas is located within the northern parcel that is comprised of exclusively impervious pavement in the existing condition. Additional revisions to the project site in an attempt to provide feasible site circulation would likely further reduce the proposed pervious area to less than that of the existing condition.

It is unclear whether pervious paving materials, such as pervious pavers or concrete, were considered in the project plans. This is an alternative option to move more pervious area in a southerly direction away from the northern parcel. Implementing these materials could potentially result in a greater pervious surface area than what currently exists on the site. Therefore, since this issue can be resolved through these alternative methods, it does not provide a valid reason to remove Condition 6.

In summary, this additional technical evidence provided does not warrant the elimination of Condition 6 since other feasible solutions are available to retain the existing building and construct the new building.

Rebuttal to Applicant's Permit Appeal

The applicant's Appeal text is denoted in *italics* and my comments are in regular text.

The Property is currently occupied by a rundown commercial building (the "Existing Building") of approximately 3,817 square feet which is some 70 years old. The Existing Building is currently occupied by tenants – a restaurant and a hair salon. The restaurant's lease expired in 2024 and the tenancy is now month-to-month. The restaurant is paying \$2.27 per square foot, which is approximately ½ of market rate. The restaurant tenant is entitled to 6-month advance notice of termination of the month-to-month arrangement and will receive reimbursement for the last 3 months of rent upon termination. The Owner's long-term needs and plans for the Property, including her need to demolish the Existing Building and redevelop the Property, have been repeatedly communicated to the existing tenants in writing for at least eight years.

Low rental rates and a month to month rental agreement do not justify demolition. Therefore, Condition 6 should be retained.

The restaurant covers no overhead expenses such as property taxes, insurance, or maintenance and repair. All of these costs are borne solely by the Owner. This has required a significant investment of time and resources by the Owner to operate and maintain the Property for the restaurant's benefit. The Owner is a trust managed solely by Mrs. Zotta, an octogenarian who no longer has the desire or ability to continue to expend her time, energy, and resources to continue to maintain and operate the Existing Building.

Lack of overhead expenses on the part of the tenant (restaurant) does not justify the demolition. Similarly, the owner's age or personal desires do not provide sufficient justification. For example, the desire of a physically sound historic landmark's owner to demolish it would not justify its destruction, regardless of the owner's time, energy, and resources required for its upkeep. Therefore, Condition 6 should be retained.

The Existing Building is physically obsolete. It has lost its value due to wear and tear and physical deterioration over time. The basic repairs and improvements required to cure these issues would be far too expensive relative to the building's value and the resources available to the Owner. The Existing Building is also functionally obsolete. It's

outdated features and design have reduced the structure's utility and market appeal. It has a poor floor plan layout, lacks modern amenities and, again, is too expensive to meaningfully update given the building's existing value and the resources available to the Owner.

Other than this and similar statements in this Appeal, the applicant has not provided sufficient evidence to support the claim that the building is physically or financially obsolete, or to demonstrate the costs required for its rehabilitation or adaptive reuse (additional evidence would be a cost analysis prepared by a contractor and accountant, for example). The applicant has also failed to prove that the building cannot be rehabilitated or adaptively reused to overcome its alleged functional obsolescence.

Rehabilitation or adaptive reuse would improve the building's market appeal and enhance its physical structure, eliminating any potential deterioration. Therefore, without further compelling evidence from a contractor or builder that these options are infeasible, there is no justification for demolition, and Condition 6 should be retained.

Hence, with or without issuance of the Permit, or indeed any permit for any project on the Property, the Existing Building necessarily will be permanently vacated. There is no scenario available to the Owner where the Existing Building can continue to be a rental property. Put simply, the continued presence of the Existing Building on the Property would render any future redevelopment plans infeasible and untenable.

Other than this statement in the Appeal, the applicant has not provided any evidence that the building must be permanently vacated without any effort toward rehabilitation or adaptive reuse. In this scenario, retaining Condition 6 is essential, as it encourages the applicant to either rehabilitate the structure or sell the property to a party with the necessary resources and intent to maintain, operate, and improve the building as a rental retail space.

