



## CITY COUNCIL STAFF REPORT

<b>File Nos.</b>	CPA16-005-01 and ER25-125
<b>Applicant:</b>	Fuze Bar and Grill (Jenny Wolfes)
<b>Location</b>	58 South 1 <sup>st</sup> Street
<b>Council District</b>	3
<b>General Plan Designation</b>	Downtown
<b>Existing Zoning</b>	DC Downtown Primary Commercial
<b>Proposed Zoning</b>	N/A
<b>Acreage</b>	0.15 acres
<b>Historic Resource</b>	Pomeroy-Skerritt Building (City Landmark)
<b>Demolition</b>	N/A
<b>Tree Removals</b>	N/A
<b>Existing Land Use</b>	Bar, Public Eating Establishment, Banquet Facility
<b>Proposed Land Use</b>	Bar, Public Eating Establishment, Banquet Facility
<b>Annexation Date:</b>	March 27, 1850 (Original City)
<b>Project Planner</b>	Rina Shah
<b>CEQA:</b>	Exempt pursuant to CEQA Guidelines Section 15301 for Existing Facilities
<b>CEQA Planner</b>	Rina Shah

### APPLICATION SUMMARY:

The proposed project is a Conditional Use Permit Amendment (File No. CPA16-005-01) to amend the conditions of the previously approved project, File No. CP16-005, for the Fuze Bar and Grill.

The original Conditional Use Permit (CUP), approved by the City Council on appeal on February 14, 2017 (Resolution No. 78090), approved the late-night use of the public drinking establishment (bar) until 2:00 a.m. with a maximum capacity of 250 persons on the first floor.

The project applicant is now requesting approval for late-night operations at Fuze Bar and Grill, with a maximum building occupancy of 370 on the first floor for the bar and the restaurant, including outdoor patio dining, and 299 persons on the second floor for the banquet facility and associated outdoor balcony. This request also includes extending the daily hours of operation for all uses until 2:00 a.m., in the existing 8,684-square-foot, two-story building, and to allow music on the outdoor patio and balcony between 10:00 p.m. and 2:00 a.m. to match the restaurant's extended hours.

The requested building occupancy is approved by the Fire Marshal. The site operates under the ABC Type 47 license and will continue to operate under that license. The site also operates under a valid entertainment permit from the San José Police Department, which would need to be amended if the requested CUP amendment is approved.

## RECOMMENDATION:

Staff recommends that the City Council take all of the following actions regarding the approximately 0.15 gross-acre project site located on the east side of South 1<sup>st</sup> Street, approximately 400 feet south of East Santa Clara Street (58 South 1<sup>st</sup> Street) ("Project Site"):

- 1) Adopt a resolution approving CEQA Exemption Section 15301 for the Fuze Bar and Grill, in accordance with the California Environmental Quality Act; and
- 2) Adopt a resolution approving, subject to conditions, a Conditional Use Permit Amendment to allow the following actions:
  - a. Remove the condition that mandates the business to be open during lunch hours.
  - b. Remove the condition that requires the banquet facility to close at midnight and extend hours to 2:00 a.m. for the restaurant, banquet facility, and associated outdoor patio and deck.
  - c. Remove the condition that limits occupancy to 250 people on each floor and increase the capacity to 370 people on the first floor and 299 people on the 2nd floor to match the Fire Department's maximum capacity.
  - d. Remove the condition that restricts playing music on the outdoor patio and deck after 10:00 p.m. and extend it to 2:00 a.m. to match the extended hours.

## PROJECT DATA

GENERAL PLAN CONSISTENCY			
General Plan Designation		Downtown <input checked="" type="checkbox"/> Consistent <input type="checkbox"/> Inconsistent	
Consistent Policies		Land Use Policies LU-3.7, LU-3.8 and IE-5.3	
Inconsistent Policies		N/A	
SURROUNDING USES			
	General Plan Land Use	Zoning	Existing Use
North	Downtown	DC Downtown Primary Commercial	Public Drinking Establishment
South	Downtown	DC Downtown Primary Commercial	Public Drinking Establishment, offices
East	Downtown	DC Downtown Primary Commercial	Parking Lot
West	Downtown	DC Downtown Primary Commercial	Retail, Parking Garage

RELATED PUBLIC HEARING ACTIONS	
Date	Action
3/25/2016	File No. CP15-016: Conditional Use Permit to allow a drinking establishment (for more than 250 people) and late-night use until 2:00 a.m. in an existing 8,684 square foot public eating establishment in the DC Downtown Primary Commercial Zoning District on an approximately 0.15 gross acre site. City Council denied the application on 8/11/15.
8/28/2016	File No. CP15-057: Conditional Use Permit to allow late-night use until 2:00 a.m. for a public drinking establishment with a maximum occupancy of 250 people, a restaurant, and a banquet hall in an existing 8,684 square foot tenant space in the DC Downtown Primary Commercial Zoning District on an approximately 0.15-gross-acre site. City Council denied the application on appeal on 8/28/16.
2/14/2017	File No. CP16-005: Conditional Use Permit (CUP) to allow late-night use until 2:00 a.m. for a public drinking establishment on the first floor of the subject building, with a maximum occupancy of 250 people. City Council approved the Project on appeal on 2/14/2017.

