



REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. VIII-B
COMMISSION MEETING 7-6-11

APPROVED BY


DEPARTMENT DIRECTOR

July 6, 2011

FROM: KEVIN FABINO, Planning Manager
Development Services Division

THROUGH: MIKE SANCHEZ, Planning Manager
Development Services Division 

BY: SOPHIA PAGOULATOS, Planner
Development Services Division 

SUBJECT: **APPEAL OF CONDITIONAL USE PERMIT C-10-124 FOR NIGHTCLUB AND TAVERN USE AT THE CREST THEATRE**

RECOMMENDATION

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the 2025 Fresno General Plan, the Central Area Community Plan, and the Central Business District Redevelopment Plan; its compatibility with surrounding existing or proposed uses; and its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described below and by the accompanying environmental assessment. Upon consideration of this evaluation, staff has concluded that the nightclub and tavern uses proposed in Conditional Use Permit Application No. C-10-124 are appropriate for the project site. Therefore, staff recommends that the Planning Commission:

1. ADOPT the environmental finding of a Categorical Exemption pursuant to Classes 15301 and 15332 of the California Environmental Quality Act Guidelines as the licensing of an existing facility and infill development;
2. DENY the appeal and UPHOLD the action of the Development and Resource Management Department Director approving Conditional Use Permit Application No. C-10-124 subject to the following:
 - a. Development shall take place in accordance with Exhibit A dated March 4, 2011;
 - b. Development shall take place in accordance with the Conditions of Approval letter dated June 29, 2011.

EXECUTIVE SUMMARY

Conditional Use Permit Application No. C-10-124 was filed by Gloria Leon and pertains to a 0.31 acre of property located in downtown Fresno on the southeasterly corner of Broadway Plaza and Fresno Street (see Exhibits A-C). The applicant requests authorization to establish a Nightclub and Tavern (*with Type 48 ABC License, which authorizes the sale of beer, wine and distilled spirits for consumption on the premises and the sale of beer and wine for consumption off the premises where sold*), at the historic Crest Theatre. Event types would include, but not be limited to, concerts, movies, comedy shows, birthday parties, weddings, and dances. Typical events would be from

6 p.m. to 12 a.m. Monday to Sunday; applicant requests authorization to operate as a Nightclub until 4:00 am. The property is zoned C-4 (*Central Trading District*).

The Crest Theater was recently designated a historical resource (HP #270) by the Fresno City Council on February 3, 2011. Constructed in 1949, it was designed as a "New Stadium Theater" by 20th Century Fox. The design of the complex was a Retro Moderne style with a mix of Art Deco and Streamline Modern elements, and it opened with a world premier showing of "You're My Everything."

PROJECT INFORMATION

PROJECT	Conditional Use Permit Application No. C-10-124 requests authorization to establish a Nightclub and Tavern (<i>with Type 48 ABC License, which authorizes the sale of beer, wine and distilled spirits for consumption on the premises and the sale of beer and wine for consumption off the premises where sold</i>), at the historic Crest Theatre. Event types would include, but not be limited to, concerts, movies, comedians, birthday parties, weddings, and dances. Typical events would be from 6 p.m. to 12 a.m. Monday to Sunday; applicant requests authorization to operate as a Nightclub until 4:00 am.
APPLICANT	Gloria Leon
LOCATION	1170 Broadway Plaza on the southeasterly corner of Broadway Plaza and Fresno Street (Council District 3, Councilmember Baines)
SITE SIZE	0.31 acres
LAND USE	Commercial Mixed Use Level 2
ZONING	C-4 (<i>Central Trading District</i>)
PLAN DESIGNATION AND CONSISTENCY	The land use consistency table (Exhibit No. 8) of the Central Area Community Plan shows the C-4 zone district as consistent with the Mixed Use Level 2 planned land use.
ENVIRONMENTAL FINDING	Finding of a Categorical Exemption pursuant to CEQA Guidelines Sections 15301 and 15332 as the licensing of an existing facility and infill development
PLAN COMMITTEE RECOMMENDATION	No District 3 Plan Implementation Committee was in recess at the time this application was routed for comment.

STAFF
 RECOMMENDATION

Approval of Conditional Use Permit Amendment C-10-124 with conditions and adoption of related environmental assessment.

BORDERING PROPERTY INFORMATION

	Planned Land Use	Existing Zoning	Existing Land Use
North	Mixed Use Level 2	C-4 (Central Trading)	Multiple Family Development Masten Towers
South	Mixed Use Level 2	C-4 (Central Trading)	Parking Structure
East	Mixed Use Level 2	C-4 (Central Trading)	Retail Building
West	Mixed Use Level 2	C-4 (Central Trading)	Parking Lot (Redevelopment Agency)

ENVIRONMENTAL FINDING

The project was determined to be exempt from the California Environmental Quality Act (CEQA) under Sections 15301 and 15332 of the CEQA Guidelines as the licensing of an existing facility and as infill development. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project. Therefore, no further environmental assessment is required (see Exhibit E, Environmental Assessment).

BACKGROUND / ANALYSIS

Project Description

Conditional Use Permit Application No. C-10-124 has been filed by Gloria Leon of the Crest Theatre and proposes to establish a Nightclub and Tavern (*with Type 48 ABC License, which authorizes the sale of beer, wine and distilled spirits for consumption on the premises and the sale of beer and wine for consumption off the premises where sold*), at the historic Crest Theatre. Event types would include, but not be limited to, concerts, movies, comedy shows, birthday parties, weddings, and dances. Typical events would be from 6 p.m. to 12 a.m. Monday to Sunday; applicant requests authorization to operate as a Nightclub until 4:00 am.

The Crest Theatre was recently designated by the Fresno City Council as a historical resource. Preservation of the City's historic buildings can only occur with their use, whether as they were originally intended or through adaptive reuse. Vacant or underused buildings are targets for vandalism and easily succumb to "demolition by neglect." Thus economic viability for any business in a commercial historic building is critical. The theater is the entry point to downtown, the heart of Fresno's cultural-arts district. The expanded uses of the Crest will not only support the preservation of

this designated historic resource but will also support the revitalization of Fresno's downtown as a destination for cultural events.

The Crest Theatre is one of 4 historic theaters remaining in the downtown area, along with the Liberty, Warnor's and Wilson Theaters. Of these, only the Warnor's and the Crest have cinemas. The applicant proposes to add nightclub and tavern uses to its current entertainment operations in hopes of maintaining activity at the theater. No exterior construction is proposed with the project. Minor alterations are proposed on the interior to separate the under and over 21 areas. Conditions of approval include development of a security plan and all of the related Police Department conditions, installation of fire sprinklers, and development of a master sign program, among others (see Exhibit H).

LAND USE PLANS AND POLICIES

The most relevant objectives and policies of the various plans that pertain to the project are discussed below:

2025 Fresno General Plan

Objective C-12: Commercial land uses shall be classified, located, sized and developed to meet needs for goods and services while minimizing travel requirements, infrastructure demands and adverse impacts.

Uses in the C-4 (Central Trading) district are those uses which are not appropriate for more dispersed neighborhood shopping centers. The Crest Theatre is exactly this type of use and has been a key architectural and entertainment element in downtown Fresno since 1949. The addition of nightclub and tavern uses would allow consumption of alcohol and dancing at this existing entertainment venue which currently provides concerts, movies and comedy entertainment. The granting of the CUP amendment and consequent nightclub and tavern uses would facilitate the ongoing functioning of the theatre as a downtown entertainment venue. Existing infrastructure is adequate for the proposed uses, and the venue supports the Central Area Plan policy of creating a downtown with after-5 activities.

C-12-a Policy: Ensure that all commercial land uses are developed and maintained in a manner complementary to and compatible with adjacent residential land uses, to minimize interface problems with the surrounding environment and to be compatible with public facilities and services.

The proposed Conditional Use Permit would allow nightclub and tavern operations in an existing entertainment venue. Masten Towers, high-rise as senior housing, is located across the street 100 feet to the north. The southern wall of the Master Towers building which faces Fresno Street and the Crest Theatre has no openings except an entrance on the ground floor. There are no windows or balconies on the southern side. Therefore noise would not be a concern. Furthermore, no outdoor patio is allowed with this application, and Police Department conditions prohibit amplified music that is audible outside the building. The security plan and Police Department conditions ensure adequate security outside the building.

Policy C-2-c: Promote the Central Area Community Plan consistent with the 2025 General Plan objectives and policies to enhance its role as the focal point of regional governmental, entertainment, civic and business activities with supporting commercial uses and substantially

increased residential opportunities to achieve a pleasing, vibrant and active cosmopolitan environment.

The granting of the CUP amendment and consequent nightclub and tavern uses would facilitate the ongoing functioning of the theatre as a downtown entertainment venue. Existing infrastructure is adequate for the proposed uses, and the venue supports the Central Area Plan policy of creating a downtown with after-5 activities.

Central Area Community Plan

The Central Area Plan has a variety of goals, policies and implementation actions that call for increased intensity of after-5 entertainment uses and the preservation of buildings that help to create a sense of place.

Cultural and Entertainment

Cultural and Entertainment Goal: Promote, secure and enhance the Central Area as the urban-oriented cultural and entertainment center for the central San Joaquin Valley.

Cultural and Entertainment Policy 2: Maintain and improve public and private cultural and entertainment facilities in the Central Area.

Implementation Action Cul 2-4: Encourage and support existing facilities and construct new facilities as necessary to stage cultural and entertainment activities.

Implementation Action Cul 2-10: Re-identify and promote existing public art, monuments, museums, cultural centers and entertainment facilities in the Central Area and increase their number, diversity and clustering.

Of the 5 theaters noted on Exhibit 26 of the Central Area Community Plan (pg 109) only the Crest and the Warnor's theater remain open today as entertainment venues in the downtown. Approval of the conditional use permit amendment for the Crest Theater allowing nightclub and tavern uses in addition to the primary function as an entertainment venue is consistent with the above goals, policies and implementation actions to support existing facilities and entertainment venues in the Central Area.

Commercial

Commercial Goal: Improve the overall structure, diversity and vitality of the Central Area businesses to provide a unique, urban retail and service center with a broad range of goods and services.

Commercial Policy 3: Promote the diversity and the unique character of retail and service uses within the Central Area commercial districts.

Implementation Action Com 3-1: Identify and protect key cultural areas or districts where existing land uses, buildings and landmarks represent local ethnic history and accentuate their cultural heritage.

