

# 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;

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**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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[External Email]

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](mailto:Jesse.Lacuesta@berliner.com)



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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

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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

## June 6 Agenda item 10

Ruth Callahan [REDACTED]

Tue 6/6/2023 7:59 AM

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

[External Email]

This SB 333 rezoning should not be acted on until we have a new Housing Director and the audit by the State Legislature of the housing department is finished. The disgraced housing director has a tarnished record of housing first which has destroyed the culture and civic and social order of this city. No notice was received by this resident of the rezoning of Kooser meridian urban village. This is not an honest statement and the city has hoodwinked the public again. Deplorable actions by housing and planning and the council.

Ruth Callahan

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Ruth A Callahan  
[REDACTED]

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## FW: Consent Agenda Items June 6, 2023 Council Meeting

City Clerk <city.clerk@sanjoseca.gov>

Tue 6/6/2023 10:12 AM

To:Agendadesk <Agendadesk@sanjoseca.gov>

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**From:** Ruth Callahan [REDACTED]

**Sent:** Tuesday, June 06, 2023 9:45 AM

**To:** Brilliot, Michael <Michael.Brilliot@sanjoseca.gov>; Foley, Pam <Pam.Foley@sanjoseca.gov>; The Office of Mayor Matt Mahan <mayor@sanjoseca.gov>; CAO Main <cao.main@sanjoseca.gov>; City Clerk <city.clerk@sanjoseca.gov>

**Subject:** Consent Agenda Items June 6, 2023 Council Meeting

[External Email]

Dear Mr. Brilliot: I am writing to express my concerns regarding the way your department lists the multiple areas of land to be rezoned on the consent calendar. There is no way for the public to know what lots, or where the areas of our neighborhoods and local communities are located or designated geographically from the description your department uses. The public has no way knowing what this misass of numbers and letters mean:

“Approval of File Nos. C22-101, C22-104, C22-110, C22-111, C22-115, C22-116, C22-117, C22-118, C22-119, C22-120, C22-121, C23-001, C23-002, C23-003, C23-004, C23-005 would not result in a decrease of residential capacity. Among the properties that are the subject of the proposed rezoning, 200 properties would have a reduction of a total of 6,016 residential unit capacity, 341 properties would have an increase of a total of 25,221 residential unit capacity, 329 properties would not have any change in residential capacity. Thus, the proposed rezoning would not result in any decrease in residential unit capacity but will result in a 19,205-unit residential capacity increase, which complies with SB330 requirements”.

It is impossible to understand even how to look these up and it was only from the attachment B that I was able to understand what was being done. Needless to say that it was a long and arduous task of reading and researching. This is unacceptable and contributes to the public's distrust of the city staff and your motives to hoodwink and serve the interests of the developers and corporate donors that make up the business and commercial interests of our community of suburban neighborhoods with a downtown core. It is noted on page 9 of your attached memo that you notified the public of these changes on April 14, 2023 but nothing was received about the Kooser/meridian urban village at my address of 1383 Dentwood Dr, 95118 informing me that within two blocks of my home the “strip mall” designated an urban village was on the list for rezoning. In your 19 page memo the land zoning description of *Commercial Pedestrian* was not included so I googled the answer to find out exactly define “commercial pedestrian” zoning. I hope this description is correct: *What is commercial pedestrian zoning San Jose? The CP Commercial Pedestrian District is a district intended to support pedestrian oriented retail activity at a scale compatible with surrounding residential neighborhoods.*

This SB 333 ordinance compliance is not on a critical timeline for rezoning and it is premature for the city staff and your department to proceed with this housing element due to the State Legislative office audit of the disgraced Housing Department Director's misdirection of all funds to sustain and enable the decline of our social and civil order by keeping the encampments open. The housing first policy has destroyed the communities of this city, the parks, streams, watersheds, commercial venues, neighborhood streets, freeways and throughfares. The overriding mental health deterioration of the homeless drug addicted population that is allowed to fester in the elements has deteriorate the entire psyche of this city. Last Thursday's stabbing and car-jacking spree – which started at 1371 Kooser Road, the toxic hot spot where your department is allowing a 7 story residential public housing project to be developed in a siting violation of AB 617- is a the manifestation of the crisis that the lack of mental health care and jurisprudence that laissez-faire “community based solutions” allows.

Respectfully submitted,

Ruth A Callahan

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