



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Kim Walesh

SUBJECT: SEE BELOW

DATE: April 4, 2019

Approved

Date

4/5/19

COUNCIL DISTRICT: 4

SUPPLEMENTAL

SUBJECT: C18-031/CP18-036 - CONFORMING REZONING AND CONDITIONAL USE PERMIT FOR REAL PROPERTY LOCATED AT 2222 TRADE ZONE BOULEVARD

REASON FOR SUPPLEMENTAL

The Office of Economic Development (OED) staff has performed additional analysis and is providing additional context for the proposed Rezoning and Conditional Use Permit (C18-031 & CP18-036).

ANALYSIS

Site and Surrounding Area: The building is an approximately 29,000 square foot industrial building built in 1983 for manufacturing and R&D uses. It has most recently been occupied as an “office, research and development” use by a networking company. The building is located within the International Business Park in North San Jose, an area that in recent years has seen a continued resurgence of manufacturing and heavier R&D uses. In the period directly after the great recession, the area reached a vacancy rate of over 17%, but as new users have entered the sub-market (such as Bestronics, Oncore Manufacturing, Blach Construction, and the Federal Manufacturing Innovation Institute run by NextFlex) and as existing major users in the area (such as BD Bioscience and Olympus) have continued to make significant investments in their facilities, the area has grown as a jobs center and the vacancy rate has dropped to 2%.

The site is strategically located on the corner of one of three entry streets into this employment district from the City of Milpitas and is a prime location for future employment uses either within the existing building or as a potential redevelopment opportunity. In addition to being a

April 4, 2019

Subject: Rezoning and Conditional Use Permit at 2222 Trade Zone Boulevard

Page 2

thriving industrial district, the area is anticipated to transition into a more intense employment center with the opening of the Milpitas BART station (approximately 1 mile from the site along a public right of way) later this year.

General Plan Designation: While staff's analysis on the rezoning correctly points out the alignment between the proposed Zoning conforms with the underlying Transit Employment Center (TEC) General Plan designation, there is additional consideration that, upon further analysis, should be included in the discussion of the proposed action.

The TEC General Plan designation was added to the existing industrial land use designations from the prior General Plan to accommodate the ambitious job growth envisioned. TEC was created and applied to areas planned for intensive job growth because of their importance as employment districts to the City and the high degree of access to transit and other facilities and services. The designation only occurs in limited quantities in key Employment Centers along the light rail corridor in North San José, in proximity to the BART and light rail facilities in the Berryessa/Milpitas area, and in proximity to light rail in the Old Edenvale area. All of these areas fall within identified Growth Areas and have access to transit and other important infrastructure to support their intensification. The General Plan also intended for the types of uses allowed in the Industrial Park designation to be appropriate in the designation, with an important difference between the two being that the development intensity and site design elements in TEC areas should reflect a more intense, transit-oriented land use pattern than that typically found in Industrial Park areas.

Inconsistency between the Title 20 and the General Plan: Following the creation of the TEC designation through the adoption of the General Plan, an attempt was made to align the Zoning Ordinance (SJMC Title 20) through the creation of a conforming TEC Zoning District. Having a conforming Zoning District can significantly streamline the development process for new projects and provide more certainty for the development community. In keeping with this philosophy, the use restrictions in the TEC Zoning District were kept intentionally broad, mimicking the provisions for the Combined Industrial Commercial Zoning District which allows for a much more diverse set of industrial and commercial uses, including churches in appropriate locations. These uses were incorporated because the TEC designation permits development with retail and service commercial uses *on the first two floors*; but with office, research and development or industrial use on upper floors; or redevelopment as wholly office, research and development, or industrial projects.

The current Zoning Ordinance last underwent a major update in 2001 and was developed to conform to the type and pattern of development considered under previous General Plans. The comprehensive update to the General Plan in 2011 introduced a more intense type of development in key growth areas but did not include changes to the Zoning Ordinance that would allow for transitional or interim conditions. Typically, staff would anticipate a conforming rezoning to TEC would be proposed in conjunction with a development proposal for intensification of the property.

