



CITY COUNCIL STAFF REPORT

File Nos.	C22-125, H22-041 and ER22-273
Applicant:	Kenneth Y. Kai
Location	Westerly side of North 5 th Street, approximately 50 feet southeasterly of Jackson Street (575, 591 & 593 North 5 th Street)
APNs	249-40-002, 249-40-003, and 249-40-004
Council District	3
General Plan Designation	Mixed-Use Commercial
Existing Zoning	A(PD) Planned Development (File No. PDC81-004)
Proposed Zoning	MUC Mixed-Use Commercial
Acreage	0.43 gross acre
Historic Resource	No
Demolition	Exterior walls, portion of roof, portico
Existing/Proposed Land Uses	Vacant/Dental Office
Additional Policy Review	None
Annexation Date:	March 27, 1850
CEQA:	Section 15301 (Class 1), Existing Facilities

APPLICATION SUMMARY:

Conforming Rezoning from the A(PD) Planned Development Zoning District to the MUC Mixed-Use Commercial Zoning District and a Site Development Permit to allow the removal of two walls, a portion of the roof, a side door, and a portico, for the construction of a 1,149-square-foot addition to an approximately 3,476-square-foot proposed dental office, on an approximately 0.43-gross-acre site.

RECOMMENDATION:

Staff recommends that the City Council take all of the following actions:

1. Consider the exemption in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15301(e): Class 1, for Existing Facilities.
2. Approve an ordinance rezoning the approximately 0.43-gross-acre site located on the west side of North 5th Street from the A(PD) Planned Development Zoning District to the MUC Mixed-Use Commercial Zoning District.
3. Adopt a resolution approving, subject to conditions, a Site Development Permit to allow the removal of two walls, a portion of the roof, a side door, and a portico, for the construction of a 1,149-square-foot addition to an approximately 3,476-square-foot new dental office, on an approximately 0.43-gross-acre site.

PROJECT DATA

GENERAL PLAN CONSISTENCY			
General Plan Designation		Mixed-Use Commercial <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	
Consistent Policies		IE-2.7, CD-4.4, LU-5.1, LU-14.1, TR-8.4	
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Mixed-Use Commercial	MUC Mixed-Use Commercial	Commercial
South	Mixed-Use Commercial	MUC Mixed-Use Commercial	Single-Family Residence
East	Mixed-Use Commercial	MUC Mixed-Use Commercial	Commercial
West	Mixed-Use Commercial and Public/Quasi-Public	MUC Mixed-Use Commercial and PQP Public/Quasi-Public	Senior center, surface parking lot

RELATED APPROVALS	
Date	Action
1/26/1996	File No. AD96-058: Permit Adjustment for a new window, door, landscaping area wall, and gates.
10-5-1989	File No. PD89-065: Planned Development Permit for construction of a restaurant.
5/26/1981	File No. PDC81-004: Planned Development Rezoning to A(PD) Planned Development Zoning District.

PROJECT DESCRIPTION

On December 4, 2022, the Applicant and property owner, Kenneth Y. Kai, submitted the following applications to be reviewed concurrently:

- Conforming Rezoning to rezone the property from the A(PD) Planned Development Zoning District to the MUC Mixed-Use Commercial Zoning District on an approximately 0.43-gross-acre site.
- Site Development Permit to allow the removal of two walls, a portion of the roof, a side door, and a portico, for the construction of a 1,149-square-foot addition and installation of three windows to an approximately 3,476-square-foot proposed dental office, on an approximately 0.43-gross-acre site.

To accommodate the proposed addition, the south wall and a portion of the west wall of the existing building, which is vacant, would be demolished, along with a portion of the roof and a portico. On the east (street-facing) elevation, a side door would be removed and replaced with a window, and two additional windows would be installed. Other site upgrades include new plantings in landscaped areas, including two trees, restriping and minor reconfiguration of the existing parking lot.

The project Applicant has also filed for a Lot Line Adjustment under File No. AT23-004 to merge the three lots into one.

Site Description and Surrounding Uses

The subject site consists of three contiguous lots located on the westerly side of North 5th Street (See Figure 1). The Applicant has submitted an application for a lot line adjustment, AT23-004, to merge the three lots. As conditioned, the project would require approval and recordation of the lot merger prior to the issuance of building permits.