## PROJECT SETTING AND BACKGROUND

As shown on the Aerial Map below (Figure 1), the subject site is located on the east side of South 1<sup>st</sup> Street, approximately 400 feet south of East Santa Clara Street (58 South 1<sup>st</sup> Street; APN 467-22-008).



**Figure 1 – Aerial Map**

The site has an existing two-story 8,684-square-foot Pomeroy-Skerritt Building, which is listed as a City Landmark on the city's Historic Resources Inventory. The building has

separate entrances for the first and second floors, which are connected by internal and external staircases and an elevator. The site also features a 557-square-foot outdoor patio and a 400-square-foot second-story balcony, both located at the rear of the building, facing a parking lot (Attachment A). These areas are used during operational hours. An exterior stairway connects the patio and balcony. No exterior modifications to the building facades or building expansions are proposed with this application.

The surrounding land uses include:

- Public drinking establishments to the north.
- Public drinking establishments, professional offices, and commercial uses to the south.
- A parking lot to the east; and a public drinking establishment; and
- Retail use, and a parking garage (across South 1<sup>st</sup> Street) to the west.

There is an office use on the upper levels of the adjacent building to the south, located above two existing drinking establishments. The nearest residential use is an apartment building approximately 250 feet to the east, on South 2nd Street, on the opposite side of a surface parking lot and separated by South Second Street at the rear of the subject building.

A restaurant currently operates on the first floor, from 11:00 a.m. to 12:00 a.m., with a maximum occupancy capacity of 250 people. A banquet facility currently operates on the second floor until 12:00 a.m., with a separate maximum occupancy capacity of 250 people. A banquet facility and public eating establishment (restaurant) uses are permitted by right within the DC Downtown Primary Commercial Zoning District, but require a Special Use Permit (SUP) application and approval to be open between the hours of 12:00 a.m. and 6:00 a.m.

As described in the Related Hearing Actions table above, two previous CUP requests, which occurred in 2016, for the late-night operation of the drinking establishment, were denied by the City Council after an appeal of the Planning Commission's decision.

On February 14, 2017, after an appeal of the Planning Commission's decision, the City Council approved a Conditional Use Permit (CUP), File No. CP16-005, to allow a late-night use until 2:00 a.m., seven days a week, for a public drinking establishment on the first floor of the subject building, with a maximum occupancy of 250 persons.

The Council also added the following conditions to the CUP Resolution No. 78090 (

- The project must operate a ground-floor daytime use seven days a week, to comply with Council Policy No. 6-23, Land Use Compatibility Guideline 1.c., which limits new nightclubs and bars in areas where more than 30 percent of the street frontage on any one side of the street is occupied by the same uses. This condition required the restaurant to be open during the daytime lunch hours of 11:30 a.m. to 2:30 p.m.
- The Permittee shall obtain and maintain the required license from the Department of Alcoholic Beverage Control (ABC). Alcohol service shall comply with the issued ABC license.

- The Permittee shall obtain and maintain compliance with a Public Entertainment Permit issued by the San José Police Department as applicable.

## **PROJECT DESCRIPTION**

On June 26, 2025, the Permittee submitted a CUP Amendment application as stated under the Project Summary above, as follows:

1. Remove the condition that mandates the business to be open during lunch hours.
2. Remove the condition that requires the banquet facility to close at midnight and extend hours to 2:00 a.m. for the restaurant, banquet facility, and associated outdoor patio and deck.
3. Remove the condition that limits occupancy to 250 people on each floor and increase the capacity to 370 people on the first floor and 299 people on the 2nd floor to match the Fire Department's maximum capacity.
4. Remove the condition that restricts playing music on the outdoor patio and deck after 10:00 p.m. and extend it to 2:00 a.m. to match the extended hours.

[Section 20.70.100, and Table 20-140](#) of the Zoning Code state that a public drinking establishment with an approved maximum occupancy load of over 250 persons, operating between 12:00 a.m. and 6:00 a.m., requires a Conditional Use Permit hearing before the City Council. The subject request is to include an occupancy load of 370 people on the first floor, which triggers the City Council Hearing process. The maximum occupancy for a business is set by the San José Fire Department for safety purposes.

Additionally, pursuant to [Section 20.70.510](#) of the Zoning Ordinance, late-night operation of the restaurant, banquet facility, and associated outdoor dining requires the issuance of a Special Use Permit (SUP). As the applicant has requested concurrent review of all four items listed above, the application may be heard by the City Council under one unified hearing process under the current CUP Amendment application.

The business operates with a Type 47 Alcoholic Beverage Control (ABC) license. The applicant also has a valid Entertainment Permit from the Police Department for the operation of the nightclub on the first floor of the premises, which will need to be amended to accommodate the proposed expansion of the operations if approved by the City Council. The project also requires consistency with Council Policy 6-27: Evaluation of 24-Hour Uses and Council Policy 6-23: Guidelines for Evaluation of Nightclubs and Bars.

No exterior modifications to the building facades or building expansions are proposed with this application.

### **Proposed Uses**

#### *Drinking Establishment*

The drinking establishment would be limited to the first floor of the building, with a maximum occupancy of 370 people (previously limited to 250 people). The drinking establishment contains one bar with alcoholic beverage service, open floor/lounge areas, and other seating areas internal to the building. A limited food menu would be available during drinking establishment hours.