The presence of the existing building would not pose any greater obstacle to future development than the construction of a new commercial building. In fact, the new building could potentially hinder future redevelopment plans more than the existing one due to its longer potential life span into the future. If the applicant were to return with a denser, more walkable, mixed-use development, it

would be evaluated at that time. Given the uncertainty of such a future review versus the clear benefits of retaining Condition 6 in the current project, it is prudent to uphold Condition 6. Therefore, Condition 6 should be retained.

On July 11, 2024, 4G Development ("Applicant"), with the Owner's approval, applied to the City of San Jose for a Site Development Permit to allow for the redevelopment of the entire Property with a brand-new quick service restaurant of approximately 5,139 square feet, an outdoor patio, and associated improvements (the "Project"). The redevelopment of the Property contemplated by the Project necessarily entailed the demolition of the Existing Building to make way for a new building and associated amenities, along with required parking, and circulation.

On June 11, 2025, the Project came for a hearing before Hearing Officer Sylvia Do, Division Manager on behalf of Christopher Burton, Director, Planning, Building and Code Enforcement ("Hearing Officer"). Based on the detailed evidence, analysis, and studies presented by City staff, set forth in the staff report dated June 2, 2025, submitted by Tina Garg on behalf of the Director of Planning, Building, and Code Enforcement, including the substantial reports, analyses, and assessments attached ("Staff Report"), the Hearing Officer determined, and the Staff Report and Permit reflect that:

A. The Project, as proposed, was consistent and conformed with the General Plan and West San Carlos Urban Village Plan. Neither plan has any required minimum commercial density for the Property. Staff specifically evaluated the Project against the various elements of these plans and found that it was consistent with the intent of each element...

As noted in this Appeal's Staff Report, "at the meeting, the commenters spoke regarding: inconsistency of proposed structure with the Urban Village Plan; business displacement (national versus local business); car-centric and non-pedestrian-oriented use, including the amount of parking [which is inconsistent with the San Jose General Plan]; building design and pedestrian/bicycle safety concerns.

As noted in the sections below, the proposed project without Condition 6 is inconsistent with the San Jose General Plan and West San Carlos Urban Village Plan. Therefore, Condition 6 should be retained.

Then, to the great surprise and confusion of the Applicant and Owner, the Hearing Officer suddenly announced the approval of the Permit for the Project subject to the "condition" that the Existing Building not be demolished and that the Project be redesigned to accommodate and incorporate the Existing Building (now set forth in the Permit as Condition 6). The Permit identifies that Condition 6 would require reconsideration of the number and location of the Project's proposed driveways, parking spaces, trees, and lighting fixtures. The condition also undermines safe circulation for delivery trucks and emergency vehicles. Although it is unclear exactly what evidence in the record or findings were relied upon by the Hearing Officer to impose this Condition, it appears that the Hearing Officer stated that the Project proponents "failed" to demonstrate that they had met the criteria for issuance of a Demolition Permit under Section 20.80.460 of the Municipal Code.

To be honest, I was surprised too. Overall, however, my analysis demonstrates that retaining Condition 6 is crucial. The intents, goals, objectives, and policies, as outlined in the General Plan and Urban Village Plan, are more effectively met and supported with Condition 6 in place. The original proposal, which calls for demolition, fails to align with these Plans. Thus, I find that Condition 6 significantly enhances the project's adherence to the General Plan and Urban Village Plan and must be retained.

The retention of Condition 6 does not undermine safe circulation. As explained in the rebuttal to Kimley Horn above, the development can utilize cross connectivity with a shared driveway (similar to the existing site), a solution that was not properly evaluated.

Just as with a building remodel plan, if the City determines that a requirement is necessary, the applicant is obligated to reconsider various project elements. This reconsideration is not a valid reason to eliminate a condition. Similarly, the applicant's need to adjust their plans to accommodate this condition is a standard part of the process and is not a valid reason to eliminate this requirement. Therefore, Condition 6 should be retained.