The Crest Theater is located in the central section of the Fulton Mall and has the potential to contribute greatly to the commercial mix of the mall as it continues to evolve. As a historic

building, it is a noteworthy example of theater development in Fresno and contributes to the sense of place of the Fulton Mall.

Urban Design

Urban Design Policy 2: Promote a greater concentration of buildings and people in the Central Area.

Implementation Action Urb 2-7: Provide development incentives for projects which demonstrate quality design solutions that promote the diversity, concentration, historical and ethnic mix desirable for the urban Central Area environment;

Implementation Action Urban Design Policy 3: Recognize and promote the diversity of features within the Central Area.

Implementation Action Urb 3-1: Strengthen the unique and special characteristics of the individual districts within the Central Area;

The above policy and implementation actions encourage diversity and unique urban design. It should be noted that the Crest Theater, as a designated historical resource, was deemed as such partly due to the fact that the theater is an excellent example of a type of building that was designed in an Art Deco-Retro style common in the late 1940s. In particular, the tower sign, marquee and ticket booth are stunning examples of a type and method of construction and the neon-argon sign and marquee are notable as the work of a master neon artist. Therefore, allowing nightclub and tavern uses in addition to the primary use as an entertainment venue is consistent in that these more intense uses would promote "a greater concentration of people" in the Central Area in an entertainment facility that clearly contributes to the unique character of its environment.

Implementation Action Urb 3-2: Encourage the location of specialty destinations which serve as regional and city-wide attractors;

The Crest Theater, as one of only two functional historic theaters in the downtown, has the potential to be a specialty destination with a regional draw.

Implementation Action Urb 3-3: Encourage developments that allow work places, residences, shops, and recreational facilities to be mixed on one site;

This implementation action was selected to illustrate the mixed-use nature of the policies in the Central Area Plan. Although the Crest Theater is not a mixed use project per se, it is located in a mixed use neighborhood, with housing, offices and retail in the near vicinity. This mix is the goal in the Central Area Plan, in order to enable the resident population to exist without auto dependence and to accomplish an intensity of diverse uses that is typical for an urban area.

Implementation Action Urb 3-4: Interpret and/or formulate zoning provisions that allow for the integration of a variety of uses at a greater intensity;

The proposed amendment to the Conditional Use Permit would allow greater diversity of uses in the existing Crest Theater. Although the occupant load would remain the same, a greater variety of event types would be permitted.

Implementation Action Urb 3-5: Recognize and promote diversity to take place in the adaptive reuse of existing buildings through flexible interpretation of codes and ordinances;

The amendment of the CUP to add nightclub and tavern uses to the existing entertainment venue is consistent with the idea of adaptive reuse of existing buildings.

Urban Design Policy 7: Preserve, promote, procure and strategically locate landmarks, monuments and artwork that provide orientation and represent Fresno's cultural heritage and artistic values.

Implementation Action Urb 7-1: Establish guidelines and provide development incentives for the placement of buildings, landmarks, public art and signage to provide focal points and orientation throughout the Central Area.

As noted above, the Crest Theater is a historic resource that represents Fresno's cultural heritage and also provides orientation, as it is located on one of the entries into the Central Area from State Route 99 and the neighborhoods to the west. The architecture, specifically the marquee, ticket booth and neon sign, are landmarks for downtown visitors.

Land Use Consistency

The land use consistency matrix in Exhibit 8 of the Central Area Community Plan shows the C-4 (*Central Trading*) zone district to be consistent with the Mixed Use Level 2 planned land use for the site. It should be noted that when this application was originally submitted, nightclubs and taverns were conditional uses in the C-4 zone district. In October of 2010, however, the downtown zone districts were amended to facilitate more economic activity and diversity of uses. Included in these amendments was the reclassification of nightclubs and taverns from conditional uses to by-right uses in the C-4 zone district. This is indicative of the long standing policy direction of encouraging entertainment uses in the Central Area.

Appeal

An appeal letter was received by H.E.A.T. on June 6, 2011, which was the last day of the appeal period. The following concerns are expressed in the letter, which is attached as Exhibit F:

1. Management of Age Restrictions. Concern was expressed that the under- and over-21 age restrictions would not be appropriately managed. It should be noted that the applicant was required by the Department of Alcoholic Beverage Control (ABC) to install a barrier inside the venue so that these two groups of patrons could be separately managed and controlled. In addition, the Police Department revised its conditions in response to the appeal in order to strengthen security measures in this regard.
2. Location Near Senior Housing. The Crest Theater is located across Fresno Street from Masten Towers, a senior housing apartment building. It should be noted, however, that the building facade that faces onto Fresno Street is the side elevation, and has no openings except for a side door on the ground floor. No windows or balconies exist on this side of the building, therefore noise will not be a concern. In addition, conditions of approval prohibit outdoor activities, and require that no noise be audible from outside the building. Conditions of approval also provide for security patrols of the area to eliminate loitering outside the premises in relation to events at the venue.

3. Increase in Traffic Volumes and Obstruction of Traffic on Fresno Street (the only route from SW Fresno to medical services unobstructed by at grade railroad crossings). The amendment to the conditional use permit would not increase the maximum occupancy load at the Crest Theater, so the maximum traffic that would be generated by an event would not change. Traffic counts taken in 2009 for westbound traffic on Fresno Street east of State Route 99 were 4,679 trips (note that this is only in one direction). This is well under the planned traffic volumes for this segment of Fresno Street, which are 24,090 average daily trips in the year 2025. In addition, Fresno Street is a collector with two lanes in each direction and a center median with turn pockets. Emergency services should not be significantly impacted by the proposed amendment to the CUP as the operations of the venue should not differ significantly from the current operations.

4. Overabundance of Alcohol Uses in the Central Area. The appellant cites a draft of an environmental document for the Merger 1 project undertaken by the Redevelopment Agency in 2008/9 in which it is noted that the per capita rate of alcohol uses in the Central Area is higher than the per capita rate citywide. This is a likely result of the longstanding (since 1990) policy direction of encouraging entertainment uses in the Central Area. Furthermore, it should be noted that the statistics presented in the Merger 1 draft document are for the entire Central Area. ABC license data from Census Tract 1 (see Exhibit F), where the Crest Theater is located, shows only 20 active on-sale alcohol licenses (ABC website, June 28, 2011). The data cited in the Merger 1 report mostly points to an overabundance of off-sale licenses. Conditions of approval prohibit consumption of alcohol off site.

PUBLIC NOTICE AND COMMENT

A public hearing notice for the July 6 planning commission hearing was mailed to all property owners within 500 feet of the project site on June 24, 2011 (see Exhibit G). No additional comments from the public have been received to date.

CONDITIONAL USE PERMIT FINDINGS

FINDINGS PER FRESNO MUNICIPAL CODE SECTION 12-405-A-2.	
<i>a. All applicable provisions of this Code are complied with and the site of the proposed use is adequate in size and shape to accommodate said use, and accommodate all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,</i>	
<i>Finding a:</i>	Conditional Use Permit Application No. C-10-124 will involve no physical changes on the site and no increased occupancy load. Adequate space on site does exist to accommodate the parking for the proposed nightclub and tavern uses, as well as yards, walls, fences, recycling areas and landscaping.
<i>b. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,</i>	
<i>Finding b:</i>	A traffic study was not required for the request; traffic-related impacts were considered less than significant as the maximum occupancy load and trip generation would not change from the existing condition as a result of the granting of the permit. Fresno Street at this location is currently functioning well below capacity, as documented in the staff report.

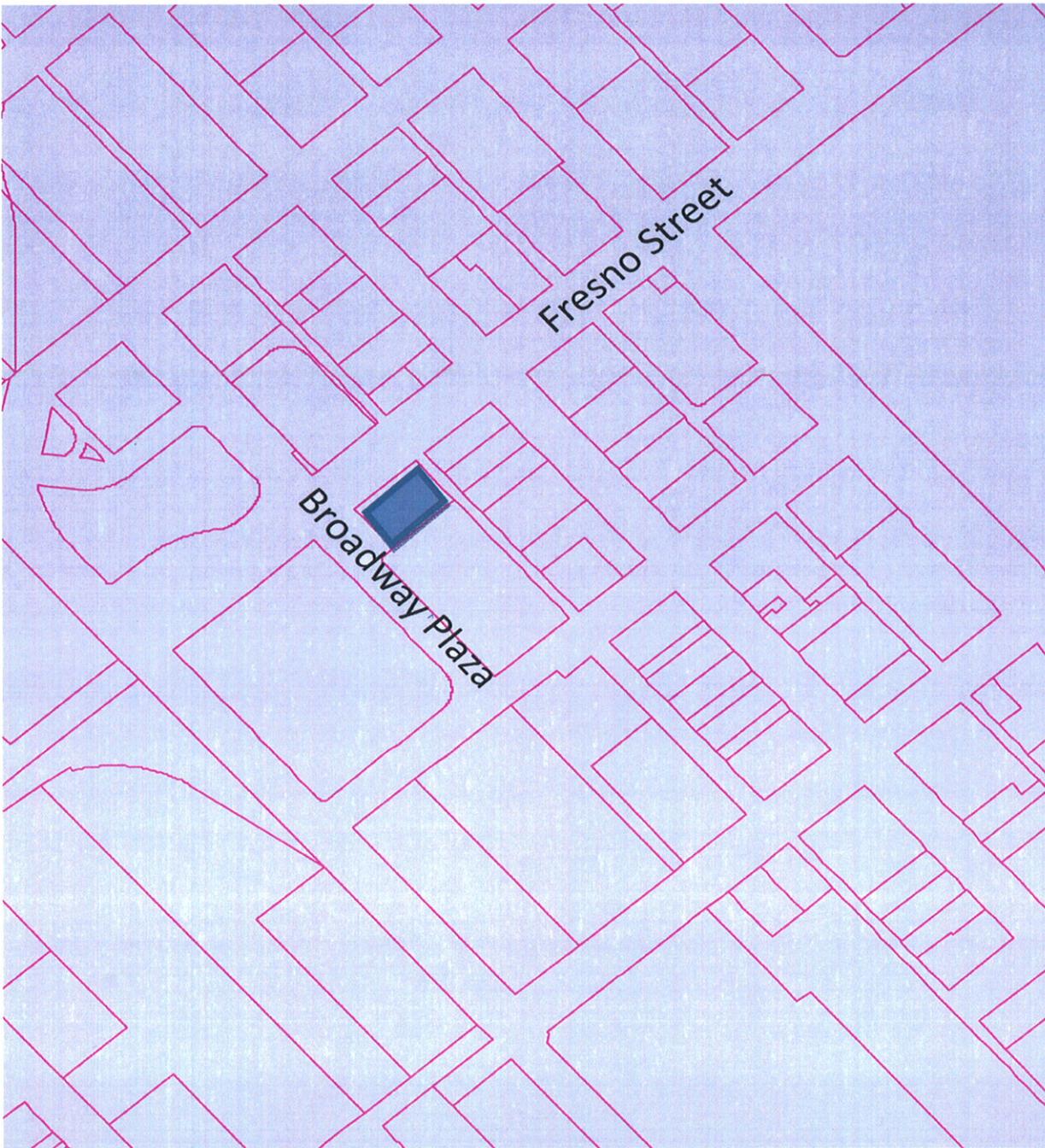
c. The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. The third finding shall not apply to uses which are subject to the provision of Section 12-306-N-30 of this Code.