The site is currently developed with a 3,476-square-foot vacant, one-story commercial building that was previously used as a restaurant and a paved surface parking lot. Vehicle access to the site is from a 25-foot-wide ingress/egress driveway on North 5th Street. The site is accessible to pedestrians from a five-foot-wide sidewalk along North 5th Street. Surrounding uses include single-story commercial buildings to the north and east; a single-family residence to the south; and a senior center and surface parking lot to the west.



Figure 1: Aerial image of the subject site

As previously discussed, the subject property is currently located in the A(PD) Planned Development Zoning District (File No. PDC81-004). The Applicant has requested to rezone the site to the MUC Mixed-Use Commercial Zoning District, which would conform with the General Plan Land Use/Transportation Diagram land use designation of Mixed-Use Commercial.

ANALYSIS

The proposed project was analyzed for conformance with the following:

1. Envision San José 2040 General Plan
2. Zoning Code

3. Senate Bill 330
4. Citywide Design Standards and Guidelines
5. Site Development Permit Findings

1. Envision San José 2040 General Plan Conformance

The subject site has an [Envision San José 2040 General Plan](#) Land Use/Transportation Diagram land use designation of Mixed-Use Commercial (see Figure 2).

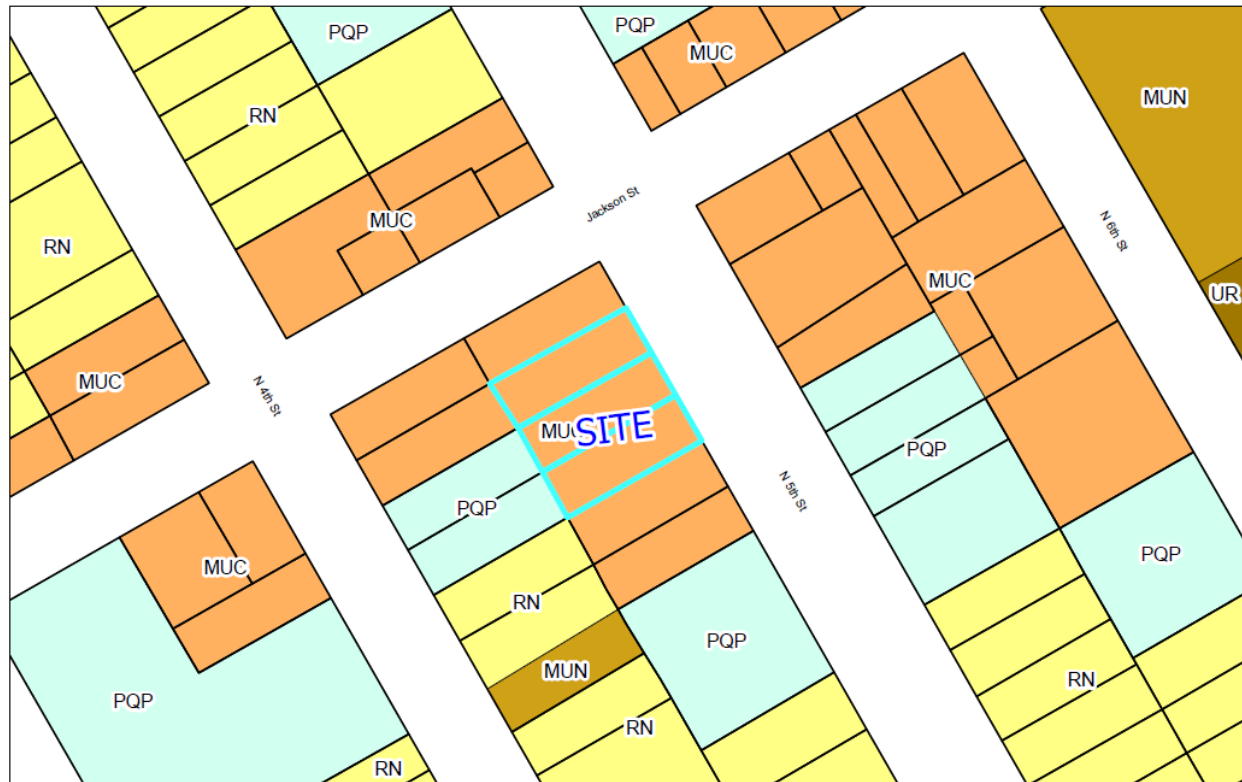


Figure 2: General Plan Land Use/Transportation Diagram

This designation is intended to accommodate a mix of commercial and residential uses with an emphasis on commercial activity. New development of a property with this designation should accordingly include commercial space equivalent to at least a 0.5 FAR for residential/commercial mixed-use projects and 0.25 FAR for commercial projects with a typically appropriate overall FAR of up to 4.5, allowing for a medium intensity of development. Appropriate commercial uses include neighborhood retail, mid-rise office, medium-scale hospitals or other healthcare facilities, and medium-scale private community gathering facilities.

Analysis: The MUC Mixed-Use Commercial Zoning District is a conforming zoning district of the Mixed-Use Commercial land use designation, consistent with Table 20-270 of [Section 20.120.110](#) of the Zoning Code. The project is consistent with the MUC land use designation as it would provide commercial space with a FAR of 0.25, which is within the appropriate range.

The Site Development Permit is consistent with the following General Plan policies:

1. Business Growth and Retention Policy IE-2.7: Encourage business and property development that will provide jobs and generate revenue to support city services and infrastructure.

Analysis: The project would allow the renovation and expansion of a vacant commercial building to enable occupancy with a permitted use (dental office) that will employ dentists, dental hygienists, and administrative staff, consistent with the policy.