Live music and entertainment would be provided in the form of a DJ or band playing amplified music. A setup stage for the live entertainment and all amplified music equipment would be primarily indoors. The sound level for amplified music on the patio and deck would be monitored and turned down after midnight. All outdoor amplified sound is conditioned to be directed away from South 2<sup>nd</sup> Street. However, patrons would be allowed on the outdoor patio or balcony until close. No minors would be allowed on the first floor during operation of the drinking establishment and public entertainment establishment (nightclub/lounge). Trained security staff (one personnel per 50 people) would be provided during the same hours to monitor the interior and exterior of the building.

### *Restaurant*

The proposed restaurant on the first floor of the building is permitted by right in the DC Downtown Primary Commercial Zoning District. An SUP is required for the restaurant as it is proposed to be open after midnight, with table service ending at 1:30 a.m. Previously, the restaurant was required to be open during lunch hours to comply with Council Policy 6-23; however, due to a lack of foot traffic during daytime hours, the applicant has requested to remove this condition.

### *Banquet Facility*

The banquet facility is permitted by right in the DC Downtown Primary Commercial Zoning District. The use is proposed to occupy the second floor, with a maximum occupancy of 299 people, and would be available by reservation only, from 6:00 a.m. to 2:00 a.m. daily. The operational hours are until 2:00 a.m., which requires a SUP. As defined by the Zoning Ordinance, a banquet facility provides food service with tables and seating, primarily for the purpose of serving a meal at a hosted party, banquet, or reception. Typical banquet facility activities include weddings, corporate events, receptions, private parties, and other functions. The use as a banquet hall may include live entertainment and alcohol service.

All uses in the building may operate simultaneously. The Operations Plan is attached (Attachment B).

### **Historic Resource**

The subject building was built in 1868 and is commonly referred to as the Rea Block or the Pomeroy-Skerritt Building. The site is listed on the National Register of Historic Places and the City of San José Historic Resources Inventory as a City Landmark Structure and Contributing Structure. The applicant is not proposing any changes to the exterior façade of the building.

## **ANALYSIS**

The project was analyzed for conformance with the following:

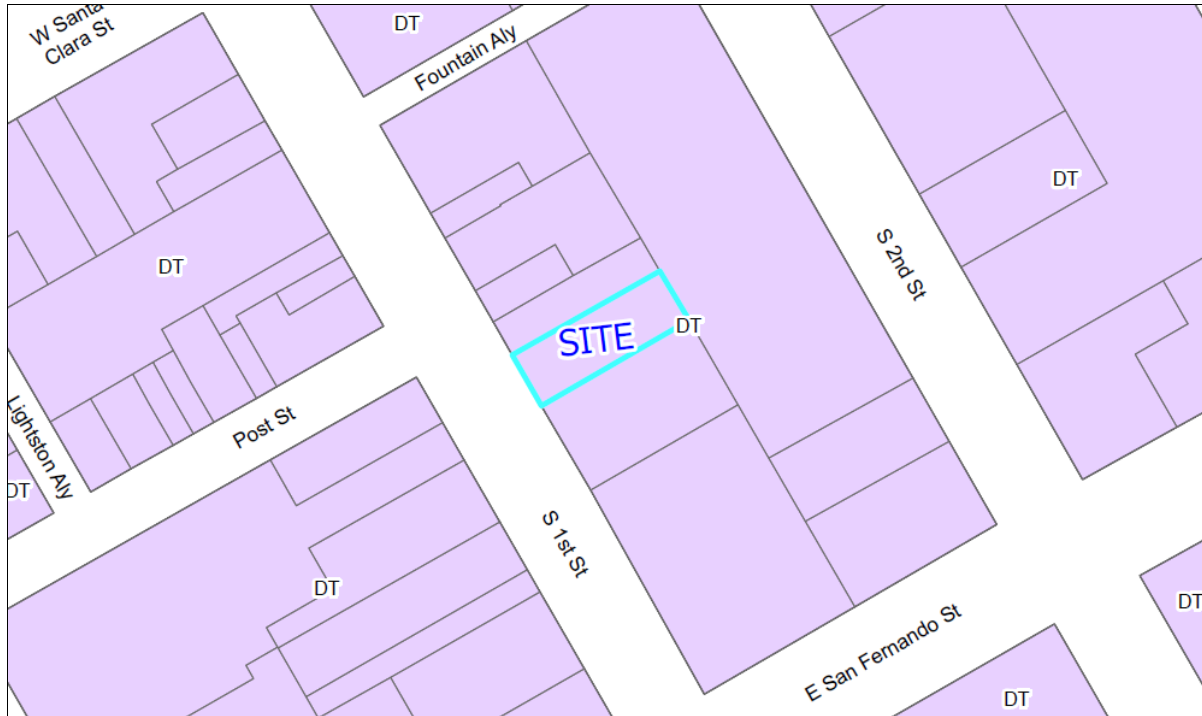
1. Envision San José 2040 General Plan
2. Zoning Ordinance
3. City Council Policy 6-27: Evaluation of 24-Hour Uses
4. City Council Policy 6-23: Evaluation of Night Clubs and Bars



5. Permit Findings
6. California Environmental Quality Act (CEQA)
7. Public Outreach

### **Envision San José 2040 General Plan Conformance**

As shown on the General Plan Land Use Map below (Figure 2), the subject site has an [Envision San José 2040 General Plan](#) land use designation of Downtown.