II. Bases for Appeal of Condition 6

The Owner appeals the imposition of Condition 6 in reliance upon on the following bases:

A. Condition 6 Is a Poison Pill that Sabotages the Project by Making it Legally and Practically Infeasible.

As noted in the previous sections above, Condition 6 does not make this project practically infeasible. Alternative solutions are available to make the project feasible to construct and implement. Therefore, Condition 6 should be retained.

The Project, as presented by the Applicant and as processed and reviewed by Staff in the Staff Report, necessarily involved the removal of the approximately 70-year-old Existing Building to facilitate the development of a new building in its stead. This Project was found to be consistent with the applicable planning, zoning, code, and environmental standards.

The sudden and unnoticed imposition of Condition 6, requiring that the Existing Building be retained onsite in addition to the new building, expressly requires a fundamental redesign of the entire Project and renders it both practically and legally infeasible. The new building is physically and economically impossible to construct with another building onsite.

A fundamental redesign is not a valid justification for demolition. If a permit application failed to meet requirements such as setback regulations or historical building codes, the City would be justified in requiring a fundamental redesign. Similarly, without compelling evidence to justify demolition, the City is justified in requiring a fundamental redesign to support the General Plan and Urban Village Plan policies.

Moreover, the applicant has not provided any evidence of physical or economic infeasibility outside of statements in this Appeal. Larger buildings have been successfully constructed on smaller sites, demonstrating that it is both physically and economically feasible to build on this site while retaining the existing structure. Therefore, Condition 6 should be retained.

Further, Condition 6 appears to be an inappropriate attempt to interfere with the Owner's month-to-month lease of the Existing Building, by compelling the Owner to extend a highly unfavorable, very short-term lease into a long-term grant of rights to a tenant.

Condition 6 does not interfere in the lease. The Owner may still terminate the lease and rent to another tenant. Therefore, this does not apply and Condition 6 should be retained.

As detailed in the Permit itself, Condition 6 compels an impermissible: decrease in the number of vehicle parking spaces; and, establishment of two driveways on the Race Street frontage, where Section 2.2.2, Standard S2 of the Citywide Design Standards and Guidelines only allow one, making it infeasible for the Project to now comply with this standard. Jennifer Kirby, P.E. of Kimley-Horn and Associates, Inc. has diligently evaluated Condition 6 and has provided a Technical Analysis of Imposition of Site Development Permit Condition 6, and concluded that, in addition to these deviations from the City's standards, the condition will: restrict ingress and egress and render truck maneuverability throughout the site to be constrained and impractical; invalidates the existing traffic study; and reduces the pervious area such that aboveground stormwater treatment will no longer be feasible. A true and correct copy of this memorandum is attached hereto and incorporated herein as Exhibit C.

The City of San Jose does not have minimum parking requirements, so a decrease in parking spaces is not a valid concern. As noted in the rebuttal to Kimley Horn, the development could still utilize two driveways through cross-connections and/or a shared-use driveway with an agreement, which is similar to the current configuration.

The original site plan that included the demolition of the existing building also featured two driveways, which were in opposition to the Citywide Design Standards, but the plans were granted a variance/ exception. Any revised site plans with the retention of the existing building that also utilize shared driveways could also be granted a variance/ exception. Therefore, this issue is not relevant.

Kimley Horn's evaluation was fundamentally flawed because it was based on the assumption of a single driveway, which demonstrates an analysis intended to support a conclusion rather than a true evaluation of alternatives. The use of a shared driveway and/or cross connection between the parcels (similar to the existing configuration) would not hinder access or possible on-site circulation.

With a shared-use agreement for both driveways, there would be no ingress or egress restrictions and no constrained truck maneuverability, as the site would retain the two driveways similar to the original plan. This approach would also maintain the validity of the traffic study, allow for the implementation of underground stormwater facilities (similar to those originally proposed), and potentially increase the pervious area through the use of pervious paving. The applicant has failed to show how retaining the existing building with the use of a shared-use driveway and/or cross connections between parcels would create the hazards described in the appeal. Therefore, Condition 6 should be retained.

Further, the Existing Building is built of unreinforced wood and masonry of 1950s-era construction; forcing its retention may endanger public safety rather than advance it, conflicting with SJMC Ch. 17.10 (seismic safety) and undermining the Permit's own finding that the Project will "upgrade the appearance of the neighborhood."