2. Compatibility Policy CD-4.4: In non-growth areas, design new development and subdivisions to reflect the character of predominant existing development of the same type in the surrounding area through the regulation of lot size, street frontage, height, building scale, siting/setbacks, and building orientation.

Analysis: The project site is not located within a growth area. The project would leave the existing site plan largely intact, except for a 1,149-square-foot addition to the south elevation that would replace an existing portico and would not affect site circulation. The building height and setbacks would remain the same. While the roofline would be altered as a result of the addition, including new HVAC equipment screens, the new roofline would have the same slope and hip-and-gable form as the existing roofline. It would feature the same decorative jutting beam along the roof ridge. On the east (street-facing) elevation, an existing side door would be replaced by a window and two additional windows would be installed. The new windows would match the design of the existing windows.

The site is surrounded by one-story commercial buildings on the west and north, a parking lot and the three-story senior center to the west, and a one-story, single-family house to the south. The existing one-story commercial building on the site is compatible with surrounding buildings in terms of height, setbacks, and floor area ratio. The project would maintain this compatibility despite increasing the floor area by approximately one-third, as the footprint of the addition would be located where the portico is currently. Because the project would maintain the scale of the existing building, it would continue to reflect the character of development of the same type in the surrounding area.

3. Neighborhood-Serving Commercial Policy LU-5.1: In order to create complex communities, promote new commercial uses and revitalize existing commercial areas in locations that provide safe and convenient multimodal access to a full range of goods and services.

Analysis: As discussed in the analysis of consistency with policy IE-2.7, the project would renovate and expand a vacant commercial building to accommodate a new commercial use (dental office). The site is easily accessible, with a 25-space vehicle parking lot, one motorcycle space, and four bicycle spaces, as well as direct pedestrian access from the sidewalk on North 5th Street. The property is also served by Valley Transit Authority bus route 61, and the nearest bus stop is one block away, at the corner of Taylor Street and North 4th Street.

4. Vibrant Neighborhoods Policy VN-1.3: Encourage the development and maintenance of compatible neighborhood retail and services within walking distance of residences as a means to promote the creation of "complete" neighborhoods.

Analysis: The project site is located near the corner of North 5th Street and Jackson Street, within the Japantown commercial area. Nearby businesses include cafes, restaurants, retail stores, and neighborhood services. Japantown is a mixed-use neighborhood, and the surrounding residential area has a mix of single-family and low-scale multifamily buildings whose residents are served by the commercial district.

