

Exhibit Q - Letter from Applicant 3-14-2023

NWC of McKinley and Fine  
Mass Investment Group- PC Appeal Rebuttal

**APPEAL**

Mass Investments has been working with the City of Fresno on a proposed car wash for the property located at the northwest corner of Fine and McKinley Avenues. The Project is permitted by right and is subject to a staff-level Development Permit process. During the initial on-site surveying, a neighboring tenant located in the inline multi-tenant building to the north of the subject site, expressed concern with the proposed car wash. A formal appeal was filed to City Planning staff indicating that the proposed car wash created a concern for the adjacent Rivendell day care facility and their operations. In response, we have provided the following rebuttals that bring merit to the proposed car wash use; strengthening the fact that this use is a compatible land use that meets every aspect of the Light Industrial classification.

**ZONING**

The project site is located within the IL (Industrial Light) Zone District. The intent and purpose of the IL district is intended to provide areas as identified by the General Plan, for a diverse range of light industrial uses, including limited manufacturing and processing, research and development, fabrication, utility equipment and service yards, wholesaling, warehousing, and distribution activities. Small-scale retail and ancillary office uses are also permitted. Light Industrial areas may serve as buffers between Heavy Industrial Districts and other land uses and otherwise are generally located in areas with good transportation access, such as along railroads and freeways.

**EXAMPLE OF PERMITTED USES**

- Kennels
- Automobile Rentals
- Automobile Sales
- Major Vehicle Repair
- Major Service and Repair
- Large Vehicle and Equipment Sales
- Service Stations
- *Automobile Washing*
- Motorcycle /Riding Club
- Maintenance and Repair Services
- Custom Manufacturing

- Limited and General Industrial Uses
- Wholesaling and distributing
- Freight/Truck Terminals and Warehouses

\*Office uses are permitted but considered ancillary

In reviewing a small segment of permitted uses as provided above, it is clear that the car wash is classified as a compatible use with the land use table of the Fresno Municipal Code, meeting both the intent and spirit of Fresno's Development Code.

### **COMPATIBILITY**

Generally, in reviewing proposed uses, the key areas of consideration are consistency with the General Plan Economic Goals and Policies. The property owner considered these factors and feels that the Project meets the City's desire to balance commercial and industrial growth along the McKinley Avenue corridor. The Project will encourage and foster economic opportunities that support temporary and permanent jobs for the area. In addition to the construction jobs it is anticipated that the proposed car wash will employ approximately 15-20 part/full-time positions.

The City of Fresno completed a City-wide update of its General Plan and Zoning in the year 2016. As part of that revision, uses such as the proposed automated car wash and the aforementioned uses, were considered and it was found that these proposed uses bore no issues, nor would they impair the integrity and character of the subject zoning, and is considered compliant with the Zone Ordinance.

The Project is consistent with the General Plan and any applicable Specific Plan and is an acceptable by-right use. The Project itself, in its design, location, size, and operating characteristics, is compatible with the existing and future land uses and would not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other allowed uses operating nearby or adverse to the public interest, health, safety, convenience, or welfare of the City.

This Project is compatible with the existing surrounding commercial and industrial land uses. The Project will not be out of the ordinary as it relates to the character of the surrounding area. Further, the Project would maintain the general circulation pattern existing on the site by retaining ingress/egress from Fine Street and the western access point. This remaining in-fill site is surrounded by quasi-office and typical commercial and industrial developments and will have the infrastructure in place to support the car wash.

The Project, once completed, will comply with all applicable public health standards and will have adequate provisions (i.e. water, sanitation, utilities, etc.) which are readily available and accessible to the proposed use.

## **NOISE**

The proposed Industrial use was generally reviewed and considered an approved use per the City's General Plan land use element. Specifically, the General Plan analyzed various uses permitted under the Industrial Zone District that considered noise as part of its EIR analysis. Since the use was permitted by right and its use had been considered under the many components of the land use, a Noise Study was not required. Subsequent to review and appeal of the Project, we were contacted by City staff requesting that if we could provide a Noise Study that clearly demonstrated that the proposed use would not detrimentally affect existing neighboring uses, that such study could be beneficial to further verify the proposed car wash use and its right to move forward. On March 3<sup>rd</sup>, MD Acoustics- Sound Solutions for Planning and Design, prepared a comprehensive study that indicated that the noise levels would not exceed the City's commercial noise limit. The noise levels were considered utilizing worst case scenarios with all equipment active at the same time for extended periods.

In conclusion, the noise study states that the proposed use at operation will not exceed commercial noise levels and will operate in compliance with the general noise ordinance. The project sight and surrounding area businesses are approximately ½ mile from the Fresno-Yosemite Airport and under 200 feet from an active railroad system on the south. Those uses present more of a noise impact than the actual car wash could generate.

## **TRAFFIC**

The use is projected to serve approximately 250-cars per day. This number can generally be divided among the daily 14 operational hours, equating to an average of 17 vehicles per hour. Access will be via the existing Fine Avenue approach with an additional access point on the west side to McKinley Avenue. The two existing access points will provide for equal disbursement of traffic in and throughout the site.

## **PARKING**

The site is developed with an array of parking. Several existing stalls are located on the Project site and will require removal in order to develop the car wash site. Even though the proposed car wash will remove parking stalls from the site, the office users will still maintain 43 available stalls.