The applicant appears to be using this as a tactic to pressure the City into removing Condition 6. While a lack of maintenance by the owner may pose a safety risk, other remedies such as enforcement of seismic building codes or the Dangerous Building Code (San Jose Municipal Code Sect. 17.40) can address this. For example, whenever a building or structure has been found to be dangerous, the city manager may take abatement actions or commence proceedings to cause the building or structure to be repaired... or otherwise abated and temporary corrective measures, when necessary, may be required prior to the time permanent repairs are instituted. Financial assistance for unreinforced masonry buildings is available (SJMC Sect. 17.40.400).

Additionally, retaining an active retail storefront enhances the neighborhood's appearance, while a parking lot would detract from it. Therefore, Condition 6 should be retained.

While it is accurate that the Project will increase the number of jobs for residents of all skill and education levels, the Permit's numerous references to "retaining" jobs at the Existing Building are false. As explained in detail above, with or without issuance of this permit or any other, the Existing Building will not and cannot be maintained as a leasehold and will not have any tenants of any kind going forward. If Condition 6 is

rescinded, the Existing Building will be replaced by the Project. If Condition 6 is forced upon the Owner, the Existing Building will simply become vacant.

Assuming the building remains in active commercial use, the retention of Condition 6 would indeed retain jobs at the existing location. The applicant's position appears to be an attempt to pressure the City into removing this condition. If the owner were to let the building become vacant, this could be addressed through other remedies, such as expanding the Vacant Building/Storefront Program. The owner and applicant should be expected to maintain the building for active use to contribute to a vibrant neighborhood.

Aside from this and other similar statements made in the Appeal, the applicant has not provided evidence that the building must be permanently vacated without any effort to rehabilitate or adaptively reuse it. The potential threat of a vacant building should not deter the City from making a sound decision.

Therefore, Condition 6 should be retained.

Further, Condition 6 injects impermissible levels of vagueness and uncertainty into the Project. For example, Condition 6 leaves essential terms—acceptable circulation plans, tree replacements that will “supersede” prior conditions, and the scope of the future amendment—to later staff discretion, violating basic due-process principles.

Just as a building permit applicant must submit revised plans for staff review at staff's discretion, so too must the applicant for this project return with revised site plans for a review to ensure compliance with Condition 6. This is a standard procedure for most projects. Therefore, Condition 6 should be retained.

In summary, the Appeal has not provided justification to warrant the elimination of Condition 6 since many of the Appeal's arguments either do not apply or other feasible alternatives and solutions are available to retain the existing building and construct the new building. Therefore, Condition 6 should be retained.

Condition 6 meets the San Jose General Plan

The San Jose General Plan does not support this development project without Condition 6, as the project fails to meet the intents and policies of the document. However, with the retention of Condition 6, the project successfully aligns with these established policies and intents set forth in this document. More details of this alignment are shown below.

City staff does not discuss many of these policies in the Site Development Permit findings nor in the appeal.

IE-1.11 Allow interim development of employment lands with alternative employment uses such as small expansions of existing uses or reuse of existing buildings when the interim development would not limit the site's ability to be redeveloped in the future in accordance with the long-term plan for the site.

Condition 6 requires the re-use of an existing building and also allows the construction of additional retail; thus, this project meets this General Plan policy with the retention of Condition 6.

FS-3.4 Promote land use policy and implementation actions that improve our City's fiscal sustainability. Maintain or enhance the City's projected total net revenue through amendments made to this General Plan in each Review process. Discourage proposed rezonings or other discretionary land use actions that could significantly diminish revenue to the City or significantly increase its service costs to the City without offsetting increases in revenue.

The existing and previous buildings (including the now demolished Burger King) total about 7,000sf.

Without the retention of Condition 6, this project proposes demolishing everything on site and starting over with a new building of less than 5,200sf. That is a reduction in commercial square footage of over 1,800sf! Reducing the size of commercial square footage may reduce the tax benefits of the area due to the reduction in square footage of commercial space. Therefore, this project would not meet this General Plan policy without the retention of Condition 6.