2. Zoning Code Conformance

The proposed rezoning conforms with [Table 20-270](#), [Section 20.120.110](#) of the San José Municipal Code, which identifies the MUC Mixed-Use Commercial Zoning District as a conforming district to the General Plan Land Use/Transportation Diagram land use designation of Mixed-Use Commercial.

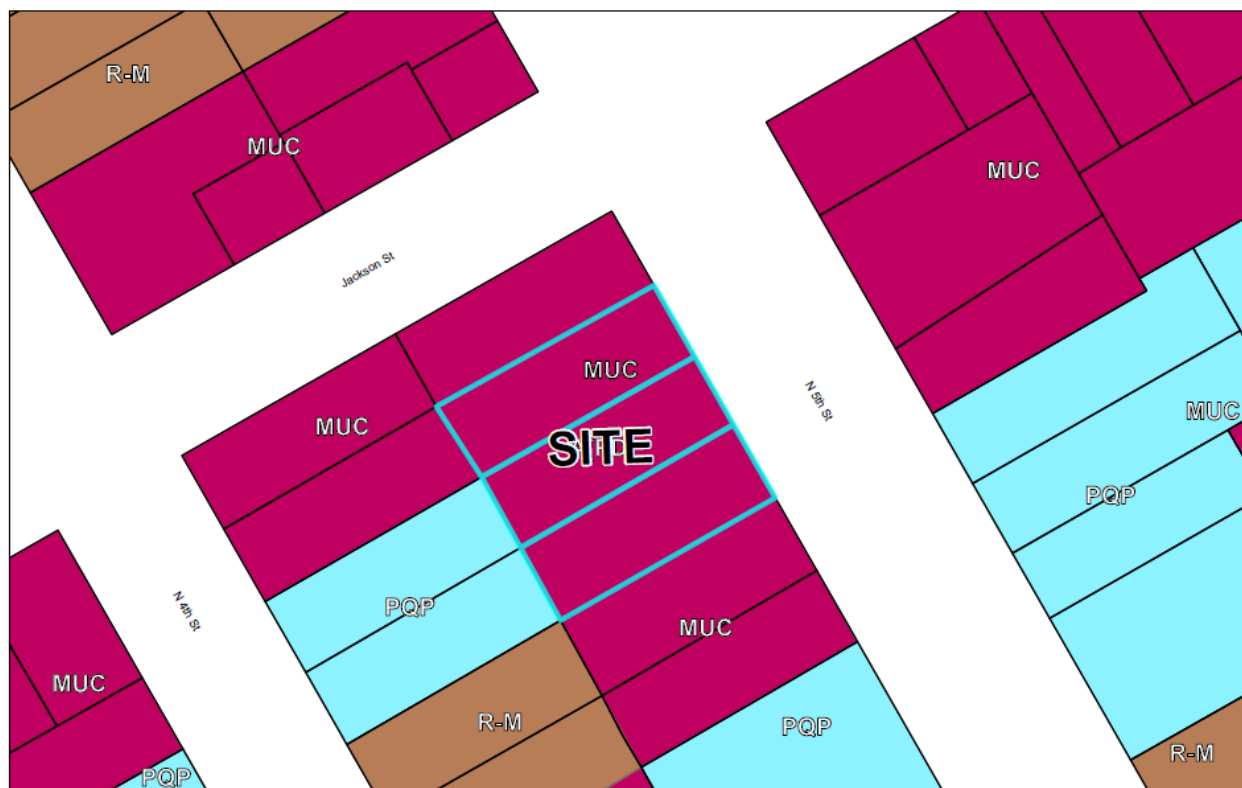


Figure 3: Proposed zoning map

Land Use

The subject site is located within the A(PD) Planned Development District PDC81-004, which was approved to develop a restaurant with requirements only for that use. Therefore, the proposed dental office use (which includes the proposed addition) is inconsistent with this zoning district. To facilitate the conversion of the building to dental office use and construction of the proposed addition, the project includes a Conforming Rezoning to the MUC Mixed-Use Commercial Zoning District, in conformance with [Table 20-270](#) of [Section 20.120.110](#) of the Zoning Code. Pursuant to [Table 20-138](#) of [Section 20.55.203](#) of the Zoning Code, medical office (including dental office) is permitted by right in the MUC Zoning District.