<i>Finding c:</i>	Approval of Conditional Use Permit Application No. C-10-124 would not be detrimental to those properties in the vicinity or detrimental to public welfare, with Conditions of Approval imposed (see Exhibit H). All plan policies and standards required by the Fresno Municipal Code have been applied to the proposed project as applicable to ensure compatibility with those surrounding land uses and to prevent any detriment to public welfare. Proposed nightclub and tavern operations must comply with state and federal regulations for such uses, as well as all standard Police Department requirements for security, video surveillance, loitering, and property management. The current maximum occupancy load of 1,250 would not be increased with the proposed application.
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Exhibits:

- A. Vicinity Map
- B. Aerial Photograph, 2008
- C. Planned Land Use Map
- D. Environmental Assessment
- E. Appeal Letter
- F. Census Tract Map
- G. Noticing Map
- H. Conditions of Approval

Exhibit A
Vicinity Map



Subject Property



Not To Scale

VICINITY MAP

**Conditional Use Permit No.
C-10-124**

PROPERTY ADDRESS

1170 Broadway Plaza

DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT

APN: 466-212-12

Zone District:

C-4 (Central Trading District)

By: S. Pagoulatos, July 6, 2011

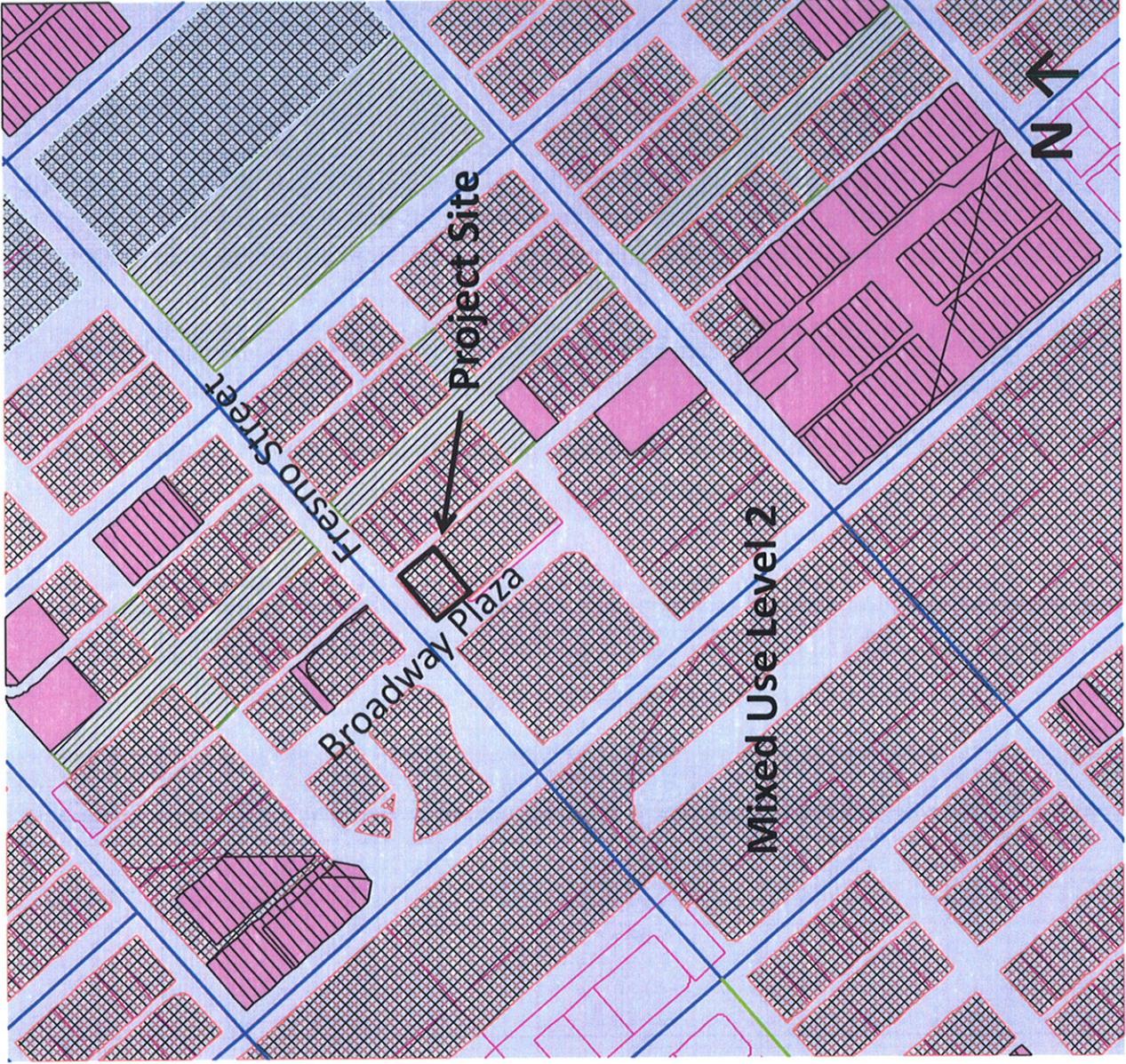
Exhibit B
Aerial Photograph, 2008



2008 Aerial Photo

Conditional Use Permit C-10-124

Exhibit C
Planned Land Use Map



Planned Land Use Map, 2025 Fresno General Plan

Exhibit D
Environmental Assessment

**CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. C-10-124**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY
EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS
PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES.

APPLICANT: Ms. Gloria Leon
The Crest Theatre
1170 Broadway Plaza
Fresno, CA 93721

PROJECT LOCATION: The Crest Theatre
1170 Broadway Plaza
Fresno, CA 93721
(APN 466-212-12)

PROJECT DESCRIPTION: Minor Conditional Use Permit Amendment No. C-10-124 pertains to 0.31 acre of property located in downtown Fresno on the southeasterly corner of Broadway Plaza and Fresno Street. The applicant requests authorization to establish Nightclub and Tavern uses (*with Type 48 ABC License, which authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold*); at the historic Crest Theatre. Event types would include, but not be limited to, concerts, movies, comedy shows, birthday parties, weddings, and dances. Hours of operation are proposed as until 4:00 am for persons 21 years of age and older; and until 1:00 am for persons under 21. The property is zoned C-4 (*Central Trading*) and is located within the Central Area Community Plan; the Central Business District Redevelopment Project Area Plan and the 2025 Fresno General Plan areas.

This project is exempt under Section 15301/Class 1 and Section 15332/Class 32 of the California Environmental Quality Act (CEQA) Guidelines.

EXPLANATION: Section 15301/Class 1 exempts the permitting, licensing, or minor alteration of existing facilities involving negligible or no expansion of the use beyond that existing at the time of the lead agency's determination.

This project requests permission to serve beer, wine and spirits and to include dancing at an existing entertainment venue, The Crest Theatre. The maximum occupancy load of 1,250 remained unchanged as a result of this application. Minor interior alterations are proposed to divide the main audience area into under 21 and 21 & over areas.

The property is a locally designated historical resource. The proposal does not affect the exterior of the building and proposes only minor interior divisions, thus the project does not cause a significant adverse change to the resource. In addition, project conditions require that the City's Historic Preservation Project Manager review and approve all changes prior to issuance of any building permits.

None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.

Section 15332/Class 32 exempts infill projects from further environmental review when they meeting the following criteria:

1. The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

The project is consistent with the policies in the 2025 Fresno General Plan, the

Central Area Community Plan, the Central Business District Redevelopment Area Plan, and the C-4 (Central Trading) zone district. The CUP amendment would allow continuation of the Crest Theatre as an entertainment venue, with the additional option of nightclub and tavern uses. This is consistent with the Central Area Plan's policies for creating "after 5" uses. In addition, the purpose of the C-4 (Central Trading) District is to serve as the central trading district area for an urbanized area and to provide for uses that cannot and should be dispersed into the smaller shopping areas. The Crest Theater is one such use.

2. The proposed development occurs within city limits on a site of no more than five (5) acres substantially surrounded by urban uses;

The project is located within Fresno city limits on a 0.31 acre site and is surrounded by urban uses;

3. The project site has no value as habitat for rare, endangered or threatened species;

The site has no value as habitat for rare, endangered or threatened species; it has been urban since 1949.

4. Approval of the project would not result in any significant impacts related to traffic, noise, air quality or water quality; and

The project is not proposing a change in intensity; the maximum occupant load remains unchanged at 1,250; no traffic or air quality impacts would result. The project already hosts a wide variety of entertainment types, such as concerts, movies, etc. The newly proposed nightclub and tavern uses would allow alcohol consumption and dancing, but would not change the entertainment types allowed in the facility. Noise levels are not expected to change and both the city's noise ordinance and conditions of approval prohibit noise in excess of city standards. Conditions of approval also prohibit outdoor activities or loitering. No water quality impacts are anticipated as noted in the memoranda from the Department of Public Utilities, Water and Sewer divisions, dated May 27, 2010. Traffic counts taken in 2009 for the segment of Fresno Street adjacent to the Crest Theatre indicate that the collector is operating well below its planned capacity as determined in the 2025 Fresno General Plan MEIR, Appendix 2.

5. The site can be served by all required utilities and public services.

The site is within the City of Fresno's service area for all urban services and will be served, pursuant to memoranda from the City of Fresno Department of Public Utilities Department dated May 27, 2011.

