



# ZONING EXAMINER

## REPORT TO MAYOR AND COUNCIL

April 27, 2017

C9-16-14 AirConcepts – 22<sup>nd</sup> Street  
R-2, C-1, C-3 to I-1 zone

### **BACKGROUND**

This is a request by Brian Rumsey of Rumsey Architecture, on behalf of the property owners, City of Tucson and Brown Cherry Building, LLC, to rezone approximately 1.39 acres from R-2, C-1 and C-3 to the I-1 zone. The rezoning site is at the northwest corner of 22<sup>nd</sup> Street and Cherry Avenue, east of the Kino Parkway overpass. The preliminary development plan (PDP) shows three 6,000 square foot buildings for general manufacturing use. The buildings are proposed to have 30-foot building heights.

A future phase for the building proposed near the northeast corner of the site, shows an additional 3,000 square feet of floor area.

Land use policy direction for this area is provided by *Plan Tucson (PT)* and the *Greater South Park Area Plan (GSPP), Subarea 2*.

### **PUBLIC HEARING SUMMARY (Minutes Attached)**

At the April 13, 2017 Zoning Examiner public hearing, the staff reported no written approvals or protests. The applicant agreed to the special conditions. One other person spoke in support of the rezoning.

### **FINDINGS OF FACT**

Existing and Surrounding Land Uses - The rezoning site is vacant property within an industrial business area. To the north is I-1 zoned industrial manufacturing warehouse, to the south is R-2, and C-3 zoned vacant land as well as a portion of 22<sup>nd</sup> Street, to the east is I-1 zoned commercial and industrial uses and to the west is R-2 and I-1 zoned vacant land, industrial uses and the Kino Parkway.

The nearest residentially zoned and developed property is over 800 feet southwest of the rezoning site, on the west side of Kino Parkway and south side of 22<sup>nd</sup> Street.

Land Use Plans – Land use policy direction for the general area is provided by the *Greater South Park Area Plan (GSPP), Subarea 2* and *Plan Tucson (PT)*. The proposed rezoning request from R-2, C-1, and C-3 to I-1 zone is supported by *PT* and *GSPP*.

*Plan Tucson* - The rezoning site is located within *Plan Tucson's* Mixed-Use Center Building Block as shown on the *Future Growth Scenario Map*. Mixed-Use Centers combine a variety of housing options, retail, services, office, and public gathering places, located close to each other, providing occupants of the center and residents and workers in the surrounding neighborhoods with local access to goods and services.

**C9-16-14 AirConcepts – 22<sup>nd</sup> Street  
Rezoning: R-2, C-1 & C-3 to I-1 zone**

Public transit, bicycling, and walking will get priority in these areas, although cars will still play an important role. In this context, the proposed and existing industrial uses accommodate employment and support the mix of uses envisioned for the general area by *PT* on the *Future Growth Scenario Map*. *PT* policies support environmentally sensitive design that protects the integrity of existing neighborhoods, complements adjacent land uses, and enhances the overall function and visual quality of the street, adjacent properties, and the community. *PT* guidelines support infill and redevelopment projects that reflect sensitivity to site and neighborhood conditions and adhere to the relevant site and architectural design guidelines. *PT* supports the retention and expansion of existing businesses and convenient public transit to serve employees.

*Greater South Park Area Plan* - Subarea 2 of the *Greater South Park Area Plan* is parallel to the Southern Pacific Railroad and north of 22<sup>nd</sup> Street and east of Park Avenue. It contains a mixture of uses and zones. Although the majority of land uses are commercial and industrial, there is also a small pocket of residential uses and zones in this subarea.

This subarea appears to be transitioning to more commercial and industrial uses considering previous rezoning approvals for commercial and industrial uses. The policy section of *Subarea 2* supports additional light industrial uses.

The goal of the *GSPP* is to guide future development while protecting and improving existing neighborhoods. It calls for reducing the travel time and distance between home and work, reducing transportation costs and energy consumption.

It requires proximity to major streets and transportation corridors, adequate buffer areas to protect adjacent use, prohibition of industrial traffic through residential areas and access to existing or planned public transit routes. It promotes the availability of industrial employment to people who are not able to expend the time or money necessary for a lengthy home-to-work trip.