With the retention of Condition 6, the total building square footage would be about 8,950sf. That is an increase in commercial square footage of over 1,900sf!

Increasing the size of commercial square footage may increase the tax benefits of the area due to the increase in square footage of commercial space. Therefore, this project meets this General Plan policy with the retention of Condition 6.

FS-4.1 Preserve and enhance employment land acreage and building floor area capacity for various employment activities because they provide revenue, near-term jobs, contribute to our City's long-term achievement of economic development and job growth goals, and provide opportunities for the development of retail to serve individual neighborhoods, larger community areas, and the Bay Area.

This policy is similar to Policy FS-3.4. As mentioned previously, with the retention of Condition 6, the total building square footage would be about 8,950sf, which is an increase in commercial square footage of over 1,900sf as compared to existing and previous uses. Thus, this project both preserves and enhances employment (commercial) land. More commercial square footage may lead to more commercial jobs. Therefore, this project meets this General Plan policy with the retention of Condition 6 (and would not meet this policy without Condition 6).

CD-1.5 Encourage incorporation of publicly accessible spaces, such as plazas or squares, into new and existing commercial and mixed-use developments.

Staff should ask the applicant to make the outdoor patio a privately owned public space (POPS) so that the public can legally use it at times when the restaurant is closed, such as on Sundays.

CD-1.9 Give the greatest priority to developing high-quality pedestrian facilities in areas that will most promote transit use and bicycle and pedestrian activity. In pedestrian-oriented areas such as Downtown, Urban Villages, or along Main Streets, place commercial and mixed-use building frontages at or near the street-facing property line with entrances directly to the public sidewalk, provide high-quality pedestrian facilities that promote pedestrian activity, including adequate sidewalk dimensions for both circulation and outdoor activities related to adjacent land uses, a continuous tree canopy, and other pedestrian amenities.

I still believe that the new commercial building could be more pedestrian oriented. However, regardless of that issue, the retention of Condition 6 makes the overall site more pedestrian oriented since more street frontage would be

served by retail buildings and not parking lots. Therefore, this project better meets this General Plan policy with the retention of Condition 6.

CD-1.11 To create a more pleasing pedestrian-oriented environment, for new building frontages, include design elements with a human scale, varied and articulated facades using a variety of materials, and entries oriented to public sidewalks or pedestrian pathways. Provide windows or entries along sidewalks and pathways; avoid blank walls that do not enhance the pedestrian experience. Encourage inviting, transparent façades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays.

As mentioned previously, I still believe that the new commercial building could be more pedestrian oriented. However, regardless of that issue, the retention of Condition 6 makes the overall site more pedestrian oriented since more street frontage would be served by retail buildings and not parking lots. The existing building retained by Condition 6 has entries directly along the Race Street sidewalk and has an inviting transparent façade with large windows on the ground-floor commercial space that attracts customers by revealing active uses within the building. Therefore, this project meets this General Plan policy with the retention of Condition 6 (and would not meet this policy without Condition 6).

CD-1.17 Minimize the footprint and visibility of parking areas.

There are a total of about 56 to 58 parking spaces (some are unmarked so it is hard to determine an exact number) on the current project site. The original project proposed demolishing everything on site and starting over with a new parking lot of 60 spaces. Thus, the original project proposed to increase the amount of parking in a pedestrian oriented area and did not minimize the footprint of parking areas (rather, this project maximizes the footprint by increasing the number of spaces). Therefore, this project does not meet this General Plan policy without retention of Condition 6.

The total number of parking spaces is unknown without a new site plan but based on the retention of the existing building due to Condition 6, it is assumed that the total number of new parking spaces with retention of the existing building would be less than (or at most, equal to) the existing amount of parking on site. Thus, the project would most likely decrease (or at least maintain) the

amount of parking on site and would thus minimize the footprint of parking areas. Therefore, this project meets this General Plan policy with the retention of Condition 6 (and would not meet this policy without Condition 6).