Date: May 20, 2011

Prepared By: Sophia Pagoulatos, Supervising Planner

Submitted By:



City of Fresno
Development and Resource Management Department
(559) 621-8062

K:\Master Files -

Exhibit E
Appeal Letter

The H.E.A.T for SouthWest Fresno Community

(Hope Effort Appropriately Thriving)

P O Box 12571

Fresno, CA 93778

e-mail:HEATSWFC@aol.com

RECEIVED

JUN 6 2011

Planning Division
Planning & Development Dept
CITY OF FRESNO

June 6, 2011

Mark Scott, Interim Director

Sophia Pagoulatos

Development & Resource Management Department

2600 Fresno St., Room 3076

Fresno, CA 93721

Re: Conditional Use Permit Application No. C-10-124

Please be advised that H.E.A.T. for SW Fresno Community is opposed to the above-mentioned Conditional Use Permit Application No. C-10-124 filed by Gloria Leon for the use of the historic Crest Theatre.

We are residents of SouthWest Fresno, the area of this proposed night Club. The area, although appropriate for the suggested uses, is not appropriate for a nightclub with the proposed hours of operation. These hours are until 4:00am for persons 21 years and older; and until 1:00am for persons under 21. Our concern is, who will be responsible for ensuring that the required age restrictions are being appropriated managed.

Secondly, our concern is the sale and consumption of alcoholic beverages on site. Again the issue of monitoring the age restrictions is of major concern. Also, this site is directly across the street from Masten Towers that is used by the elderly and disabled. It is on a major street, Fresno St., that leads into SouthWest Fresno. It will increase traffic and could compromise the only direct route to medical services on Fresno St. that are not hindered by the railroad tracks that lead from SW Fresno.

There is an over abundance of venues in SW Fresno for the sale and consumption of alcoholic beverages. Attached are three pages from the

Preliminary Report for the Amendments to the Merger No. 1, prepared for the Redevelopment Agency of the City of Fresno, dated July 21, 2008, prepared by Keyser Marston Associates, Inc.. Starting on page 67 at #5, including the footnote, and continuing on pages 68 & 69 (tables 24 & 25) are issues raised by the preparers of this report. The issues are valid and are of great concern to the residents of SW Fresno.

Based on the information provided in this letter, H.E.A.T. for SW Fresno Community request that the granting of special permit, Conditional Use Permit Application No. C-10-124 be denied.

Sincerely,

H.E.A.T. for SW Fresno Community

Cc: Councilmember Oliver Baines

There were a total of 498 incidents of these conditions noted affecting 400 or 14 percent of parcels in the Project Area.

These data indicate that the Project Area has a significant number of overcrowded housing units and that overcrowding is continuing to become a more severe problem. The high levels of overcrowding coupled with the deteriorated condition of many of the housing units (as described herein and shown on Figure 6) and high levels of code complaints, indicate that there are unsafe, unhealthy and overcrowded living conditions in portions of the Project Area.

5. An Excess of Bars, Liquor Stores and Other Liquor Outlets

The links between the availability of alcohol and threats to the public health and safety have been well established throughout the U.S. Problems such as traffic accidents and fatalities, homicides and violent assaults have been shown to be aggravated by the use of alcohol.³⁴ An article published in *USA Today* described the crackdown on drunk driving instituted in the City of Fresno to reduce driving fatalities where alcohol is involved by setting up checkpoints and bar sting operations.³⁵

In order to promote temperance in the use and consumption of alcoholic beverages, and to protect the safety, welfare, health, peace, and morals of the people of California, the State Legislature enacted Section 23000 et seq. of the California Business and Professions Code, i.e., the "Alcoholic Beverage Control Act." The regulations are administered by the California Department of Alcoholic Beverage Control (ABC) throughout California. The ABC reviews applications for licenses to sell or distribute alcoholic beverages and controls the number of licenses issued. ABC retail licenses fall into two broad categories: "on-sale" licenses for the sale of alcoholic beverages to be consumed on the premises of the sale and "off-sale" licenses for the sale of alcoholic beverages to be consumed off the premises of the sale. The most common types of retail licenses are summarized on Table 24.

³⁴ An analysis of the prevalence of alcohol involvement in crime by the U.S. Department of Justice found that an estimated 32 percent of fatal accidents involved an intoxicated driver or pedestrian (the majority were drivers). Among violent crime victims who provided information about the offender's use of alcohol, 35 percent of the victimizations involved an offender who had been drinking. Among victims who suffered violence by an intimate (a current or former spouse, boyfriend or girlfriend), two-thirds reported the offender had been using alcohol. Source: *Alcohol and Crime. An Analysis of National Data on the Prevalence of Alcohol Involvement in Crime* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, revised April 28, 1998, pages v and vi.

³⁵ Copeland, Larry, "Some see Fresno's DUI crackdown as a model," *USA Today*, 6 November 2006, downloaded March 25, 2008 at: http://www.usatoday.com/news/nation/2006-11-05-fresno-dui-model_x.htm

Table 24: Types of Retail Alcoholic Beverage Licenses

License Type	Description
On-Sale General	Authorizes the sale of all types of alcoholic beverages (beer, wine and distilled spirits) for consumption both on the premises and the sale of beer and wine for consumption off the premises. Bars and restaurants that serve alcohol would be included in this category.
Off-Sale General	Authorizes the sale of all types of alcoholic beverages for consumption off the premises in original, sealed containers. Supermarkets and liquor stores generally fall into this category.
On-Sale Beer and Wine	Authorizes the sale of all types of wine and malt beverages for consumption on and off the premises. Typical businesses in this category include restaurants that serve beer and wine only.
Off-Sale Beer and Wine	Authorizes the sale of all types of wine and malt beverages for consumption off the premises in original, sealed containers. Mini- and quick-stop markets (i.e. 7-Eleven or an AM-PM Mini Mart) would fall into this category.

Source: ABC website at: http://www.abc.ca.gov/questions/licenses_faq.html

The ABC has the authority to refuse to issue a license under certain conditions and may also place restrictions on the operations of a licensee. For example, the ABC may limit the hours of operation or impose other restrictions to alleviate objections to the premises' operation. Such restrictions have been imposed on operations in the vicinity of churches, schools and residential areas.

In addition to regulating the types of establishments that sell alcohol and their operations, there are also restrictions on the number of licenses that may be issued at any one time based upon the number of licenses per capita city-wide and/or county-wide. The ABC may limit the number of new licenses issued to conform to those limits. As shown in the following table, the number of on-sale general and off-sale general licenses are limited on a county-wide basis; the number of off-sale beer and wine licenses is limited on a city-wide and county-wide basis; and the number of off-sale beer and wine and off-sale general licenses combined is limited on a city-wide and county-wide basis. Nevertheless, the control of licenses on a city- or county-wide basis does not prevent over-concentration of liquor outlets within specific communities. Furthermore, the ABC does not impose a limit on the number of on-sale beer and wine licenses in a county or a city. As shown on Table 25, the Project Area includes a significantly higher proportion of liquor outlets than the City and the County overall.

Table 25: Comparison of Alcohol License Ratios

License Type and Limit	ABC Limit	Project Area	Fresno City	Fresno County
On-Sale General (limit per 2,000 persons Countywide)	1	2.25	0.97	0.78
Off-Sale General (limit per 2,500 persons County)	1	2.11	1.24	0.97
Off-Sale Beer and Wine (limit per 2,500 persons City and County)	1	3.51	1.55	1.57
Off-Sale Beer and Wine AND Off-Sale General (limit per 1,250 persons City and County)	1	2.81	1.4	1.27
On-Sale Beer and Wine per 1,000 persons	NA	1.59	0.66	0.60
Retail Licenses per 1,000 persons	NA	4.97	2.26	2.01

NA = not applicable. Sources: 2007 Population estimates from Claritas; ABC license data from the ABC website: <http://www.abc.ca.gov/>

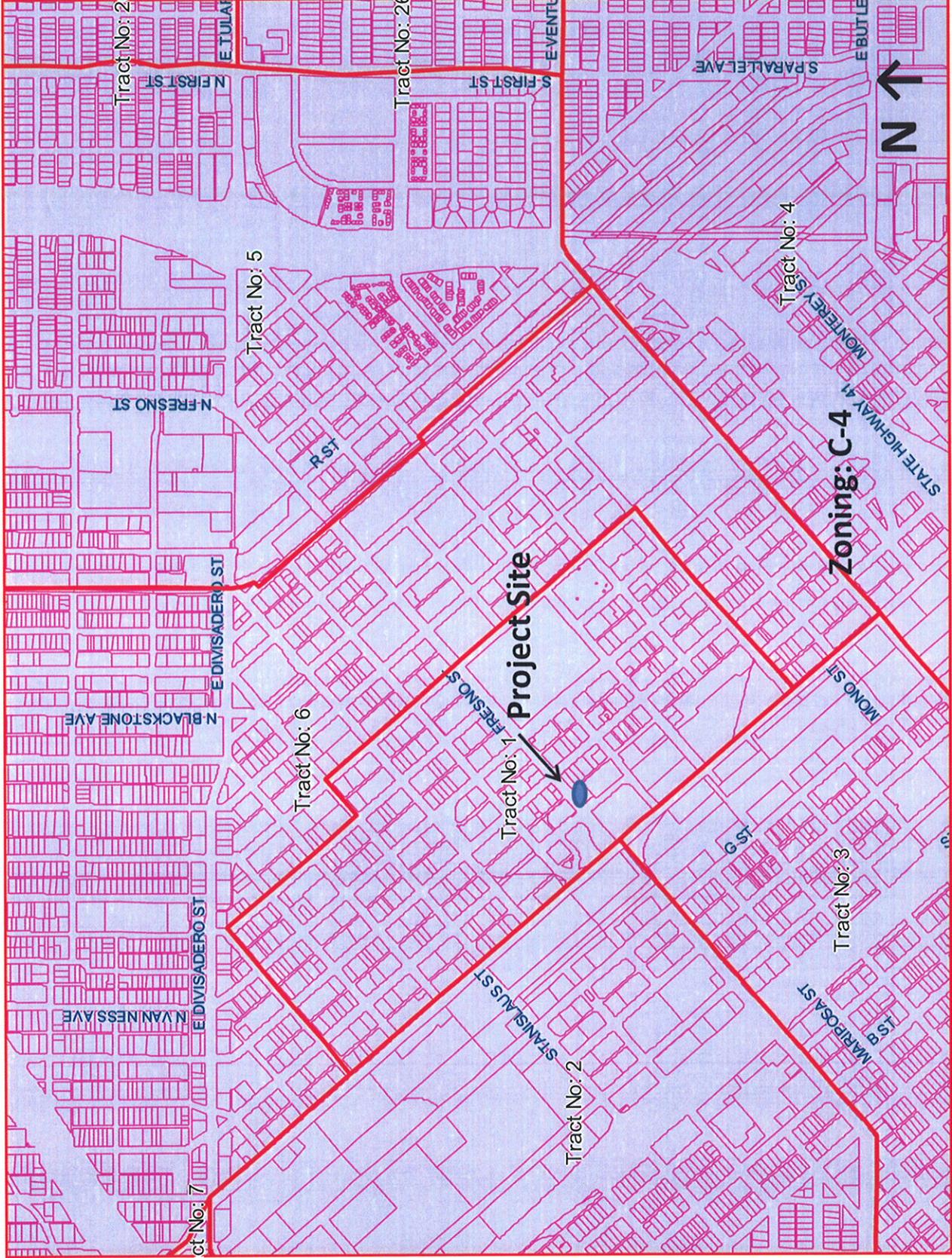
While the number of on-sale and off-sale licenses in the County are below the ABC limits, the number of such licenses within the Project Area is more than double the ABC limit. While the number of off-sale licenses (both general and beer and wine) exceed the ABC limits in both the City and the County overall, the number of licenses within the Project Area is more than double the rate of licenses in the City and the County. While the higher concentration of on-sale licenses may be attributable to the high daytime population in the City's downtown that would frequent restaurants and bars, this would not account for the higher proportions of off-sale licenses. In addition, the overall number of retail alcohol licenses per capita (per 1,000) in the Project Area is more than double the number for both the City and County. These data indicate that there is an over-concentration and excess of retail outlets for alcohol in the Project Area.