*Major Streets and Routes Plan* - The rezoning is also near Kino Parkway, that leads to the University of Arizona, Interstate 10 and the Tucson International Airport. On the *Major Streets and Routes Plan* map, Kino Parkway is identified as a Gateway arterial street with a 150-foot cross section. 22<sup>nd</sup> Street, which is directly south of the rezoning, is designated as a major arterial street with a 120-foot cross section.

Direct vehicular access to the rezoning site is proposed from Cherry Avenue only. Cherry Avenue is a local street providing access to industrial uses to the north. The proposed manufacturing center will have direct access from Cherry Avenue to the east of the rezoning site, with the access point being approximately 100 feet north of 22<sup>nd</sup> Street.

*Design Considerations -*

Land Use Compatibility – The adjacent public rights-of-way and surrounding institutional, commercial, and industrial uses provide substantial separation between the rezoning site and the nearest residential development, reducing the likelihood for the proposal to create negative impacts on residential development.

**C9-16-14 AirConcepts – 22<sup>nd</sup> Street  
Rezoning: R-2, C-1 & C-3 to I-1 zone**

The adjacent rights-of-way also increase the visibility of the rezoning site and the proposed 30-foot tall building. Because of its high visibility from adjacent streets, and the nearness to a Gateway Route, the design should establish a common theme for buildings and walls. Perimeter masonry screen walls should incorporate a design treatment with two or more materials like stucco, tile, brick, or similar material, in a visually interesting pattern. Dumpsters and outdoor storage should be screened from view with a masonry screen wall. Outdoor storage should not extend above the height of the screen wall.

Drainage/Grading/Vegetation – A retention/detention basin is proposed near the southwest corner of the site. Total retention of the 5-year/1-hour storm is required in water harvesting basins. Hardscape surfaces should be drained to water harvesting areas. Drought-tolerant native low-water use canopy trees should be in the landscaping design

Road Improvements/Vehicular Access/Circulation – The PDP depicts six parking spaces for each 6,000 square foot building, for a total of eighteen spaces, with three future parking spaces proposed at the time of construction of the 3,000 square foot phase 2 building addition. Per the *Unified Development Code*, one vehicle parking space is required for each 1,000 square feet of building area. The PDP demonstrates that parking requirements will be met but not exceeded.

**CONCLUSION**

The rezoning is consistent with *Plan Tucson* and the *Greater South Park Area Plan*. Both plans support industrial development in this area. The attached conditions provide design guidance for the rezoning within the context of the adjoining roads and land uses

**RECOMMENDATION**

The Zoning Examiner recommends approval of the rezoning to I-1 zone subject to the recommended conditions. The rezoning is consistent with applicable land use plans and surrounding land uses.

Respectfully Submitted,



Jim Mazzocco, AICP  
Zoning Examiner

**ATTACHMENTS:**

Zoning Examiner Conditions  
Public Hearing Minutes

### PROCEDURAL

1. A development package in substantial compliance with the preliminary development plan, dated February 6, 2017, and required reports, are to be submitted and approved in accordance with the *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Zoning Amendment". The fully executed Waiver must be received by the Planning & Development Services Department before the item is scheduled for Mayor and Council action.
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Historic Preservation Officer. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of rezoning.

### LAND USE COMPATIBILITY

6. All walls visible from a public right-of-way are to be graffiti-resistant and incorporate one (1) or more visually appealing design treatments, such as the use of two (2) or more decorative materials like stucco, tile, stone, or brick; a visually interesting design on the wall surface; varied wall alignments, (jog, curve, notch, setback, etc.); and/or trees and shrubs in voids created by the wall variations.
7. Six (6) inch wide masonry block or greater shall be used for perimeter walls.

### ROAD IMPROVEMENTS/VEHICULAR ACCESS/CIRCULATION

8. Right-of-way shall be dedicated along 22<sup>nd</sup> Street per Major Streets & Routes Plan map.

DRAINAGE/GRADING/VEGETATION/HEAT ISLAND MITIGATION

9. Total retention of the 5-year/1-hour storm is required in water harvesting basins.
10. Hardscape surfaces shall drain to water harvesting areas before overtopping to the right-of-way or private property.