Development Standards

The project is subject to the required setback, height, and floor area ratio requirements of the MUC Zoning District.

Standard	Required	Provided
Front setback (maximum)	10 feet	10 feet
Side setback (maximum)	10 feet	5 feet 4 inches
Rear setback (minimum)	10 feet	51 feet 7 inches
Maximum height	85 feet	16 feet 11.5 inches
Floor area ratio (FAR)	0.25-4.5	0.25

Analysis: The project consists of removing two walls, a portion of the roof, a side door, and a portico from a one-story, 3,476-square-foot commercial building to construct a 1,149-square-foot addition and install three windows. The total floor area after the addition would be 4,625 square feet, and the building would be consistent with all of the setback, height, and FAR requirements of the MUC Zoning District.

Parking

The dental office use is categorized as medical office use for the purpose of applying the Parking Ordinance. The project application was submitted before the recent parking requirement modifications and therefore, pursuant to [Section 20.90.060](#) (in effect when the permit application was deemed complete) the project Applicant has applied the parking requirement for the medical office under the previous Parking Ordinance, as follows:

Parking Type	Required Parking Ratio	Calculation Basis	Spaces Required	Spaces Provided
Vehicle	1 space/250 sf	Net floor area = 3,932 sf	16	25
Bicycle	1 space/4,000 sf	Floor area = 4,625 sf	2	4
Motorcycle	1 space/20 vehicles spaces	16 vehicle spaces	1	1

Analysis: As shown in the table above, the project Applicant would provide a total of 25 vehicle parking spaces, one motorcycle parking space, and four bicycle parking spaces onsite, consistent with [Section 20.90.060](#) of the San José Municipal Code.

Performance Standards

Pursuant to [Section 20.55.202](#) of the Municipal Code, no primary use or activity shall be conducted or permitted:

1. In a manner that causes or results in the discharge of any waste materials into or upon the ground, into or within any sanitary or storm drain system, into or within any water system or water, or into the atmosphere; or

2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust, vibration, radiation, or fumes; or
3. In a manner that creates a public or private nuisance.

Analysis: The project will operate entirely inside the building during regular business hours. There will be no outdoor activities other than cars circulating in the parking lot, nor will there be late-night hours. The office entrance is located on the building's south elevation, more than 70 feet from the nearest residential use. During the temporary construction period, work hours will be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday. The use will not generate fire, explosions or other physical hazards. Waste generated by the facility will be subject to waste handling and disposal provisions in Title 9 of the San José Municipal Code.

3. Senate Bill 330 Conformance

The Housing Crisis Act of 2019 (SB 330, 2019) limits the manner in which local governments may reduce the capacity for residential units that can be built within the local agency's jurisdiction, including actions such as downzoning, changing general or specific plan land use designations to a less intensive use, reductions in height, density or floor area ratio, or other types of increased requirements that work to reduce the amount of housing capacity in the jurisdiction. An exception to this limitation is that a property may be allowed to reduce the intensity of residential uses if changes in land use designations or zoning elsewhere in the jurisdiction ensure there is no net loss in residential capacity within the jurisdiction.

The proposed rezoning (File No. C22-125) would change the existing A(PD) Planned Development Zoning District, which only allows restaurant use, to the MUC Mixed Use Commercial Zoning District, which allows commercial and mixed-use (commercial and residential) development with a residential density up to 50 DU/AC (dwelling units per acre). Although the project proposes only commercial use of the property, the rezoning would result in a net gain of 21 allowable residential units.

4. Citywide Design Standards and Guidelines Conformance

The project is subject to the [Citywide Design Standards and Guidelines](#) and is consistent with the following applicable provisions:

Section 2.2.1, Pedestrian and Bicycle Access Location

- Standard 4: Provide direct access for all lobbies, public open spaces, and paseos from the street or publicly accessible pedestrian walkways.

Analysis: The site plan includes a paved, four-foot-wide paved walkway from the sidewalk to the building entrance.

Section 2.2.2, Driveways and Vehicle Drop-offs

- Standard 1: Locate curb cuts at least 50 feet away from pedestrian and bicycle entrances.
- Standard 2: Entrance/exit driveways must be limited to a maximum of two per 200 feet on all mid-block parcels.