6. A High Crime Rate That Constitutes a Serious Threat to the Public Health and Safety

The 1998 Report included an analysis of per capita crime rates (per 100 persons) in the Project Area census tracts in comparison to the crime rate Citywide for a one-year period (November 1995 through October 1996). The crime rate in the Project Area was over 89 percent higher, at 36.78 versus only 20.83 percent Citywide.

Crime data was obtained from the Fresno Police Department (FPD) for the period 1998-2006. As shown in Table 26, crime rates for both violent crime (homicide, rape, robbery and aggravated assault) were considerably higher in the Project Area, as were crime rates for property crime (burglary, larceny (theft) and motor vehicle theft). Overall, from 1998 through 2006, the rate of homicides was more than 3.5 times higher, the rate of

Exhibit F
Census Tract Map



Census Tract Map

Exhibit G
Noticing Map

Request ID: C-10-124

500



Exhibit H
Conditions of Approval



Development and Resource Management Department

2600 Fresno Street, Third Floor
Fresno, California 93721-3604
(559) 621-8277 FAX (559) 498-1012

Mark Scott, Acting Director

June 29, 2011

Please reply to:
Sophia Pagoulatos
(559) 621-8062

Gloria Leon
c/o Dee Ann Hull
The Crest Theatre
Deeann@thecresttheatre.com
Sent via email only

SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. C-10-124 FOR PROPERTY LOCATED AT 1170 BROADWAY PLAZA (APN 466-212-12)

Ms. Leon:

The Development and Resource Management Director on May 20, 2011, approved Conditional Use Permit Application No. C-10-124 requesting authorization to establish a Nightclub and Tavern (*with Type 48 ABC License, which authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold*); at the historic Crest Theatre. Event types would include, but not be limited to, concerts, movies, comedians, birthday parties, weddings, and dances. Hours of operation are until 4:00 am for persons 21 years of age and older; and until 1:00 am for persons under 21.

Please note that commencement of your operations is not authorized until the 15-day appeal period has lapsed with no appeals filed and all conditions listed below have been met:

CONDITIONS OF APPROVAL

Conditional Use Permit Application No. C-10-124 is approved subject to the following conditions:

1. Exercise of the special permit shall take place in accordance with the following sections of the Fresno Municipal Code and any other applicable sections:
 - a. Section 12-220: C-4 (*Central Trading*) zone district;
 - b. Section 12-326 and 327, related to Restaurants, Taverns, Nightclubs and Dancing.
2. Development shall comply with all prior special permits on the property;
3. No outdoor activities are approved with the special permit;
4. Development shall take place in accordance with Exhibit A dated March 4, 2011 and Exhibit O dated October 26, 2010;
5. Development shall take place in accordance with the requirements of the attached comments from city departments and partner agencies;

6. No signage (except directional) is approved with this application. Any outdoor advertising (i.e. signs promoting use) require sign permit approval. Contact Edward Paz in the Development and Resource Management Department at 621-8061 for more information.
7. Development shall take place in accordance with all city, county, state and federal laws, including ABC requirements;
8. The property is a locally designated historical resource. All modifications to the building shall comply with the applicable Secretary of the Interior's Standards. Final construction plans shall be reviewed and approved by the City's Historic Preservation Project Manager, Karana Hattersley-Drayton (621-8520).
9. Any floor plan or building modifications and/or additions not included with this application are not approved with this special permit and would be subject to a new special permit;
10. The exercise of rights granted by this special permit must be commenced by May 20, 2015, (four years from the date of approval). There is no extension

APPEALS

Please be advised that this project may be subject to a variety of discretionary conditions of approval. These conditions based on adopted City plans and policies, those determined through conditional use permit review and environmental assessment essential to mitigate adverse effects on the health, safety and welfare of the community, and recommend conditions for development that would on the whole enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings pursuant to Section 12-405 can be made. Discretionary conditions of approval will ultimately be deemed mandatory unless appealed in writing to the Director within 15 days. In the event you wish to appeal the Director's decision, you may do so by filing a written appeal with the Director. The appeal shall include the appellant's interest in or relationship to the subject property, the decision or action appealed and specific reasons why the applicant believes the decision or action appealed should not be upheld.

ENVIRONMENTAL ASSESSMENT

The project was determined to be exempt for the California Environmental Quality Act under CEQA Guidelines Sections 15301 and 15332 as the licensing of an existing facility and infill development.

BACKCHECK PROCESS

Please Note: To complete the backcheck process for building permits relative to planning and zoning issues, submit four copies of the corrected site plan together with required covenants (or preparation fees) and studies or analysis to the Development Services Division for final review and approval, ten days before applying for building permits.

Copies of the final approved site plan, elevations, and floor plans stamped by the Development Services Division must be submitted for unstamped copies of the same in each of the four sets of construction plans submitted for plan check prior to the issuance of building permits.

If you have any questions regarding this letter, feel free to give me a call at the number listed above.

Sincerely,



Sophia Pagoulatos, Planner
Development Services

Enclosures:

Exhibits

Letter/conditions from the Fresno Police Department dated June 29, 2011
Memo from the Fire Department dated March 14, 2011
Memo from Yeghia Oulashian, Building and Safety, dated March 22, 2011
Memo from the Redevelopment Agency dated November 16, 2011
Memo from the Solid Waste Division dated May 26, 2010
Memoranda from the Department of Public Utilities (sewer and water divisions) dated May 27, 2010
Memo from the Fresno County Department of Public Health dated June 8, 2010
Letter from the Fresno Unified School District dated October 27, 2010

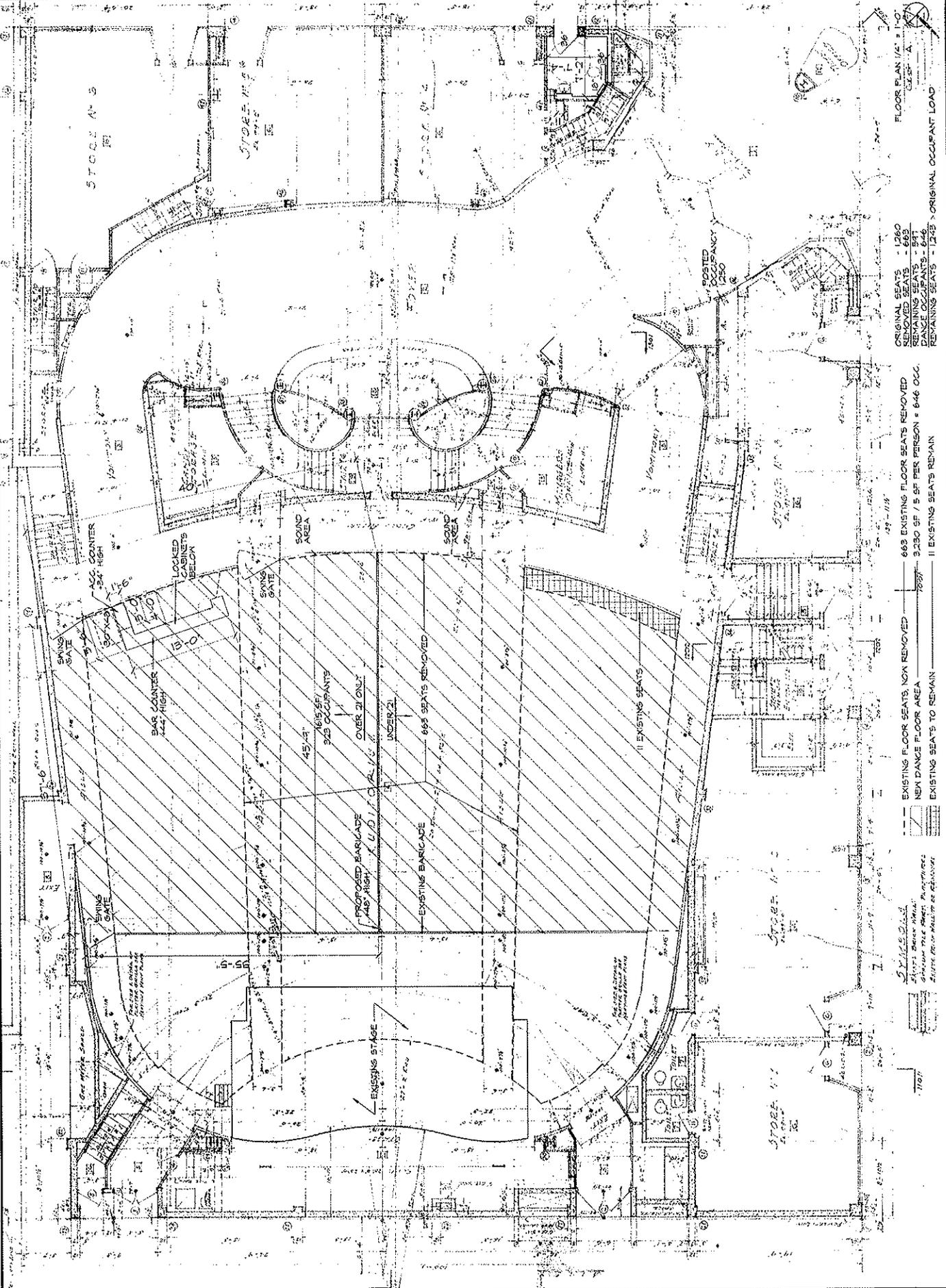
C: JAF



California Associates Inc.
 ARCHITECTS • PLANNERS • ENGINEERS
 170 West Broadway Ave. Fresno, California 93721
 PHONE 559-455-5551
 FAX 559-455-5576