AGREEMENT TO WAIVE ANY CLAIMS  
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ( "**Agreement**") is entered into between \_\_\_\_\_, as the owner of the property described herein ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of value that may be based upon action by the City in response to a request from the Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(I).

The Owner is the holder of fee title to the property located at \_\_\_\_\_, Tucson, Arizona, (the "Property") which is more fully described in the Owner's application to the City in Case \_\_\_\_\_ and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City rezone the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the rezoning. The Owner believes that the rezoning of the Property will increase the value and development potential of the Property, and that this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134 et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the zoning amendment in Case \_\_\_\_\_.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested zoning that limit the potential development of the Property. The Owner acknowledges that the rezoning and conditions are a single, integrated legislative approval. The Owner agrees and consents to all conditions that may be imposed. The Owner retains the right to withdraw the rezoning application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the zoning if the Owner disagrees with any conditions that are proposed or approved. If the Owner does not withdraw the application, the Owner shall be deemed to have accepted all adopted conditions to the requested zoning. If the Owner withdraws the application or does not effectuate the new zoning, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. The Owner has agreed to the form of this Agreement provided and approved by the City Attorney. The Owner has had the opportunity to consult with an attorney of the Owner's choice prior to entering this Agreement and enters it fully understanding that the Owner is waiving the rights and remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County Recorder.

The Owner warrants and represents that the person or persons listed herein as the Owner is/are the owner in fee title of the Property. The Owner further agrees to indemnify



ZONING MEMBERS PRESENT

Jim Mazzocco, Zoning Examiner  
John Beall, Planning & Development Services  
Ernestina Gamez, City Recording Clerk

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1           ZONING EXAMINER: Okay. I think we're going to start now.  
2 So, this is April 13<sup>th</sup>, 2017. And this is the public hearing of the  
3 Zoning Examiner.

4           So, good evening. My name is Jim Mazzocco, and I am the  
5 Zoning Examiner for the City of Tucson. I conduct rezoning hearings  
6 on behalf of the Mayor and Council, and make findings of fact which I  
7 put into a report, along with recommendations which I then send on to  
8 the Mayor and Council.

9           My report will be based on the evidence submitted to me as  
10 part of the rezoning application, as well as testimony taken tonight.  
11 I'd also like to include in the record all documents submitted to my  
12 office up to this hearing.

13           A tape recording of, of this hearing is being made tonight  
14 by the City Clerk's Office, and if necessary, a transcript will be  
15 prepared. I will prepare a preliminary report and then I will prepare  
16 a final report.

17           After I close the hearing, I will prepare a preliminary  
18 report within five working days. I will prepare a final report two  
19 weeks after the close of the public hearing.

20           For those of you who wish to receive a copy of the  
21 preliminary report, and you're not already a principal listed on the  
22 case, please fill out one of the orange cards at the podium. So, the

1 orange cards are for people who want the preliminary report and are  
2 not the Applicant.

3 A copy of the final report will be available from the  
4 Planning & Development Services Department, and I'll send that report  
5 along to the Mayor and Council. They may consider my recommendations,  
6 along with other factors, and they will base their vote on that.

7 At the start of the hearing, I'd like to have John Beall of  
8 the Planning & Development Service Department, who's seated to my  
9 right, give me a brief presentation on the case. After that, I will  
10 ask for testimony from the public.

11 Since I cannot have any communication with parties involved  
12 in this case, now is the time to speak. If you wish to speak tonight,  
13 please wait for me to call you to the podium. Then please make sure  
14 you print your name and address very clearly on the sign-in sheet, and  
15 I notice many of you were doing that already. I'll ask you to  
16 announce your name and address for the record, and for the Recording  
17 Clerk.

18 At this time, I'd like to swear in those wishing to speak  
19 this evening. Will you please now stand for the oath and raise your  
20 right hand. Do you swear or affirm to tell the truth, the whole  
21 truth, and nothing but the truth?

22 (Affirmative)

23 ZONING EXAMINER: Okay. Thank you. So, the first case is  
24 C9-16-14 AirConcepts - 22<sup>nd</sup> Street. John, can you give me a brief  
25 report.