CD-2.11 Within the Downtown and Urban Village Area Boundaries, consistent with the minimum density requirements of the applicable Land Use / Transportation Diagram designation, avoid the construction of surface parking lots except as an interim use, so that long-term development of the site will result in a cohesive urban form

As discussed in Policy CD-1.17, with the retention of Condition 6, this project would most likely reduce the amount of parking on site as compared to the existing amount of parking. Therefore, this project better supports this General Plan policy with the retention of Condition 6 (and would not meet this policy without Condition 6).

CD-7.1 Support intensive development and uses within Urban Villages

As discussed previously, with the retention of Condition 6, this project would have a larger total building size than the existing uses. The FAR of the total amount of buildings is 0.19, which is still relatively low but is better than the site plan without the retention of the existing building. Therefore, this project better supports this General Plan policy with the retention of Condition 6 (and would not support this policy without Condition 6).

LU-5.3 Encourage new and intensification of existing commercial development, including stand-alone, vertical mixed-use, or integrated horizontal mixed-use projects, consistent with the Land Use / Transportation Diagram.

As mentioned previously, with the retention of Condition 6, this project increases the commercial square footage by over 1,900sf. Thus, this project is an intensification of existing commercial development, even if relatively small. Without Condition 6, the building size would decrease and become less intense. Therefore, this project meets this General Plan policy with the retention of Condition 6 (and would not meet this policy without Condition 6).

This permit should be approved to retain Condition 6 since the project better supports and meets the policies of the General Plan with the retention of Condition 6 and does not support or meet any of the policies without Condition 6.

The elimination of Condition 6 would lead to a reduction in high-quality pedestrian facilities that promote pedestrian activity (SJGP CD-1.9), a reduction of commercial building frontages at or near the street-facing property line with entrances directly to the public sidewalk (SJGP CD-1.9), a reduction in inviting and transparent façades for ground-floor commercial spaces that attract customers by revealing active uses and merchandise displays (SJGP CD-1.11), an increase in parking spaces in an Urban Village (SJGP CD-1.17), etc.

Condition 6 Meets the West San Carlos Urban Village Plan

The West San Carlos Urban Village Plan does not support this development project without Condition 6, as the project fails to meet the intents, objectives, and policies of the document. However, with the retention of Condition 6, the project successfully aligns with these established intents, objectives, and policies set forth in this document. More details of this alignment are shown below.

City staff does not discuss many of these policies in the Site Development Permit findings nor in the appeal.

(Chapter 3) The Urban Village designation in the Mixed-use Residential Character Area is a commercial designation which supports residential development only on parcels meeting a minimum size of 0.5 acres. Residential development along West San Carlos Street or Meridian Avenue should include pedestrian oriented, ground- floor commercial uses that front the street... Before a site meets the aforementioned development criteria, the uses allowed on parcels with a Urban Village land use designation are those uses allowed within the Neighborhood/Community Commercial designation... Neighborhood/Community Commercial Density: FAR up to 3.5 Neighborhood/Community Commercial uses typically have a strong connection to, and provide services and amenities for, the nearby community. These uses should be designed to promote this connection with an appropriate urban form that supports walking, transit use, and public interaction.

As mentioned previously in the General Plan section, I still believe that the new commercial building could be more pedestrian oriented. However, regardless of that issue, the retention of Condition 6 makes the overall site more pedestrian oriented since more street frontage would be served by retail buildings and not parking lots. The existing building retained by Condition 6 has entries directly along the Race Street sidewalk and has an inviting transparent façade with large windows on the ground-floor commercial space that attracts customers by revealing active uses within the building. Therefore, this project better supports the intent of the Urban Village designation in the Mixed-Use Residential Character Area of the West San Carlos Urban Village Plan with the retention of Condition 6 (and would not support this intent without Condition 6).

(Chapter 3) A primary objective of this Plan is to retain the existing amount of commercial space within the West San Carlos Urban Village area and increase commercial activity and employment opportunities as the area redevelops.

As mentioned in the discussion of General Plan Policy FS-3.4, the existing and previous buildings (including the now demolished Burger King) total about 7,000sf and, with the retention of Condition 6, the total building square footage would be about 8,950sf. That is an increase in commercial square footage of over 1,900sf! Increasing the size of commercial square footage may increase the commercial activities and employment opportunities. Therefore, this project meets this primary objective of the West San Carlos Urban Village Plan with the retention of Condition 6 (and would not meet the objective without Condition 6).