**Figure 2 – General Plan Map**

This designation includes office, retail, service, residential, and entertainment uses in the Downtown. All development within this designation should enhance the “complete community” in Downtown, support pedestrian and bicycle circulation, and increase transit ridership.

*Analysis: Late-night uses are consistent with the mix of commercial uses allowed within the General Plan land use designation of Downtown. Downtown is exempt from the General Plan noise policies.*

The project is consistent with the following General Plan Policies:

- Downtown Land Use Policy LU-3.7: Recognize the urban nature of Downtown and support 24-hour uses and outdoor uses, so long as significant adverse impacts do not occur.
- Downtown Land Use Policy LU-3.8: Leverage Downtown’s urban nature and promote projects that will help achieve economic, fiscal, environmental, cultural, transportation, social, or other objectives of this plan.

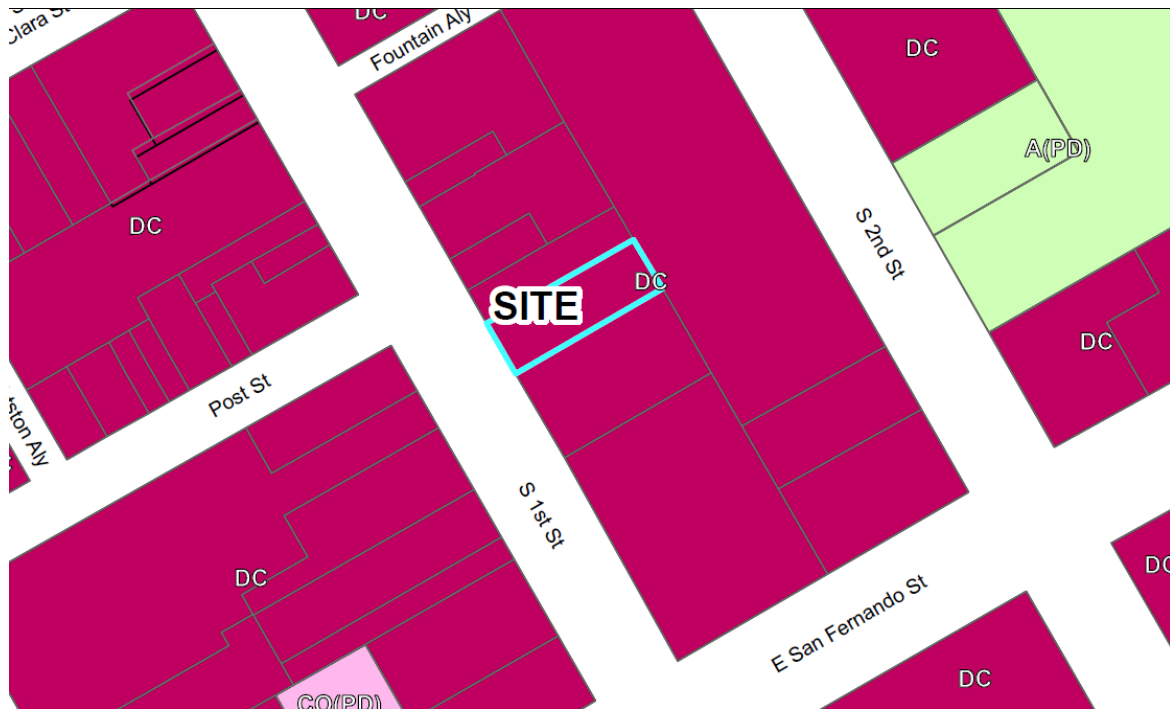
*Analysis: The proposed late-night use would complement the existing 24-hour activities in Downtown, enhancing vibrancy and offering additional entertainment options alongside the area's diverse range of uses.*

- Land Use and Employment Policy IE-5.3: Support private efforts to achieve a stronger mix of evening and late-night uses in Downtown that promote a vibrant, 24-hour City center to generate jobs, increase revenues, and attract visitors and workers to San José.

*Analysis: The Project would be consistent with this Policy in that it would add to the existing mix of evening and late-night uses in Downtown. There are diversified entertainment options in the evenings and weekends that attract a wider range of visitors, which brings in revenue and sustains businesses and workers in Downtown.*

### **Zoning Ordinance Compliance**

As shown on the Zoning Map below (Figure 3), the subject site is located in the DC Downtown Primary Commercial Zoning District.



**Figure 3: Zoning Map**

The Project is consistent with the regulations of the Zoning Ordinance in the following manner:

#### Land Use

Under [Section 20.70.100 and Table 20-140](#), a restaurant with outdoor dining and a banquet hall are permitted uses in the Downtown zoning district; a drinking establishment with an approved maximum occupancy load of over 250 persons and that operates between 12:00 midnight and 6:00 a.m. requires a Conditional Use Permit (CUP) that requires a public hearing before the City Council.

Pursuant to [Section 20.70.510](#) for late-night uses and activity, the following is applicable:



- A. No retail commercial establishment (including but not limited to a public eating establishment and/or retail sales) or entertainment establishment (without alcohol) shall be open between the hours of 12:00 midnight and 6:00 a.m. in the DC and DC-NT1 districts except with a Special Use Permit as provided in Chapter [20.100.800](#) of this title.
- B. No drinking establishment shall be open between the hours of 12:00 midnight and 6:00 a.m. in the DC or DC-NT1 districts except with a conditional use permit as provided in [Chapter 20.100](#) of this title.