1 MR. BEALL: Sure. This is a request by Brian Rumsey of  
2 Rumsey Architecture on behalf of the property owner, City of Tucson &  
3 Brown Cherry Bldg. LLC, to rezone approximately 1.39 acres from R-2,  
4 C-1 and C-3 to I-1 zoning. The rezoning site is located at the  
5 northwest corner of 22<sup>nd</sup> Street and Cherry Avenue east of Kino Parkway  
6 overpass.

7 The Preliminary Development Plan proposes three buildings  
8 of 6,000 square feet each with a proposed height of 30 feet for  
9 general manufacturing use. A feature phase for the building proposed  
10 near the northeast corner of the site shows an additional 3,000 square  
11 of floor area.

12 Land use policy direction for this area is provided by Plan  
13 Tucson and the Greater South Park Area Plan. The rezoning site is  
14 located within a mixed-use center as identified on the Future Growth  
15 Scenario Map of Plan Tucson.

16 Mixed-use centers combine a variety of housing options,  
17 retail services, office and public gathering places located close to  
18 each other providing occupants of the center and residents and workers  
19 in the surrounding neighborhoods of local access to goods and  
20 services.

21 The proposed and existing industrial uses accommodate  
22 employment and support the mix of uses envisioned for the general area  
23 by Plan Tucson on the Future Growth Scenario Map.

24 The Subarea Two of the Greater South Park Area Plan appears  
25 to be transitioning to a more commercial and industrial uses. The

1 policy section of Subarea Two supports additional light industrial  
2 uses. The site is within an industrial business area with surrounding  
3 development consisting of a mix of industrial and commercial land  
4 uses.

5 To the west of the rezoning site across Kino Parkway is  
6 vacant land and industrial uses. To the south across 22<sup>nd</sup> Street is  
7 vacant land zoned C-3 and R-2. To the east and north are a mix of  
8 commercial and industrial uses zoned I-1. The nearest residentially-  
9 zoned and developed property is over 800 feet southwest of the  
10 rezoning site on the west side of Kino Parkway and south side of 22<sup>nd</sup>  
11 Street.

12 The proposed rezoning is consistent with and supported by  
13 the Greater South Park Area Plan and Plan Tucson which support  
14 industrial development at this location. Subject to compliance with  
15 the attached Preliminary Conditions, approval of the requested I-1  
16 zoning is appropriate. As of today's date, 04/13/17, there have been  
17 no approvals or protests filed.

18 ZONING EXAMINER: Okay. Thank you, John. Do we have the  
19 Applicant? Come forth. Okay.

20 MR. RUMSEY: My name is Brian Rumsey. I'm the Applicant  
21 for the project. I'm the architect, principal architect at Rumsey  
22 Architecture. I'm working on behalf of the gentleman seated here, for  
23 the most part. And some others that may be present as well.

24 The summary provided by John Beall really kind of sums up  
25 what if he hadn't said, I would say in support of consideration of

1 this rezoning because everything seems to point in the direction of  
2 this being something that just makes sense for the neighborhood, as  
3 the neighborhood is morphing and evolving, and it's in direct response  
4 to the recent City project where they built the overpass for Kino  
5 right nearby.

6           So, this becomes kind of an anchor that's kind of important  
7 to the whole neighborhood. And we are of the opinion that the design  
8 that we've proposed for this is going to provide a nice visual anchor  
9 for that corner. And while the conditions of the rezoning do talk  
10 about some minor elements as, for example, suggesting that when walls  
11 are built, they built a certain way. And we're willing to be  
12 compliant with all the conditions that are stated for the rezoning.

13           We'd also like to state there are other elements of our  
14 proposed design that are not necessarily covered by these restrictions  
15 or conditions of rezoning, but that we will be volunteering on our  
16 own. Not that we plan on building a, an edifice of great artistic  
17 quality, as it is an industrial complex, but all three buildings will  
18 be tied together and done in an aesthetic manner that we think is  
19 going to upgrade the standards of the neighborhood when we compare our  
20 property to those nearby which are much, much older and most of them  
21 have never been upgraded from their original use. So, it's a real  
22 hodge-podge of things.

23           This is going to be more in keeping with what you would see  
24 in other areas of the city that are under new controls for proper  
25 landscaping and other considerations that people feel are important,

1 such as light reflectance and interesting massing and interesting  
2 detailing.