Policy LU-1.1: Encourage new commercial development to be built at Floor Area Ratios of 0.3 or greater.

As discussed previously in the General Plan section, with the retention of Condition 6, this project would have a larger total building size than the existing uses and the FAR of the total amount of buildings is 0.19, which is still relatively low but is better than the site plan without the retention of the existing building. Therefore, this project better supports this Urban Village policy with the retention of Condition 6 (and would not support this policy without Condition 6).

This permit should be approved to retain Condition 6 since the project better supports and meets the intents and policies of this Plan with the retention of Condition 6 and does not support or meet any of the intents and policies of the Plan without Condition 6.

Condition 6 Better Supports the Citywide Design Standards

The San Jose Citywide Design Standards and Guidelines do not support this development project without Condition 6, as the project fails to meet the standards of the document. However, with the retention of Condition 6, the project better aligns with these established standards set forth in this document. More details of this alignment are shown below.

Section 4.1.1. Ground floors with active frontages create engaging streets that are comfortable to use and visually appealing for pedestrians.

As mentioned previously in the General Plan section, I still believe that the new commercial building could be more pedestrian oriented. However, regardless of that issue, the retention of Condition 6 makes the overall site more pedestrian oriented since more street frontage would be served by retail buildings and not parking lots. The existing building retained by Condition 6 has entries directly along the Race Street sidewalk and has an inviting transparent façade with large windows on the ground-floor commercial space that attracts customers by revealing active uses within the building. This is more visually appealing for pedestrians with the retention of Condition 6 than a parking lot as originally proposed. Therefore, this project better supports this design rationale with the retention of Condition 6 (and would not support this design rationale without the retention of Condition 6).

S2. Create transparent façades with windows or clear glazing for at least 70 percent of the active frontage length along primary streets or public open spaces and 50 percent of the active frontage length along secondary streets (see Fig 4.3 and 4.5).

In the plans, the total building frontage length along the primary street (San Carlos Street) is 81'-8.25" and the total glazing is less than 27', which is about 33% of the active frontage length. Therefore, this building plan does not meet this design standard of 70% clear glazing along the active frontage of the primary street (San Carlos Street).

With the retention of Condition 6 to retain the existing building, more active frontage length along the secondary street (Race Street) would have a transparent façade with windows or clear glazing since the existing building has large windows on the ground-floor commercial space that attracts customers by revealing active uses within the building. Thus, this project better supports this standard with the retention of Condition 6 (and would not support this standard without the retention of Condition 6).

This permit should be approved to retain Condition 6 since the project better supports the design rationales and standards with the retention of Condition 6 and does not support or meet any of the design rationales and standards without Condition 6.

Conclusion

The City Council must evaluate this appeal with Condition 6 retained. As demonstrated in the various sections above, Condition 6 is a feasible requirement and should therefore be upheld, leading to the denial of the appeal.

The additional technical evidence provided by Kimley Horn is inadequate and does not justify the removal of Condition 6, as other viable solutions exist to retain the existing building while constructing the new one. Similarly, the background and basis for the appeal as written by the Applicant do not provide sufficient justification for demolition.

This permit should be approved to retain Condition 6 since the project better supports and meets the policies of the General Plan and West San Carlos Urban Village Plan with the retention of Condition 6 and fails to meet those policies without this condition.

Please deny the appeal and retain Condition 6.

Thank you for your consideration!