*Analysis: As stated before, this CUP Amendment seeks to revise the conditions of the previously approved CUP (File No. CP16-005) for Fuze Bar and Grill. As the applicant has requested concurrent review of all four items listed under the Project Description above, the application will be heard by the City Council under one unified hearing process under the current CUP Amendment application.*

#### Setbacks and Height

The properties located in the DC districts shall not be subject to any minimum setback requirements, and the height of properties located in the Downtown zoning districts shall only be subject to the height limitations necessary for the safe operation of San José International Airport. The project is not proposing any change to the existing setbacks and height of the two-story building.

Noise: The Downtown zoning districts do not have performance standards with regard to noise.

#### **City Council Policy 6-27: Evaluation of 24-Hour Uses**

City Council Policy 6-27, adopted by City Council on April 26, 1994, is intended to assure compatibility of uses operating between 12:00 midnight and 6:00 a.m. with the surrounding land uses. The project is reviewed against [City Council Policy 6-27](#) for the late-night operation of all uses in the building until 2:00 a.m.

- **Area Use Compatibility.** Pursuant to this guideline, twenty-four-hour uses should not be approved unless the facility can operate without detriment to nearby residential uses or the general welfare of the surrounding area. Given the potential for problems arising from such uses, which may or may not have been anticipated at the time of approval, all such permits should include a condition for a Compliance Review based on written complaints, and all such complaints should be referred to the Planning Commission.

*Analysis: The proposed use is not in close proximity to residential areas, and the business proposes to operate without being detrimental to the surrounding area, as stated in the submitted Operations Management Plan, on file with the Planning Division. A Compliance Review condition is included in the CUP Resolution. (Condition No. 18).*

- **Use Separation.** Pursuant to this guideline, physical separation of incompatible uses is the best means to avoid potential problems. Generally, 24-hour uses should not be located within 300 feet of any property residentially zoned, planned, or used.

*Analysis: The nearest residential use is an apartment building approximately 250 feet to the east, on South 2nd Street, on the opposite side of a surface parking lot and separated by South Second Street at the rear of the subject building. However, the*

*bar with a late-night use has operated for almost a decade without being a nuisance to the adjacent neighbors. Upon staff inquiry, in a memo dated August 7, 2025, the Police Department stated that there have been no complaints received for the site and has provided a Police Memo (Attachment C) that is neutral to the proposed late-night uses to operate in the existing building. Per the Operations Management Plan, sufficient on-site security staff, at one personnel per fifty people, during the evening entertainment events, will be provided to prevent calls for service to the City of San José Police Department.*

- **Outdoor Activities.** Pursuant to this guideline, outdoor activities may be limited for 24-hour operations. Services and sales should be conducted entirely within interior spaces between the hours of 12:00 a.m. and 6:00 a.m.

*Analysis: The existing restaurant and banquet hall feature an associated outdoor patio and deck that will be used for dining and entertainment. The operating hours for these outdoor areas will align with the late-night hours of the restaurant and banquet hall. The amplified sound at the outdoor patio and balcony will be monitored by the Permittee after midnight, and the sound level will be turned down.*

- **Police Issues.** Pursuant to this guideline, crime statistics and police safety issues that are directly related to uses operating between 12:00 midnight and 6:00 a.m. will be analyzed and considered in determining the appropriateness of 24-hour uses.

*Analysis: As documented in their memorandum dated August 7, 2025, the Police Department is neutral to the proposed late-night use for the subject site.*

*A crime analysis indicated a total of 4,363 calls for service and self-initiated events occurred within a 1,000-foot radius of 58 South 1st Street in 12 months (8/1/24 – 8/1/25). Of the 3,718 calls and events, 872 occurred during the hours between midnight and 6:00 a.m. The reported crime statistics, as defined by B&P Section 23958.4(c), are not over the 20% crime index, and hence, the Police are neutral to the proposed late-night use for the business.*

- **Restroom Facilities.** Restroom facilities required by other codes or policies shall remain open and be available during late-night business hours.

*Analysis: Restroom facilities are provided and shall remain open and available for customers during the hours of operation of the business. This is a condition of approval that is included in the CUP Resolution.*

- **Noise.** Special attention should be paid to the possibility of noise at late-night hours.

*Analysis: Unlike other zoning district designations, the DC Downtown Primary Commercial Zoning District does not have performance standards concerning Noise. Similarly, Downtown is exempt from adhering to any noise policies in the General Plan. However, the business will not be detrimental to the surrounding uses as stated in their Operations Management Plan, as the building consists of a sound system that has been designed with noise limiters to control the sound levels on both floors and the patio. The applicant will monitor the amplified sound and music on the outdoor patio and balcony after midnight, and speakers will be turned down to ensure compatibility with adjacent uses.*

- **Mitigation Management Plan.** An Operations Management plan is required and submitted, addressing all of the following items:

- Litter Control. The applicant shall control the litter emanating from the site daily for a distance of 300 feet along public streets from the site.
- Lighting. The applicant shall provide enhanced lighting of the designated parking and use areas and related areas of the site to the satisfaction of the Director of Planning.
- Exterior Clean Up. Exterior clean-up and maintenance activities, including garbage pick-up, shall not occur later than 10:00 p.m. or before 7:00 a.m. when the business is located within 300 feet of residential uses.