## **SIMILAR CAR WASHES- PRECEDENCE**

The City of Fresno as well as the City of Clovis have approved car washes without incident throughout the respective Cities. The following represents a snippet of car washes that were approved and have been established in close proximity to either residential districts or similar office settings:

- Raceway Express- 6623 N Milburn - 98 feet from an office use;
- Ride N Shine- 6240 W Fig Garden Dr- 30 feet to Golden One, and 63 feet to inline commercial;
- Quick Shine- 5525 W Shaw- 38 feet to Residential;
- Ride N Shine- 1015 E Bullard- 70 feet to inline commercial and office uses;
- Ride N Shine- 202 S Clovis- 10 feet to Residential on the west and 68 feet to Residential on the south;
- Surf-Thru, NEC of Shaw and Fowler, Clovis- Medical Office 55 feet to the north;
- Surf-Thru, NEA of Herndon and Sunnyside- Residential 100-feet to the north

These facilities appear to be operating harmoniously with the current various settings across from existing car washes. As part of our due diligence, we reached out to Fresno's Code Enforcement Planning staff, and City Development Liaison for any information that may have indicated any type of concerns with these car washes, but none were reported.

### **RIVENDELL COMMUNITY, INC**

The primary complaint regarding the proposed project came from tenant Xiamy Yang, who operates Rivendell Community, Inc. within the office building to the north. The operator facilitates an adult care facility for patients with varying spectrums of disabilities. I had an opportunity to meet with Ms. Yang as well as other interested parties onsite on January 3<sup>rd</sup>, 2023. Ms. Yang's initial concern was that her business operates an 8-4 day facility who's patients could be impacted by the proposed car wash. Ms. Yang expressed concern that loud noises could "potentially" startle patients, causing them to leave the building and run out into the streets. I explained that this could be considered a security issue with her operation in that the existing environment of the area is bound with McKinley Avenue on the south which is a four-lane super-arterial with traffic that exceeds 50 mph. Coincidentally, noise traffic from large box trucks, motorcycles and other modified exhaust systems were present as we tried to discuss the Project while outside. Additionally, the neighboring Fresno Yosemite International airport, provided the most obtrusive noise impacts with various planes, jets and helicopters entering and leaving the airport throughout the entire day. Lastly, there is an active rail system across the street to the south which also contributes to intermittent noise that should have been considered in operation of the facility. I offered to speak to the owner with the possibility of providing a small barrier system on the north side of the project for additional sound mitigation but was told that any effort on our part would still be fought in opposition.

I explained that the primary function of this specific Zone District was for the primary use of Industrial type uses, and that office-related uses were considered ancillary. I also expressed that although Ms. Yang was adamantly against the project, we were still willing to discuss minor changes to on-site circulation, but Ms. Yang indicated that as long as the discussion involved the car wash, she would be adamantly opposed. I explained that the district allowed for an array of

industrial uses (listed above) that could be considered more detrimental to the Project siter. Ms. Yang indicated that she would fight each and every other use that she felt caused concern.

### **PARKING**

The applicant, Mass Investment Group, purchased the property 4 years ago with the intention of developing the site. The applicant has found success in getting entitlement approvals for car washes in Fresno and outlying communities and was pleased to find this property met his profile. This site was evaluated for compatibility and demographics prior to a significant investment in real estate, drawings, architecture and engineering. I expressed to Ms. Yang that the owner would like to be a good neighbor and be sensitive to her concerns but ultimately, would like move forward with his project and will be sensitive to her concerns by assuring that staff is constantly monitoring the site for noise concerns and safety. Ms. Yang indicated that development on the site would significantly impact her parking in that the vacant lot was currently utilized for overflow parking. I expressed that it is not permissible to use his parcel for her parking and that could present a liability issue with the property owner.

### **RIVENDELL EVENT CENTER**

In discussion with Ms. Yang, it was revealed that the 10,000 square foot building serves a secondary purpose. After hours, the facility is utilized as a non-permitted banquet and event center named Rivendell Hall. This facility is rented out weekly and advertises ample parking (see below). This is in conflict to Ms. Yang's concern that the car wash would detrimentally affect the area's parking needs. City staff has verified that the event center is in non-compliance and should be subject to conditional approval prior to operating the large-scale after-hours facility. Requiring the event center to submit for proper entitlements could ensure legal review of the use, occupancy, and health and safety regulations.

### **CONCLUSION**

Mass Investment Group has invested a significant amount of time (one year) and money in getting the Development Permit approval for the proposed car wash as prescribed in the Fresno Municipal Code. The proposed car wash use is compatible in intent and purpose and meets the compatibility threshold of the land uses as prescribed in the Light Industrial Zone District and the Fresno General Plan Land Use Elements as assigned to this and surrounding parcels. The applicant has the approval and believes that the appellant's concerns are subjective and should not be considered evidence to overturn the approval of a use that is permitted by right in a District that clearly has been reviewed and evaluated for this specific type of use in an area that will benefit from an area car wash. Planning staff is the urban authority on land uses and provides the community with clear guidance on development and uses within the assigned districts. Planning staff's review and approval of the Project, in addition to staff's report that supports the Project, should be considered in the decision making process by the Planning Commission. The owner and applicant therefore support staff's recommendation to deny the appeal, allowing for

the next step in the development process, which includes the submittal of construction drawings as required for the construction of this added.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Orlando Ramirez', with a stylized flourish extending to the right.

Orlando Ramirez,

On Behalf of Mass Investment Group

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*Rivendell Hall*

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