Analysis: The building entrance is located more than 58 feet from the nearest curb cut and there is one ingress/egress driveway, consistent with the standard.

Section 2.2.3, Services and Utilities Access and Location

- Standard 2: Provide a covered area for solid waste collection when it is located outside the building envelope.

Analysis: The project includes the construction of a covered trash enclosure with masonry walls and a metal roof at the rear of the building. The enclosure will not be visible from the public right-of-way.

Section 2.3.5, Bicycle Parking Placement

- Standard 2: Place bicycle parking so that bicyclists do not have to cross vehicular parking or drive aisles to enter the building.

Analysis: The four proposed bicycle parking spaces are directly accessible from the sidewalk via the same walkway that leads directly to the entrance, consistent with the standard.

Section 2.3.6: Vehicular Parking Placement and Surface Parking Design

- Standard 3: Screen at least 75% of surface parking from primary streets.

Analysis: The project plans (attached) include retaining the existing 32-inch-high walls that screen the entire street frontage of the parking lot. Shrubs will be added to the landscaped areas between the walls and the sidewalk, providing additional screening consistent with this standard.

Section 2.3.8: Landscaping and Stormwater Management

- Standard 1: Select trees that at maturity create a tree canopy cover that shades a minimum of 50% of each onsite parking area.

Analysis: The project includes planting three trees on the site, in addition to the 12 existing trees. The landscape plan shows that, at maturity, the trees would shade approximately 67% of the parking lot, consistent with the standard.

Section 3.2.2, Vehicular Entrances and Driveways

- Standard 1: Driveways must be less than 25% of street frontage for sites that are more than 100 feet wide at the street.

Analysis: The driveway width is 25 feet eight inches, which is approximately 19% of the street frontage of 137.5 feet, consistent with the standard.

Section 3.2.3, Services and Utilities Entrances and Design

- Standard 1: Screen solid waste, utilities, and services areas from residential and commercial uses and onsite and off-site view to limit visual impact on the public realm using fences, walls, or landscaping that use durable and weather-resistant materials, are four to five feet tall, and do not interrupt the line-of-sight of drivers entering or exiting the site.
- Standard 2: Install roofs on exterior solid waste enclosures to prevent rain from getting inside and carrying contaminants into the stormwater system.

Analysis: The proposed trash enclosure would be constructed of concrete slab walls with a metal roof covering to screen the trash receptacles. While the enclosure would be visible from the adjoining residential use to the south, it is approximately 114 feet from the shared property line. The enclosure would be located behind the primary building and therefore would not be visible from the public realm, consistent with the standard.

Section 3.3.2: Roofs and Parapets

- Standard 4: Parapets and other screening elements at the roof level must screen rooftop equipment from view.

Analysis: The existing building has screens for the rooftop equipment. According to the design plans include additional screens to match the existing, consistent with the standard.

Section 3.3.9, Signage

- Standard 1: Direct all building addresses and primary building signage towards street frontage such that they are visible from the street.

Analysis: The project plans do not include signage. As shown on the proposed elevations (Sheet A2.2), the building address is located on the east elevation facing North 5th Street, consistent with the standard.

Exception Request

The project includes an exception request for the following standard:

- a. Section 4.1.1, Commercial Frontages, Standard 2: Create transparent facades with windows or clear glazing for at least 70% of the active frontage length along primary streets.

Analysis: The percentage of transparency on the east elevation facing the street is 33%, which is inconsistent with the standard. Therefore, for the decision-maker to grant an exception, the following findings must be made:

1. There is a physical constraint or unique situation that:
 - i. Is not created by the project Applicant or property owner; and
 - ii. Is not caused by financial or economic considerations.

Analysis: There is a unique situation that supports the Exemption Request in that the property is located within the boundaries of the eligible Japantown National Register Historic District and Candidate City Landmark District. Although the historic evaluation of the property prepared by Robert Cartier of Archaeological Resource Management in April 2023 determined that the existing 1977 building was constructed outside the period of significance of the eligible historic district (1890-1967) and is not individually significant, the project is designed to maintain the existing character of the building to the extent feasible while also rehabilitating it to meet the needs of the proposed dental office use. The east, street-facing elevation of the existing building has three windows and a side door. The project would replace the side door with a window and add two additional windows, increasing the transparency. However, because of the addition to the south elevation, the percentage of transparency would be 33%. This project would maintain the same general

design of the elevation and would provide the appropriate level of lighting and privacy for the proposed dental office use.