*Analysis: An Operations Management Plan was prepared for the business, which includes provisions for regular site maintenance, exterior clean-up, trash pick-up, and graffiti removal. The trash receptacles will be kept indoors, and the Permittee will maintain the business exterior to be litter-free with regular inspections. The Project is in a well-lit area that contains ample street lighting. No additional lighting is provided.*

*The business provides a security alarm system and cameras, which will be closely monitored. The site provides one on-site security personnel per fifty people. Per the Operations Management Plan, sufficient security will be provided to prevent calls for service to the City of San José Police Department. The security personnel will check IDs and conduct personal inspections at the front door. The queue to enter the building will be on 1st Street. The security personnel will also be positioned throughout the venue and in the outdoor spaces.*

*The noise, lighting, security, anti-graffiti, anti-litter, and cleaning/maintenance requirements have been added as conditions of approval of this CUP resolution.*

*Based on the above analysis, the Project is consistent with the Council Policy 6-27 and meets the general guidelines for the late-night use in that the Project will not be detrimental to the surrounding area and is located in an area intended for a mix of uses.*

### **City Council Policy 6-23: Guidelines for Evaluation of Nightclubs and Bars**

[City Council Policy 6-23](#) was adopted June 25, 1991, and last updated February 23, 1993. The intent of the policy is to avoid a concentration of nighttime uses in any one area. The policy includes guidelines intended to facilitate the evaluation process for individual permit applications by identifying the project characteristics that are necessary for approval. The land use guidelines in Council Policy 6-23 are applicable to the evaluation of the proposed drinking establishment (bar) use only.

#### **• 30-Percent Frontage Limit for Non-Daytime uses**

- Land Use Compatibility Guideline 1.c. of Council Policy 6-23 states that new nightclubs and bars that are not open during daytime hours should not occupy more than 30 percent of the street frontage on any one side of the street. The purpose of this prohibition is to limit the number of dark storefronts in the Downtown during daytime hours, lending to an appearance of vacancy and lack of vibrancy in this central commercial area.

*Analysis: Staff conducted a site visit on July 2<sup>nd</sup>, 2025, to take an inventory of all the drinking establishments that were open in the late-night hours. There are three late-night drinking establishments on the block (approximately 698 square feet) on the east side of South First Street between East Santa Clara Street and East San Fernando Street. The proposed late-night use would bring the total to four. Therefore, Nineteen percent (approximately 130 feet of street frontage) of the block is currently occupied with drinking establishments without daytime uses. The three businesses are as follows: Paper Plane (72 S. 1<sup>st</sup> Street), Still O.G. (66 S. 1<sup>st</sup> Street), and Temple (52 S. 1<sup>st</sup> Street).*

*With the inclusion of the subject site, there will be four late-night drinking establishments, resulting in 23 percent of the street frontage on any one side of the street (Attachment D).*

*Therefore, the business does not need to be mandated to be open for lunch hours.*

- **Areas with Above Average Police Calls for Service**

- Land Use Compatibility Guideline 1.g states that new nightclubs and bars are discouraged from locating in areas where there have been above-average police calls for service.

*Analysis: The San José Police Department is **neutral** to the existing Conditional Use Permit Amendment to extend the hours for all uses until 2:00 AM. The Police Department memorandum for this request, dated August 7, 2025, states that the crime analysis indicated a total of 4,363 calls for service and self-initiated events occurred within a 1,000-foot radius of 58 South 1st Street in 12 months (8/1/24 – 8/1/25). Of the 3,718 calls and events, 872 occurred during the hours between midnight and 6:00 a.m. The reported crime statistics, as defined by B&P Section 23958.4(c), are not over the 20% crime index, and hence the Police are neutral to the proposed late-night use for the business.*

- **Other Guidelines**

- Some of the attributes of the proposed project conform with the guidelines of Policy 6-23, such as being located in Downtown and not being adjacent to any residential uses. The use is therefore consistent with the overarching intent of Policy 6-23, as outlined above.

## **Permit Findings**

### Conditional Use Permit Amendment Findings

The following findings must be made for the issuance of a Conditional Use Permit Amendment pursuant to San José Municipal Code [Section 20.100.720](#).

1. The Conditional Use Permit Amendment, as approved, is consistent with and will further the policies of the general plan, applicable specific plans, and area development policies; and

*Analysis: As discussed in the General Plan Conformance section above, the project is consistent with the General Plan land use designation of Downtown, which allows for restaurant and banquet facility uses, including a drinking establishment that will operate with a Type 47 license for on-sale of alcohol. The late-night use is consistent with General Plan land use policies LU-3.7 and LU-3.8,*

*as it would promote a mix of uses and would complement the existing 24-hour activities in Downtown, enhancing vibrancy and offering additional entertainment options alongside the area's diverse range of uses.*

2. The Conditional Use Permit Amendment, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

*Analysis: As discussed in the Zoning Code Consistency section above, the project is consistent with the applicable uses of the DC Downtown Commercial Zoning District. The late-night use of the drinking establishment with floor occupancy greater than 250 persons requires a CUP amendment. There are no changes to the exterior of the building. As stated before, this CUP Amendment application is being heard by the City Council as one unified hearing process for extending the time limit to 2:00 a.m. for all uses operating in the building.*