Greg Ripa

FW: Item 10.3: Chick-fil-A on San Carlos is Wrong Project in Wrong Place

From City Clerk <city.clerk@sanjoseca.gov>

Date Fri 9/12/2025 2:32 PM

To Agendadesk <Agendadesk@sanjoseca.gov>

From: Tristan Hudson [REDACTED]

Sent: Friday, September 12, 2025 1:59 PM

To: City Clerk <city.clerk@sanjoseca.gov>; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; Kamei, Rosemary <Rosemary.Kamei@sanjoseca.gov>; Campos, Pamela <Pamela.Campos@sanjoseca.gov>; Tordillos, Anthony <Anthony.Tordillos@sanjoseca.gov>; Cohen, David <David.Cohen@sanjoseca.gov>; Ortiz, Peter <Peter.Ortiz@sanjoseca.gov>; Mulcahy, Michael <Michael.Mulcahy@sanjoseca.gov>; Doan, Bien <Bien.Doan@sanjoseca.gov>; Candelas, Domingo <Domingo.Candelas@sanjoseca.gov>; Foley, Pam <Pam.Foley@sanjoseca.gov>; Casey, George <George.Casey@sanjoseca.gov>; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; Burton, Chris <Christopher.Burton@sanjoseca.gov>; Lee, Jason <Jason.Lee@sanjoseca.gov>; Tu, John <john.tu@sanjoseca.gov>; Do, Sylvia <sylvia.do@sanjoseca.gov>; Zelalich, Blage <blage.zelalich@sanjoseca.gov>; Rocha, Vincent <Vincent.Rocha@sanjoseca.gov>; [REDACTED]

Subject: Item 10.3: Chick-fil-A on San Carlos is Wrong Project in Wrong Place

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To the San José City Council:

I'm writing to express my opposition to the proposed Chick-Fil-A at 1301 W San Carlos Street. Below this message is a form letter on the subject that I agree with, and am including with this message, as it accurately enumerates many of the various drawbacks I see with this development.

To that, I'll add simply that the last thing San Jose needs, in any corner of the city, is another fast-food chain restaurant that will draw in a ton of cars and traffic, lower urban density, and displace the ability for smaller local businesses to give themselves a footprint in a city that already struggles to support small-scale entrepreneurs across the board. Chik-Fil-A also operates on a franchise model that doesn't even allow its franchisees to own the land the restaurant sits upon, nor the equipment used in the restaurant used to prepare the food. These business deals are bad for franchisees, bad for consumers, and bad for the cities in which they set up.

Finally, Chick-Fil-A's corporate ownership is known to be adverse toward the LGBTQ community on what they claim are religious grounds, and from a moral standpoint, we as a city should be supporting more inclusive businesses as a core value. May I remind the council that the city went through this same moral conundrum when residents and government officials alike debated adding a Chick-Fil-A to SJC airport several years back, and although the debate worked out in the restaurant's favor, the city went so far as to adorn the roads leading to the airport with pride banners as a form of protest against the's corporation's stance on this subject.

Regardless, I think I speak for a number of San Jose residents when I say: I can think of maybe a thousand better things to put in this spot than another boring drive-through joint that will jam up the streets, do nothing to enhance the local neighborhood or beautify its character, and serves to support business interests that are staunchly non-inclusive of the diverse character of this city. Please oppose this project and find something better to put in its place.

Form letter follows below.

Regards,
Tristan Hudson

I am writing to express my opposition to the proposed Chick-fil-A at 1301 W San Carlos Street. This project is at odds with San José's vision for West San Carlos and what I want to see in this neighborhood.

The West San Carlos Urban Village Plan describes the site of the proposed development as an area with "higher-density mixed-use and residential development drawing energy from nearby Downtown San José and the Diridon Station. Development is proposed to range between three and seven stories with residential uses above a mix of active ground-floor retail."

A single-story, 5,139-square-foot fast-food restaurant does not align with this description. It actively works against the atmosphere that an urban village is supposed to foster by encouraging customers to travel by car. This location is right along VTA's 523/23 bus line and just a few minutes away from light rail on foot.

Additionally, construction of the larger parking lot detailed in the proposal would require demolishing two existing local businesses. This new restaurant should not need a parking lot larger than the one that supported the previous fast-food establishment that occupied the corner of this site.

As is currently proposed, a standalone Chick-fil-A and a large parking lot are not acceptable uses of the extremely limited land where higher-density, mixed-use development is allowed and needed in San José.

Please stand by the principles and plans we have created to guide our city and region into a better, more sustainable future. Please tell Chick-fil-A to majorly re-work its San Carlos St proposal or locate elsewhere.

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