CREST THEATER
 CONDITIONAL USE PERMIT
 1170 BROADWAY PLAZA FRESNO, CALIFORNIA 93721

FLOOR PLAN
 SHEET TITLE
 DATE 3/17/2016
 DRAWN BY GUN-08
 CHECKED BY GUN-08
 A-2



FLOOR PLAN 1/2" = 1'-0"
 CLEAR - A

ORIGINAL SEATS - 1280
 REMAINING SEATS - 591
 DANCE OCCUPANTS - 646
 REMAINING SEATS - 1243 > ORIGINAL OCCUPANT LOAD

663 EXISTING FLOOR SEATS REMOVED
 3,230 SF / 5 SF PER PERSON = 646 OCC.
 NEW DANCE FLOOR AREA
 11 EXISTING SEATS
 11 EXISTING SEATS TO REMAIN

SYMBOLS
 SHOWS SEATING CHANGES
 SHOWN IN THIS PLAN. DIMENSIONS
 SHOWN IN OR NEXT TO SEATING

June 24, 2010

RECEIVED

JUN 24 2010

Planning & Development Dept
CITY OF FRESNO

Re: Operational Statement

To Whom it may concern,

The Crest Theatre is a historic Event Venue located in the Downtown area of Fresno, CA. It is on the corner of Fresno ST. and Broadway Plaza. Our hours of operation vary upon events. Typical events range from 6:00pm till 12:00am Monday to Sunday. Some events run as late as 4am and some require setup as early as 8am. Event types consist of but are not limited to concerts, movies, comedians, Birthday parties, wedding and Dance events. Dance events will be for patrons of the age 18 and over. Attendance of events can range from 500 to 1,250. We have a total of four employees and plan on increasing to six. We contract a security company for each event. The Crest Theatre will operate as a "Night Club" w/a cocktail bar. The bar will be open during regular business hours and after hours activities are planned. We currently are applying for an Type 4B alcoholic beverage license. Our employees are fully informed about the serving of alcoholic beverages in a responsible manner according to the state guidelines. All future employees will receive responsible beverage service training

If you have any further question regarding operations of The Crest Theatre, feel free to contact me at (559) 268-0044.

Respectfully submitted,

Gloria Leon
Owner, The Crest Theatre

APPL. NO. <u>C-10-124</u>	EXHIBIT <u>0</u>	DATE <u>10/26/10</u>
PROJ. ENG. _____	DATE _____	
TRAFFIC ENG. _____	DATE _____	
COND. APPROVED BY _____		
CITY OF FRESNO DEVELOPMENT DEPT		



Mariposa Mall
P.O. Box 1271
Fresno, CA 93715-1271

City of Fresno, Development Department
Director of Planning & Development
Special Permit, Conditional Use Permit
2600 Fresno Street
Fresno, Ca. 93727-3604

Attn: Sophia Pagoulatos, Planning Division
Re: Special Permit No. C-10-124 ABCUP
Crest Theater
Gloria Leon
1170 Broadway
Fresno, Ca. 93721
A.P.N. 466-212-12

Police Department

Jerry P. Dyer
Chief of Police



Dear Ms. Pagoulatos,

The City of Fresno has requested that the Fresno Police Department review the Conditional Use Permit to operate a Nightclub/Tavern as defined by the Fresno Municipal Code, sections 12-105-N-05 at **1170 Broadway**. The property has been zoned **C4** which permits Nightclubs/Taverns, pursuant to FMC, sections 12-326 and 12-327. We understand from the operational statement that the applicant intends to operate the business during the hours of 6:00 pm to 4:00 am Monday through Sundays. We understand that if the CUP to operate as a Nightclub/Tavern is approved the establishment may operate selling alcohol. We understand that along with this CUP application, the applicant has applied for a type 48 license which if approved by ABC will allow for the sale of alcoholic beverages.

The Fresno Police Department's primary concern with the application is the propensity of the premises to generate calls for police service which indicates potential activities on the premises that are detrimental to the public welfare or injurious to property or improvements.

As you know, to approve any Conditional Use Permit, the City must make the following findings:

1. All applicable provisions of the Fresno Municipal Code are complied with and the site of the proposed use is adequate in size and shape to accommodate the use, including, all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,

2. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,
3. The proposed will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. This third finding shall not apply to uses which are subject to the provisions of Section 12-306-N-39 of the Fresno Municipal Code (Regulating Adult Businesses).

The conditions are established to ensure public safety, and to minimize any impact for the surrounding area. This CUP allows for the operation of a restaurant, Tavern and Nightclub. We request the following conditions be included as Conditions of Approval for Conditional Use Permit Application No. C-10-124. These conditions will maintain an environment that is least likely to generate public complaints and calls for service. The Fresno Police Department is not in opposition of this Conditional Use Permit, provided the applicant agrees to the listed conditions.

If the following conditions are not included as conditions of approval of CUP No. C-10-124 the Fresno Police department shall oppose the approval of this Conditional use permit, and shall appeal such approval to the Planning Commission. As such, we request that you provide the Southwest District Commander Detective with notice of the Director's decision regarding this Conditional use Permit as well as a complete copy of the conditions of approval, should the Director approve the Conditional Use Permit.

Requested Conditions of Approval:

1. **Fresno Municipal Codes**

The applicant shall comply with all applicable provisions of the Fresno Municipal Codes ("FMC"), including but not limited to:

- FMC 9-502 (Amusement Devices – Permit Required)
- FMC 9-1803 (Hours of Operation Billiard Hall)
- FMC 9-1804 (Restriction on Attendance of Minors in Billiard Rooms)
- FMC 9-1805 (Minors allowed: Family Billiard Rooms)
- FMC 10-105 (Noise Ordinance)
- FMC 10-708 (Unlawful Nuisance – High Calls for Police Service)
- FMC 12-306-N-30 Limitations on adult business activities. Applicant

shall also verify with the Planning Division that Adult Business Activities are permitted in the zone district where the applicant seeks to operate his/her business.

A current version of the Fresno Municipal Code may be viewed at the City of Fresno's website: www.Fresno.gov. The link to the FMC is located on the Home Page of that website.

2. State and Federal Law

The applicant shall comply with all applicable state, federal, and local law, including but not limited to the following California Business and Professions Code sections and the California Department of Alcoholic Beverage Control rules:

BP 24046 (Required to Post ABC License on Premises)

BP 25612.5 (Loitering, Open Alcoholic beverage Containers, Consuming Alcoholic Beverages on Premises, Exterior Lighting, Litter Removal, Graffiti Removal, Signs and Barriers in Windows and Doors, Public Phones Blocked From Incoming Calls, Areas to display Harmful Matter, Required Copies of Operating Standards Available for Public Viewing)

BP 25665 (Minors Remaining in Public Premises)

ABC Act Rule 106 (No Buy One Get One Free Drinks)

ABC Act Rule 107 (No One Under 21 Allowed Signs Posted)

ABC Act Rule 139 (Interior Lighting Required for Identification of Patrons)

3. **ABC Education**

Any and all employees hired to sell alcoholic beverages shall provide evidence that they have either:

- (1) Completed training from the State of California Department of Alcoholic Beverage Control—Fresno District office-administered "Leadership and Education in Alcohol and Drugs" (LEAD) program as confirmed by receipt of an ABC-issued certificate of completion; or,
- (2) Completed equivalent training acceptable to the ABC—Fresno District Office to ensure proper distribution of beer, wine, distilled spirits, tobacco, and inhalants to adults of legal age.

If any prospective employee designed to sell alcoholic beverages, tobacco or inhalants does not currently have such training then:

- (1) The ABC-licensed proprietors shall have confirmed with the Development Department within 15 days of the final approval of the CUP, that a date has been scheduled with the local ABC Office for the prospective employees to take the LEAD Program course; and
- (2) Within 30 days of taking the course the employee(s) or responsible employer shall deliver each required LEAD Program Certificate evidencing completion of said course.

4. **Contests or Promotions**

At least two weeks prior to the event, the establishment shall notify the District Commander, or his/her designee of any promotional or special events. In addition, the establishment shall obtain written approval that the current Security Plan that will be in place for the promotional or special event.

5. **Security Plan**

Prior to the approval of this Conditional Use Permit, the establishment shall prepare and submit to the District Commander a security plan for approval. Approval of the security plan by the district Commander or his/her designee shall not be unreasonably denied. The contents of the Security Plan shall be incorporated as conditions of approval of CUP C-10-124. The establishment shall be responsible to have the District Commander or his/her designee re-approve the security plan annually running from the anniversary date of the final approval of the CUP. The establishment is responsible for providing both the District Commander and the Planning and Development Department a copy of the approved security plan.

All establishments Security Plan shall:

- . Identify the establishment's designated contact person for all safety and security management and shall provide the telephone numbers where the contact person may be reached 24 hours a day, seven days a week.
- . Confirm that a manager will be on duty during business hours and will be responsible for monitoring and controlling the behavior of patrons.
- . Identify all managers of the establishment and their contact telephone numbers.
- . Confirm that all bartenders and other employees shall be trained to recognize the symptoms of an obviously intoxicated patron, to refuse serving alcoholic beverages to obviously intoxicated patrons, and to report emergencies to the manager on duty and to law enforcement.
- . Confirm that first aid supplies and operational fire extinguishers are located in the kitchen (if applicable), service areas and the manager's office.
- . Confirm that the burglar and fire alarm is monitored by a security company 24 hours a day, seven days a week.
- . Identify an adequate number of acceptable interior security personnel and exterior security personnel who will monitor and control the behavior of customers inside and outside the building, the parking lot and any adjacent property under the establishment's control. The security personnel may be

employees of the establishments or licensed security personnel retained from a security firm.