3. The Conditional Use Permit Amendment, as approved, is consistent with applicable city council policies, or counterbalancing considerations justify the inconsistency; and

*Analysis: The Project is consistent with Council Policy 6-23: Land Use Policy for Drinking Establishment in that the project will be required to adhere to the business hours as stated in the Operations Plan. Standard conditions of approval will be included with the CUP Resolution for safety, security, litter, and garbage.*

*The project meets the City Council Policy 6-27 for 24-Hour Uses, as discussed above.*

*Staff followed Council Policy 6-30: Public Outreach Policy for Pending Land Use and Development Proposals to inform the public of the proposed project. On-site signs have been posted on the project frontages since June 29, 2025. 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. The staff report is also posted on the city website. Staff has been available to respond to questions from the public.*

4. The proposed use at the location requested will not:
  - a. Adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety, or general welfare; and

*Analysis: Based on the Police Memo, dated August 7, 2025, the San Jose Police Department is neutral to the proposed CUP Amendment and the request to extend the hours of the restaurant and the banquet hall until 2:00 AM. As per the operations plan, private security will be contracted on-site for the safety of the patrons.*

*The addition of this drinking establishment would result in a total of four late-night drinking establishments on the same side of the street. This would result in approximately 23 percent of such establishments fronting the street, which is*

*below the 30 percent threshold that would have required lunchtime hours. The late-night use, therefore, would not be detrimental to the general welfare of the neighborhood.*

*The business will operate from 11:00 a.m. to 2:00 a.m., seven days a week. The business will be required to maintain the upkeep of the business and the outdoor seating area and adhere to the business hours, safety, and security of the patrons, as stated in its Operations Management Plan.*

5. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping, and other development features prescribed in this title, or as is otherwise required to integrate the said use with the uses in the surrounding area; and

*Analysis: No physical changes have been proposed to the subject building or site. The subject site complies with the applicable development standards of the San José Municipal Code in that this project is in the DC Downtown Primary Commercial Zoning District and does not require or provide parking facilities. The subject site is also adequate in size and shape to accommodate the proposed late-night use for the drinking establishment, restaurant, and the banquet facility with associated outdoor areas.*

6. The proposed site is adequately served:

- a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
- b. By other public or private service facilities as required.

*Analysis: The subject site is adequately served and accessible from public streets as it is located on the east side of South 1<sup>st</sup> Street, approximately 400 feet south of East Santa Clara Street, in a developed area of the Downtown. In addition, a Santa Clara Valley Transportation Authority (VTA) light rail line operates along South 1<sup>st</sup> Street, and the nearest VTA station is less than 100 feet away from the site.*

7. 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: The project would occur within an existing building in an urbanized area in the Downtown, with no changes or construction to the exterior of the building. The General Plan recognizes Downtown as an area suitable for late-night and entertainment uses and does not have noise or other performance standards for this area. Furthermore, a drinking establishment and late-night uses are compatible with other such establishments existing on this street. Based on the discussion and findings in the sections above, the activity is not anticipated to have a significant effect on the environment in terms of noise, vibration, dust, drainage, erosion, stormwater runoff, or odor.*



## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Under the provisions of Section 15301(a) 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 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. The project does not involve any modifications or expansion to the footprint of the existing building.

*Analysis: The proposed project is a Conditional Use Permit Amendment to allow a restaurant, a banquet facility, and a drinking establishment with a late-night use, as well as associated outdoor seating/dining. Amplified sound shall be carefully regulated, especially at the outdoor patio and balcony, and the volume will be turned down after midnight by the Permittee to ensure compatibility with adjacent uses. Additionally, the speakers shall be oriented away from South Second Street. Based on the discussion and findings in the sections above, the project will not have a significant effect on the environment. Therefore, the project is consistent with the Class 1 exemption criteria under CEQA Section 15301(a) for Existing Facilities.*

## **PUBLIC HEARING NOTIFICATION**

Staff followed [Council Policy 6-30: Public Outreach Policy](#) in order to inform the public of the proposed project. On-site signs have been posted on the project frontages since June 29, 2025. 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's website. The staff report is also posted on the [City's website](#). Staff has also been available to respond to questions from the public. No comments were received as of the date of preparation of this report.

/s/

CHRISTOPHER BURTON, Director  
Planning, Building, and Code Enforcement

For questions, please contact John Tu, Division Manager, at [John.Tu@sanjoseca.gov](mailto:John.Tu@sanjoseca.gov).

## **ATTACHMENTS:**

- A. CUP Amendment Plan Set
- B. Operations Plan
- C. Police Memo
- D. Google Map Exhibit



(E) PARKING LOT



PROJECT NO.: 15-5180

**1 PROPOSED FURNITURE PLANS  
- DINNING LAYOUT**



## A2.6

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## **Attachment B - Operations Plan**

### **Overview**

Fuze is a public drinking/eating establishment/ Event Venue Night Club on 1<sup>st</sup> Street

The Venue is an Event Venue / Nightclub with full food service and Craft drink menu on the first floor and a second-floor event/banquet venue with a massive outdoor patio and balcony. The Indoor Space is multi-level event space with a massive patio lounge area on the bottom level and a large banquet room on the top floor. The venue caters to both large and small gatherings for all kinds of event needs. Birthdays, graduations, Weddings, Baby Showers, Corporate Events, or meetings. The floors can be used for separate floors or combined. At night the venue has DJ's ,Dancing and live Entertainment and that cater to a variety of crowds.