3           While we're not in a position right now to offer a design  
4 for consideration, because there's no design to be done 'til the  
5 rezoning is granted, we have our preliminary ideas in mind and offer  
6 other projects that Rio West and Rumsey Architecture have done  
7 together in the past to offer as an example of what a proper -  
8 properly executed industrial design park can look like. And some of  
9 them are located nearby to this particular area.

10           I assume that there might be some questions that would  
11 arise. If not, that's fine. But I offer myself as a representative  
12 of the group to ask any questions that the Zoning Examiner may have in  
13 regard to the project.

14           ZONING EXAMINER: Thank you. So, if I understand you  
15 correctly, you do not have any problems or you can meet or satisfy  
16 with meeting the rezoning conditions as presented by the Planning &  
17 Development Services Staff?

18           MR. RUMSEY: That is correct.

19           ZONING EXAMINER: Okay. That's the main question I have.  
20 So, -

21           MR. RUMSEY: Fair enough.

22           ZONING EXAMINER: - thank you very much, unless you have  
23 something else to say.

24           MR. RUMSEY: Nope.

1           ZONING EXAMINER: Okay. So, what we usually do here is we  
2 usually hear those who are in support, those who are in opposition,  
3 and those who are neutral. So, anybody who has, wants to speak in  
4 support of the project, this is the time to do it.

5           MR. KALIL: (Inaudible) support.

6           ZONING EXAMINER: Okay.

7           MR. KALIL: (Inaudible)

8           ZONING EXAMINER: Sure.

9           MR. KALIL: George Kalil. I'm the President of Kalil  
10 Bottling Company, but I'm also President of the Millville Neighborhood  
11 Association, and have been since it was formed. And so, I -

12          ZONING EXAMINER: Could you just state your address also.

13          MR. KALIL: Address is 931 South Highland Avenue.

14          ZONING EXAMINER: Okay. Thank you.

15          MR. KALIL: And that's my work address. In the  
16 neighborhood, once Kino Highway came through, it left a lot of vacant  
17 land in all four corners. And we're delighted to see this corner  
18 they're working on get straightened out and, and cleaned up at the  
19 same time, putting these four pieces together.

20          So, from our point of view, and I've discussed it with many  
21 members of our neighborhood, we're thrilled that they're, they're  
22 interested in doing what they're doing, and that they're gonna do it  
23 right. And we have no, no problem, no problem with it.

24          ZONING EXAMINER: Mr. Kalil, approximately where is your  
25 property located in relationship to this property.

1 MR. KALIL: Nine - 931 South Highland Avenue. We have  
2 about seven blocks (inaudible)

3 ZONING EXAMINER: Okay. I mean, I mean in relation to the  
4 rezoning site. Do, do you have property near the rezoning site?

5 MR. KALIL: The rezoning site is east of our property -

6 ZONING EXAMINER: Okay.

7 MR. KALIL: - and slightly south. And, but what it does,  
8 it cleans up one-fourth of the corner.

9 ZONING EXAMINER: Okay. Anything else you'd like to say?

10 MR. KALIL: No, sir. Not now.

11 ZONING EXAMINER: Okay. Well, thank you very much.

12 MR. KALIL: You're welcome.

13 ZONING EXAMINER: Anybody else wishing to speak? Okay.

14 Mr. Rumsey, you have any - so, anybody wishing to speak in opposition?  
15 Anybody wishing to make neutral statement? And I'm not seeing anyone.  
16 So, Mr. Rumsey, you have anything else to say? You don't have to.

17 MR. RUMSEY: I'm good.

18 ZONING EXAMINER: Okay. Okay. Well, in that case, taking  
19 the testimony and evidence and documentation provided, this hearing is  
20 closed. And I will be preparing a preliminary report in the next five  
21 working days. Thank you all for coming.

22 MR. RUMSEY: Thank you.

23 MR. KALIL: Thank you.

24 (Case SE-16-14 was closed.)

I hereby certify that, to the best of my ability the foregoing is a true and accurate transcription of the original tape recorded conversation in the case reference on page 1 above.

Transcription Completed: 04/23/17

  
\_\_\_\_\_  
KATHLEEN R. KRASSOW - Owner  
M&M Typing Service