April 4, 2019

Subject: **Rezoning and Conditional Use Permit at 2222 Trade Zone Boulevard**

Page 3

The lack of clarity on how the TEC Zoning District should be applied has resulted in a technical loophole in which a property owner can propose a conforming rezoning to accommodate a use not consistent with existing or adjacent uses in the area, or planned redevelopment of the site consistent with the General Plan designation. Staff anticipates focusing on resolving this issue through the work underway to amend the Zoning Ordinance to align it to the General Plan.

Jobs/Employed Resident Ratio: As a manufacturing facility, the current building on the site could accommodate between 80-100 employees (not accounting for two, or even three, shifts similar to many of the other facilities in the area). The number of employees could potentially increase if an office/R&D use were to occupy the space. In the event that the property was to redevelop as intended under the General Plan, it could accommodate significantly more employment.

Under the current proposal, the site would accommodate less than 50 jobs between the church operations and existing office tenant within approximately 1/3rd of the building area. While San Jose has added both jobs and employed residents since the adoption of the General Plan in 2011, the City has continued to add residents at a similar or faster rate. This means that no significant progress has been made towards the General Plan's goal of increasing the City's Jobs/Employed Resident ratio from 0.8 to 1.1.

While the City does not regulate land use based on job density, recent regulatory actions and market forces (such as the change in CEQA threshold for transportation analysis from LOS to VMT, and the continued pressure on the City's peripheral employment lands) have meant that employment lands located proximate to existing or future public transit, and with growth plans to intensify employment uses, have become a unique and important opportunity to meet the City's jobs and fiscal objectives.

Conditional Use Permit Findings: The Office of Economic Development's Business Development Team uses its ongoing Business Outreach Program to work with existing businesses throughout the City to understand opportunities to support their continued success as well as the challenges they might be facing. This program has included targeted outreach to manufacturing and heavier lab/R&D facilities, which continue to face challenges related to available real estate and the changing nature of uses that surround them, but employ more than 55,000 residents across the city (many without a 4-year college degree).

Over the past two years, multiple manufacturers have expressed concern about the inclusion of non-industrial uses adjacent to their facilities. While each project's CEQA analysis is required to consider adjacent industrial uses, especially when introducing sensitive receptors (such as young/elderly/infirm people) to the adjacent area, many either mitigate or aren't obviously affected by the adjacency. The same is not true for the adjacent tenants. Through the Business Outreach Program, OED staff has received feedback that this can create significant operational challenges for the existing business. One example cited multiple times is the increased cost or availability of liability insurance due to these new adjacent uses. Another is concern related to continued investment into new tools or use of different hazardous materials as businesses evolve

April 4, 2019

Subject: Rezoning and Conditional Use Permit at 2222 Trade Zone Boulevard

Page 4

and grow, meaning that the permit process for further tenant improvements or tool installations can be significantly impacted. For many businesses, the introduction of a church or similar use (especially one that includes programs for children), can directly impair the utility of adjacent properties and limit the businesses ability to grow. This could be considered to contradict Finding 4.b. of the Planning staff report.

Conclusion: Like many other uses throughout the City that are cost sensitive when it comes to real estate decisions, churches face many challenges in finding appropriate locations in the City. Historically, San Jose has allowed a limited amount of these uses to occur in industrial areas; however, this presents challenges to the City's ability to meet its employment goals and preserve important job opportunities for San Jose's diverse community. In addition, the existing TEC General Plan designation and proposed TEC Zoning District were not intended to afford commercial uses the ability to displace or negatively impact the current or future development viability, and will be modified. OED supports approval of this project with the understanding that this inconsistency will be addressed as part of staff's effort to amend the zoning ordinance to make it consistent with the General Plan, per Council direction. Planning will be bringing these amendments to Council in June of this year for its consideration.

COORDINATION

The preparation of this supplementation memo was coordinated with the Department of Planning, Building and Code Enforcement.

/s/

KIM WALESH

Deputy City Manager

Director of Economic Development

For questions, please contact Michael Brilliot, Deputy Director of Planning, Building and Code Enforcement at (408) 535-7831 or Chris Burton, Deputy Director in the Office of Economic Development at (408) 535-8114.