### **Hours of Operation**

Fuze will be open from 11AM – 2AM, seven day per week. The venue does private events varying from corporate meetings to private parties during the week and is open Thursday thru Sunday as a lounge from 10-pm to 2am with DJs and live performances. Late night will be a drinking establishment with a late night menu. The total legal occupancy of the building during all hours is 370ppl downstairs and 299 upstairs

### **Parking**

Parking is available on city and private lots that are located behind and in front of the building.

### **Security**

When entertainment commences until closing, and customers have cleared the front of building at 2:00 AM or as mandated by the City of San Jose Entertainment Permit. The Entertainment Permit requires one security per fifty people. Management's goal is to provide sufficient security to prevent calls for service to the City of San Jose Police Department. The Security will check IDs and do pat downs at the front door where the line of queuing will be on 1<sup>st</sup> Street where there is ample lightening. The Security will also be positioned in the venue and out on the Patio.

Alcohol service will be served at the Bars and Cocktail Waitresses will do the table service. The kitchen is run by a food lessee with a full Menu & Late-night menu. We use multiple private caters for Private and Corporate events.

### **Negating Noise Impacts Noise impacts**

The building is designed to accommodate music and has been constructed in a way to be able to have multiple events with different music formats or bands. The sound system has also been designed with limiters to control the sound levels on both floors and the patio. 1<sup>st</sup> Street already has quite a few venues with outside noise and open building fronts so we will stay at the same levels.



# Memorandum

**TO:** Rina Shah  
Planning Department

**FROM:** Ofc. Ikeuchi #4574  
San Jose Police Vice Unit

**SUBJECT:** CPA16-005  
Fuze Bar and Lounge

**DATE:** August 7, 2025

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Approved

Date

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I have received your request for input regarding the existing Fuze Bar and Lounge, located at 58 South 1<sup>st</sup> Street, in San Jose. Fuze Bar and Lounge has an existing Conditional Use Permit to allow late-night use. Fuze is specifically requesting to extend their banquet hours from midnight to 2 :00 AM.

Per Business and Professions (B&P) Code Section 23958, the State of California Department of Alcohol Beverage Control shall deny an ABC Application for an ABC License if the issuance of that license would tend to create a law enforcement problem or if it would result in or add to an undue concentration of ABC Licenses, as described in B&P Sections 23958.4 (a)(1) and 23958.4(a)(3). A location can be unduly concentrated because of its criminal statistics and/or it's proximity to other ABC Licenses. ABC can issue the license per B&P Sections 23958.4 (b)(1), and 23958.4 (b)(2) if the local governing body determines that the public convenience or necessity would be served. The City of San Jose Planning Department and the Planning Commission are the delegated authorities to grant these exceptions.

58 S. 1<sup>st</sup> Street in San Jose Police Beat E3. The reported crime statistics as defined by B&P Section 23958.4(c) **are not** over the 20% crime index thus the location **is not** considered unduly concentrated per B&P Section 23958.4 (a)(1) for on sale establishments.

## Police Beat Crime Statistics

Beat	Index Crimes	Arrests	Total	20% Above Average
E3	329	234	563	No
City Average	298	119	417	

A crime analysis indicated a total of 4363 calls for service and self-initiated events occurred within a 1000 ft. radius of 58 South 1<sup>st</sup> Street in a 12-month period (8/1/24 – 8/1/25.) Of the 3718 calls and events, 872 occurred during the hours between midnight and 6:00 a.m. Some of the calls are listed in the table below.

## **Crime Analysis**

<b>Number</b>	<b>Nature of Call</b>
470	Disturbances
53	Vehicle Accidents / Traffic Related
40	Thefts / Burglary
21	Assault/Battery
5	Drunk in Public
9	DUI
0	Drug Offenses
13	Sex Crime
35	Robbery

Department of Alcoholic Beverage Control (ABC) records indicate that 58 South 1<sup>st</sup> Street, is in census tract 5009.01. Pursuant to B&P Section 23958.4 (a)(3), the ratio of on-sale retail licenses population in census tract 5009.01 **does** exceed the ratio of off-sale retail licenses to population in the county in which the applicant premises are located if approved.

## **Authorized and Current ABC Licenses in Census Tract**

<b>Census Tract</b>	<b>Authorized ABC Licenses</b>		<b>Current ABC Licenses</b>		<b>Unduly Concentrated</b>	
	<b>On - Sale</b>	<b>Off - Sale</b>	<b>On - Sale</b>	<b>Off – Sale</b>	<b>On - Sale</b>	<b>Off – Sale</b>
5009.01	5	2	58	2	<b>YES</b>	<b>NO</b>

The San Jose Police Department is **neutral** to the existing Conditional Use Permit and the request to extend the hours of the banquet hall until 2:00 AM.

Please feel free to contact me at (408) 277-4322 if you have any questions.

Ofc. Ikeuchi #4574  
San Jose Police Department  
Special Investigations/Vice Unit



Currently, approximately 19 percent of the block (3 businesses) is occupied by drinking establishments operating until 2:00 a.m. without daytime uses. With the inclusion of the project site, this figure would increase to approximately 23 percent.