The applicant shall agree that calls for service (CFS) associated with the applicant business shall not substantially exceed the average CFS generated by similar businesses in similar business areas. Unrelated police calls associated with the applicant business shall be exempt. "Substantially exceeding] the average CFS generated by similar businesses in similar business areas" shall be defined as a 10% excess in any six month period. The applicant shall agree that upon verification by the police department that the number and type of CFS associated with the applicant business is excessive, such verification shall constitute cause for the following:

A 10% excess shall result in the review of the applicant's permit by the Police District Commander and the applicant, an analysis of the causes of such an excess and the possible modification, suspension or the revocation of the applicant's permit. If the applicant exceeds the 10% threshold, the District Commander reserves the right to require licensed security guards or contract police during hours of dancing, based upon identified police problems at the location. The establishment shall give notice to the Fresno Police Department representative at least two (2) weeks prior to special entertainment events, other than scheduled dancing, which are reasonably anticipated to attract larger or different patronage. The City may also require contract police for these events.

A 20% excess may result in the suspension or revocation of the applicant's permit.

The establishment may receive from the Fresno police Department a form of a security plan that the establishment may refer to in preparing its security plan.

The establishment shall correct any safety or security problem or security plan violation as soon as possible after receiving written notice of such problem from the Fresno police Department. After the initial security plan is approved and implemented, it is the responsibility of the owner or owner's representative to contact the Fresno Police Department to inquire about police calls for service or public safety problems at the location. Contact may be made in person, by telephone or by electronic mail. Review of police calls for services may be conducted at any times by the Fresno police Department.

The applicant will maintain a copy of the current Security Plan and shall present the Security Plan immediately upon request by a peace officer.

If it is determined that police calls for service become "Frequent" (see definition below) the Fresno Police Department may initiate proceedings to amend these conditions to require additional state licensed uniformed security and/or to recommend suspension or revocation proceedings.

In addition to the above the following security shall be required when the establishment is operating as a Tavern or Nightclub. If the establishment is operating concurrently as a Tavern and nightclub the security requirements for the Nightclub shall apply.

Tavern security requirements

State licensed uniformed security guards are required to be on the premises at all times from 11:00 p.m. to 4:00 a.m. on any and all days of the week that the establishment is open and operating after 11:00 p.m. The total number of state licensed uniformed security guards shall be based upon the maximum permitted occupancy as established by the Fresno Fire Department, and determined as follows:

0-100 guests: No state licensed uniformed security required. Onsite manager and employees will be responsible for monitoring and controlling the behavior of patrons.

101-200 guests: A minimum of one (1) state licensed uniformed security guard.

201-300 guests: A minimum of (2) state licensed uniformed security guards.

301-400 guests: A minimum of three (3) state licensed uniformed security guards.

If maximum permitted occupancy exceeds 400 guests, one additional state licensed uniformed security guard shall be required for each additional one-hundred guests.

The Maximum Permitted Occupancy for the entire premises, including any patios, shall be included on the Security Plan maintained at the business, to be made available immediately upon request of a Fresno Police Officer.

All on-duty licensed security guards shall comply with the uniform requirements set forth in California Business & Professions code section 7582.26.

Nightclub security requirements

During all hours the establishment operates as a nightclub, there shall be a minimum of two (2) state licensed, uniformed security guards or one (1) state licensed uniformed security guard per one hundred, of the total number of guests is limited by the permitted occupancy as determined by the Fresno Fire Department.

For purposes of determining the total number of state licensed, uniformed security guards required, the applicant shall round to the nearest increment of 100 guests. For instance if the permitted occupancy is 351 persons, the establishment shall be required to have four (4) state licensed, uniformed security guards. However, if the permitted occupancy is 345 persons, the establishment shall be required to have three (3) state licensed uniformed security guards.

All on-duty licensed security guards shall comply with the uniform requirements set forth in California Business & Professions code section 7582.26.

6. **Dance area**

Patrons may access any area used for dancing, from outside the premises of the establishment, only through entrances that are manned and controlled, at all times, by at least one employee of the establishment.

7. **Video Camera**

A fully functional color digital video camera must be in place to record the activities of patrons on the premises. The interior of the business must have at least one camera placed to focus on each area where alcoholic beverages are being dispensed (this shall include any outside patio area where alcoholic beverages are dispensed). Additionally, there shall be at least one camera placed to focus on each of the following areas; front door (s) and/or entry area, any area outside where patrons wait to enter the establishment and the majority of the open floor space area in the establishment.

The camera storage capacity should run for at least one week (seven calendar days), the System must continuously record, store, be capable of playing back images and be fully functional at all times. Any recordings of criminal activity shall be provided to the Fresno Police Department within 24 hours of the initial request.

8. **Property Responsibility**

Frequent responses by the FPD arising out of or relating to the operation or management of the real property owned or controlled by the permitted causing

any combination of the following: animal disturbances, violent criminal acts, illegal consumption of intoxicants in public view, gaming activities, and juvenile disturbances or any of the other activities set forth in the Fresno Municipal Code section 10-708(g) may result the commencement of CUP revocation proceedings pursuant to FMC, section 12-326-H and 12-405-E. In addition to recommending the commencement of revocation proceedings, the FPF may pursue any of the remedies set forth in FMC, section 10-710, including assessing fines against the proprietor for the violations of the Management of Real Property Ordinance.

“Frequent” is defined by FMC, section 12-326-H1-a.

9. **Revocation of Conditional Use Permit**

The City is permitted to revoke a Conditional Use Permit for “good cause” pursuant to the procedures set forth in FMC, sections 12-326-H and 12-405-E. Applicant is strongly encouraged to review these FMC sections to understand the circumstances that constitute “good cause.”

10. **Posting hours of operation and addresses**

The owner and/or proprietor and/or applicant shall be responsible to conspicuously post the hours of operation for each phase type (i.e., restaurant, nightclub) near the entrance of the establishment. It shall be 8.5x11 inches in size, to be provided for by the City. This posting shall be made available to City officials upon request. Additionally, the address of each facility shall be posted in compliance with all City codes.

11. **Posting Property**

The applicant shall post the property with the appropriate Fresno Municipal Code signs advising that consumption of alcoholic beverages, gambling, trespassing or loitering will be in violation of municipal ordinances. The applicant must send a letter to the Fresno Police Department, signed and dated by the applicant, every 180 days that authorizes FPD peace officers to enter the applicants real property and/or establishment to enforce against the aforementioned activities at the business. The owners and employees are responsible for abating those activities when they occur during business hours.

The establishment shall not allow alcoholic beverages to be consumed outside the building premises or any other adjacent property under its control. No alcoholic beverage will be consumed on any property adjacent to the premises (i.e. parking lot and sidewalks). If the alcoholic beverages are consumed on property not owned or controlled by the applicant, the applicant shall immediately report such consumption to the Fresno Police Department.

The establishment shall not allow any loitering on building premises or any adjacent property under its ownership or control.

The establishment shall not allow any gambling on building premises or any adjacent property under its control.

There shall be no amusement devices or Billiard tables maintained upon the premises without the proper permits issued through the City of Fresno Business Tax Division.

12. The applicant agrees to provide a separate area for patrons between the ages of 18 and under 21 years of age. This area needs to be separated by a wall and is continually monitored by a licensed security guard to prevent anyone under the age of 21 from having access to alcohol.
13. **The establishment shall ensure that all employees are aware of and comply with these conditions. The establishment shall have each employee sign a written acknowledgement that he/she has reviewed and understood each of these conditions. The written acknowledgement shall be maintained by the establishment and made available to the Fresno Police Department upon reasonable request.**

I agree to the above Conditions

 6/29/11

Captain Greg Garner Date

Southwest District Commander

Gloria Leon

Date



FIRE DEPARTMENT

DATE: March 14, 2011

TO: SOPHIA PAGOULATOS, Planner
Development Services/Planning

FROM: MIKE SCHMIDT, ^{*ms*}Supervising Inspector
Fresno Fire Department, Prevention Division

SUBJECT: 1170 Broadway Plaza, C-10-124 ABCUP

The Fire Department's conditions of approval include the following:

Access and hydrants: No requirements.

Note: This change of use will constitute a change of occupancy and initiate the requirements for a complete fire sprinkler system and a complete fire alarm system.

Sophia Pagoulatos

From: Yeghia Oulashian
Sent: Tuesday, March 22, 2011 11:45 AM
To: Sophia Pagoulatos
Subject: Crest

Follow Up Flag: Follow up
Flag Status: Flagged

Sophia,

If you would please incorporate "detail provisions for a level multi use surface—plans/permits may be required". Also I still need to talk to Mike.

Thanks,

YO

REDEVELOPMENT AGENCY OF THE CITY OF FRESNO
2344 Tulare Street, Suite 200, Fresno, CA 93721 (559) 621-7600

Application No.: C-10-124-ABCUP
(Sophia Pagoulatos)
Assessor Parcel No.: 466-212-12
Site address: 1170 Broadway Plaza
Redevelopment Area: Central Business District

Date: 11/16/2010
Reviewer: Terry Cox,
Project Manager/
Management Analyst III
Telephone: 621-7622

Agency Staff Recommendation:

APPROVE PROJECT WITH THE FOLLOWING CONDITIONS:

1. The property identified in Application No. C-10-124-ABCUP is located within the adopted Central Business District Redevelopment Project and is subject to all requirements of the Redevelopment Plan.
2. The Redevelopment Agency does not object to the request to establish an event hall/night club and the issuance of a Type 48 State of California Alcoholic Beverage Control license (sale of beer, wine, and distilled spirits for consumption on the licensed premises where sold; minor are not allowed to enter and remain) at the Crest Theatre. Agency approval of this project is conditioned upon all required interior and exterior renovations and improvements for the event hall are compliance with the requirements of the Redevelopment Plan and the C-4 (Central Trading) zone district and Section 12-304 (including subsequent applicable Sections of the Fresno Zoning Ordinance).
3. The project shall be subject to all applicable requirements associated with any active approved Site Plan or permits that are enforced for the development of the overall site located at 1170 Broadway Plaza and previously submitted Agency comments for this project site dated May 25, 2010.
4. The project identified in this entitlement application shall be developed in accordance with the Operational Statement and Site Plan (or as revised by the City of Fresno) submitted for Conditional Use Permit Application No. C-10-124-ABCUP.
5. Approval of this entitlement applies only to the development identified in Application No. C-10-124-ABCUP, any modifications or additions shall not be allowed without the modification of this Conditional Use Permit Application with prior approval from the City of Fresno Development Department and the Redevelopment Agency.
6. The project shall also be subject to and be in conformance with the requirements of the Industrial Development Design Guidelines as applicable.
7. All existing and future landscaped areas shall be properly maintained and any dead plants, trees or ground cover will be removed and immediately replaced with the appropriate landscaping. All landscaping irrigation systems on site shall be properly maintained or repaired to ensure the healthy growth of plants and trees.
8. The State Mandated Training of Liquor Sales and Handling shall be required for all new employees prior to start of employment and will be implemented in the operational policy of the Nightclub (business).