2. Approving the exception will not create a safety hazard or impair the integrity and character of the neighborhood in which the subject property is located.

Analysis: Approving the exception for the transparency standard would not create a safety hazard as it would not impede the necessary visibility of pedestrians, bicyclists, or drivers who enter the property or walk along the adjacent sidewalk. The integrity of the neighborhood would not be affected because the project would increase the number of windows on the street-facing elevation.

3. The proposed project meets the intent of the design standard to the extent feasible.

Analysis: As discussed in finding 1, the project would replace the existing side door and add two windows, for a total of five windows. Therefore, although the final transparency percentage is 33%, below the required 70%, the project would increase the total area of glazing on the street-facing elevation, which meets the intent of the standard to the extent feasible.

5. Site Development Permit Findings

Pursuant to San José Municipal Code [Section 20.100.630](#), staff recommends City Council make the following findings:

1. The site development permit, as approved, is consistent with and will further the policies of the General Plan, applicable specific plans, and area development policies.

Analysis: As discussed in the General Plan Conformance section above, the project is consistent with the Mixed-Use Commercial Land Use designation, as it would include a commercial building with a FAR of 0.25, within the allowed range. The project would construct an addition to an existing building but would not affect the site circulation, height, or setbacks, and would therefore be compatible with surrounding development.

2. The site development permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project.

Analysis: As discussed in the Zoning Code Conformance section above, the project would be consistent with the development standards of the MUC Zoning District and the parking standards in [Section 20.90.060](#), and the proposed use is not expected to generate noise that would be a nuisance to adjoining properties.

3. The site development permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency.

Analysis: The project is consistent with [City Council Policy 6-30](#) regarding public outreach for pending land use and development proposals and onsite noticing/posting requirements. Under City Council Policy 6-30, the project is a standard development that requires a public hearing but is not a very small, large, or significant community interest project. Standard development projects are required to provide on-site signage. A project information sign was posted on the project frontage on February 20, 2023, and a notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to respond to questions from the public.

4. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses onsite are mutually compatible and aesthetically harmonious.

Analysis: The project consists of the removal of two walls, a portion of the roof, a side door, and a portico, for the construction of a 1,149-square-foot addition and installation of three windows to an existing 3,476-square-foot commercial building, on an approximately 0.43-gross-acre site. The addition would replace an existing portico and would not affect the site circulation, as the building entrance would remain on the southern elevation. While the roof form would be altered as a result of the addition, including new equipment screens, the same hip-and-gable form would be maintained, with a decorative jutting beam along the roof ridge to match the existing. The new windows to be installed on the east elevation would match the existing windows. The new trash enclosure would be constructed at the rear of the site, where it would not interfere with site circulation or be visible from the public right-of-way. Therefore, the interrelationship between the orientation, location, and elevations of the proposed buildings would be mutually compatible and aesthetically harmonious.

5. The orientation, location, and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

Analysis: The existing one-story commercial building and accessory storage structure on the project site are compatible with adjacent development, which includes one-story commercial buildings on the west and north, a parking lot and the three-story senior center to the west, and a one-story, single-family house to the south. The addition to the primary structure would match this pattern of development, maintaining the building's orientation, setbacks, and height, as well as the site's circulation. The storage building would remain and a new covered trash enclosure would be constructed at the rear of the existing building, where it would not be visible from the public right-of-way. Therefore, the project would be compatible and aesthetically harmonious with adjacent development and the character of the neighborhood.

6. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, stormwater runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

Analysis: During the construction period, the project is expected to generate noise, vibration, and dust, but such impacts would be temporary in nature. The ongoing operation of the dental office would not generate noise aside from vehicle circulation in the parking lot, as all business functions would occur indoors and would not generate noxious odors. The project is subject to Public Works Department conditions regarding drainage facilities and must comply with the City's [Post-Construction Urban Runoff Management Policy](#) (Policy 6-29), which is aimed at controlling environmental impacts. Therefore, the project is consistent with this finding.

7. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility, and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

Analysis: The project would maintain the existing landscaped areas, which are located along the site perimeter (except the northerly property line) and along the south elevation of

the building, adjacent to the parking lot. There are 12 existing trees onsite and two additional trees would be planted, along with ground cover and shrubs. The two trees to be planted would provide shade for the parking lot. The project would include the construction of a covered trash enclosure with concrete walls and a metal roof located at the northwest corner of the site behind the primary building. A 190-square-foot utility building also located in that corner of the site would remain. These improvements would upgrade the appearance of the neighborhood.

8. Traffic access, pedestrian access, and parking are adequate.

Analysis: The project site is located on North 5th Street, a two-way street with a middle turn lane that permits left turns into the parking lot from the southbound direction. The project's 25-space surface parking lot is directly accessible to vehicles via a single ingress/egress driveway on North 5th Street. Pedestrians could access the dental office building using a concrete pathway from the sidewalk, and bicycle parking spaces would be provided adjacent to the entrance.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Under the provisions of Section 15301(e) for Existing Facilities of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Zoning Code, implementing the California Environmental Quality Act of 1970, as amended.

Class 1 Categorical Exemption for Existing Facilities consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the project involves negligible or no expansion of an existing use. An example of this exemption includes Subsection (e) for additions to existing structures where the addition will not result in an increase of more than 50% of the floor area of the structure before the addition, or 2,500 square feet, whichever is less.

The project is a Conforming Rezoning to the MUC Mixed-Use Commercial Zoning District to match the Mixed-Use Commercial General Plan land use designation and the removal of two walls, a portion of the roof, a side door, and a portico, on a vacant, 3,476-square-foot commercial building, for the construction of a 1,149-square-foot addition for conversion to a dental office, on an approximately 0.43-gross-acre site. The addition would increase the floor area by about 33%, which is below the 50% maximum increase and therefore qualifies for the Class 1 exemption. The other upgrades to the site include new plantings in landscaped areas, including two trees, restriping, and minor reconfiguration of the parking lot.

The site is located within the boundaries of the eligible Japantown National Register Historic District and Candidate City Landmark District which is considered a historical resource under CEQA. The property was developed in 1977, which is outside the period of significance for the historic district (1890-1967) and is a non-contributing structure to the eligible district. The property was evaluated by Robert Cartier of Archaeological Resource Management in April 2023 and determined not to be individually significant, so the project has been evaluated in relation to its context within the eligible district and potential impacts to the district. The

existing building retains "some visual elements of traditional Japanese architecture" which relate to the character of the eligible district, including the "Irimoya" roof form with a decorative jutting beam along the peak. The project is designed to maintain those general elements while also adapting the building to meet the needs of the proposed dental office use. The proposed project is compatible with character of the the eligible district because it retains the building's existing setbacks, orientation, scale, proportion, rhythm, massing, height, materials, roof shape and general features and will not cause a substantial adverse change to the significance of the historical resource.

The Conforming Rezoning from the A(PD) Planned Development Zoning District to the MUC Zoning District would allow dental office use, which is prohibited in the existing A(PD) Zoning District. The project site has been identified for rezoning since the passage of Senate Bill 1333 in 2018, which requires that charter cities such as San José align all property zoning districts to their General Plan land use designations. The MUC Zoning District is the conforming zoning district for the property's Mixed Use Commercial land use designation.

The scope of the project, the urban setting, and rezoning to a zoning district that permits mixed-use development would, therefore not result in a significant environmental impact and qualifies for an exemption under Section 15301(e) for Existing Facilities of the CEQA Guidelines. Furthermore, none of the exceptions listed under Section 15300.2 of the CEQA Guidelines is applicable to the project.

PUBLIC HEARING NOTIFICATION

Staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. An onsite sign was posted on the project frontage on February 20, 2023. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public. No public comments were received.

/s/

CHRIS BURTON, Director
Planning, Building and Code Enforcement

For questions, please contact Robert Manford, Deputy Director, at (408) 535-7900.

ATTACHMENT: Plan Set