PLEASE MAKE APPLICANT AWARE OF AGENCY COMMENTS

9. The Agency can support the issuance of an ABC Type 48 license to the event hall/night club in compliance with all requirements of ABC, the City of Fresno and Redevelopment Agency, provided that the request receives a favorable evaluation from the Fresno Police Department and adjacent property owners.
10. Although the proposed location of the nightclub on the southeasterly corner of Fresno Street and Broadway Avenue will not be significant and can be integrated with the adjacent commercial zoned properties, the Agency is concerned about the potential impacts of the nightclub on the existing senior housing facility located immediately to the north across Fresno Street. Due to the location of the project in a transitional commercial-residential (land use) environment, specific attention should be given to any comments and/or appeals on the approval of this application, including parking, and especially those concerning the association, operations and impacts of the night club and its sale and service of alcoholic beverages in this area.
11. The use of entrance control barricades, such as rope fences and gates, for patrons in the public right-of-way (sidewalk) shall be restricted and subject to approval by the City of Fresno and the Redevelopment Agency.
12. It shall be the responsibility of the proposed event hall/night club (business) to comply with all security procedures required by the City of Fresno; and to provide a safe and secure night club environment for its patrons, especially in association with the on-site sale and service of alcoholic beverages.
13. All outdoor advertising on site for the nightclub shall be restricted and be in conformance with the requirements of the Fresno Zoning Ordinance and subject to approval of the City of Fresno and the Redevelopment Agency.
14. Any renovations of the building's exterior façade should enhance, as well as, compliment the appearance of the existing period architecture of the primary and adjacent buildings, especially those that contribute to the overall (visual) appearance of the buildings.
15. Proposed exterior building façade renovations and/or alterations shall also be reviewed by the Fresno Historic Preservation Commission to ensure consistency of the project with the period architecture of the primary and adjacent buildings to ensure the overall visual appearance of the Fresno Street and Broadway Plaza frontages.
16. Special attention shall be given to the condition and inter-face of the building with the frontages of Fresno Street and Broadway Plaza to ensure a complimentary transition that provides safe access for pedestrians.
17. The project shall also be subject to any and all special conditions governing the location and operation of businesses that are near or on the Fulton Mall to enhance the flow and security of pedestrian traffic.
18. Agency recommends a Master Sign Plan with a signage pattern that will enhance the appearance of the building and its association with the frontages of Fresno Street and Broadway Plaza.
19. The City of Fresno and Redevelopment Agency shall be informed of any deviation from the conditions of this Entitlement or the Statement of Operations, especially any change in

the established use of the property and hours of operation.

20. The Agency reserves the right to reconsider the issuance of Conditional Use Permit Application No. C-10-124 ABCUP to the Nightclub (business) should the City of Fresno or the Redevelopment Agency of the City of Fresno receives any complaints about the event hall/night club's operations and/or sales of alcohol beverages inconsistent with the requirements of Application No. C-10-124 ABCUP; which can result in a recommendation to the Alcoholic Beverage Control (ABC) Department of the State of California to revoke the license.



DEPARTMENT OF PUBLIC UTILITIES

Date: May 26, 2010

To: SOPHIA PAGOULATOS, Planner III
Planning and Development Department, Advance Planning

From: CHRIS WEIBERT, Management Analyst II
clw Public Utilities Department, Administration

Subject: C-10-124 was filed by Gloria Leon and pertains to 0.31 acre of property located in downtown Fresno on the southeasterly corner of Broadway Plaza and Fresno Street, 1170 Broadway Plaza, APN 466-212-12. The applicant requests authorization to establish an event hall at the historic Crest Theatre. Event types would include, but not be limited to, concerts, movies, comedians, birthday parties, weddings, and dances. Typical events would be from 6 p.m. to 12 a.m., Monday to Sunday. The property is zoned C-4, Central Trading.

Does Project Affect Your Agency/Jurisdiction

Yes - Project is currently serviced by Solid Waste Division.

Suggestions to Reduce Impacts/Address Concerns

Extent of work does not warrant requirement for a trash enclosure.

Recommended Conditions of Approval

Project will continue to be serviced by Solid Waste Division.



DEPARTMENT OF PUBLIC UTILITIES

Date: May 27, 2010

To: SOPHIA PAOULATOS, Supervising Planner
Planning and Development Department

From: DOUG HECKER, Supervising Engineering Technician *GA*
Department of Public Utilities, Planning and Engineering

Subject: SANITARY SEWER REQUIREMENTS FOR CONDITIONAL USE PERMIT C-10-124

General

C-10-124 was filed by Gloria Leon and pertains to 0.31 acre of property located in downtown Fresno on the southeasterly corner of Broadway Plaza and Fresno Street, 1170 Broadway Plaza, APN 466-212-12. The applicant requests authorization to establish an event hall at the historic Crest Theatre. Event types would include, but not be limited to, concerts, movies, comedians, birthday parties, weddings, and dances. Typical events would be from 6 p.m. to 12 a.m., Monday to Sunday. The property is zoned C-4, Central Trading.

Environmental Recommendations

A NEGATIVE DECLARATION MAY BE ISSUED: The project may have adverse impacts but impacts can be mitigated without further study or are not serious enough to warrant an Environment Impact Report.

Sanitary Sewer Requirements

The nearest sanitary sewer main to serve the proposed project is a 10-inch main located in the alley between Broadway Plaza and the Fulton Mall. Sanitary sewer facilities are available to provide service to the site subject to the following requirements:

1. On-site sanitary sewer facilities shall be private.
2. The project developer should contact wastewater Management Division/Environmental Services (559) 621-5100 regarding conditions of service for special users.

Sanitary Sewer Fees

The following Sewer Connection Charges are due and shall be paid for the Project:

1. Sewer Facility Charge (Non-Residential)
2. Upon connection of this Project to the City Sewer System the owner shall be subject to payment of Sewer Facility charges per Fresno Municipal Code Section 6-304 and 6-305. Sewer Facility Charges consist of two components, a Wastewater Facilities Charge and Trunk Sewer Charge where applicable.

3. Sewer Facility Charges are collected after occupancy on a bi-monthly basis over time based on metered (water or sewer effluent) usage. The developer may contact the Department of Public Utilities/Wastewater-Environmental Control at (559) 621-5153 to receive an estimated cost of the Sewer Facility Charges applicable to the project (based on a constant sewer discharge and loading (Biochemical Oxygen Demand [BOD] and Total Suspended Solids [TSS] levels anticipated) at the current rates in effect, at that time, per Fresno's Master Fee Resolution. The developer shall provide data regarding estimated sewer discharge rates [flow] and loading [BOD/TSS levels] required for calculating the estimated charges.



DEPARTMENT OF PUBLIC UTILITIES

Date: May 27, 2010

To: SOPHIA PAOULATOS, Supervising Planner
Planning and Development Department

From: DOUG HECKER, Supervising Engineering Technician 
Department of Public Utilities, Planning and Engineering

Subject: WATER REQUIREMENTS FOR CONDITIONAL USE PERMIT C-10-124

General

C-10-124 was filed by Gloria Leon and pertains to 0.31 acre of property located in downtown Fresno on the southeasterly corner of Broadway Plaza and Fresno Street, 1170 Broadway Plaza, APN 466-212-12. The applicant requests authorization to establish an event hall at the historic Crest Theatre. Event types would include, but not be limited to, concerts, movies, comedians, birthday parties, weddings, and dances. Typical events would be from 6 p.m. to 12 a.m., Monday to Sunday. The property is zoned C-4, Central Trading.

Environmental Recommendations

A NEGATIVE DECLARATION MAY BE ISSUED: The project may have adverse impacts but impacts can be mitigated without further study or are not serious enough to warrant an Environment Impact Report.

Water Requirements

The nearest water main to serve the proposed project is an 8-inch main located in the alley between Broadway Plaza and the Fulton Mall. Water facilities are available to provide service to the site subject to the following requirements:

- 1. On-site water facilities shall remain private.

Water Fees

The following Water Connection Charges and fees shall be paid for the project.

- 1. None.



County of Fresno

Department of Public Health

Edward L. Moreno, M.D., M.P.H., Director-Health Officer

June 3, 2010

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LU0015668

PE 2602

Sophia Pagoulatos
City of Fresno
Development Department
2600 Fresno Street
Fresno, CA 93721

Dear Ms. Pagoulatos:

PROJECT NUMBER: C-10-124 Crest Theatre

Conditional Use Permit Application No. C-10- 124 was filed by Gloria Leon and pertains to 0.31 acre of property located in downtown Fresno on the southeasterly corner of Broadway Plaza and Fresno Street. The applicant requests authorization to establish an event hall at the historic Crest Theatre. Event types would include, but not be limited to, concerts, movies, comedians, birthday parties, weddings, and dances. Typical events would be from 6 p.m. to 12 a.m. Monday to Sunday. The property is zoned C-4 (*Central Trading*).

APN: 466-212-12

ZONING: C-4

ADDRESS: 1170 Broadway Plaza

Recommended Conditions of Approval:

- Prior to issuance of building permits, the applicant shall submit complete food facility plans and specifications to the Fresno County Department of Public Health, Environmental Health Division, for review and approval. Contact the Consumer Food Protection Program at (559) 445-3392 for more information.
- Prior to operation, the applicant shall apply for and obtain a permit to operate a food facility from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 445-3392 for more information.
- Prior to operation, the applicant shall contact the California Alcoholic Beverage Control Department at (559) 225-6334 for information relative to applying for and obtaining a license to sell alcoholic beverages.

REVIEWED BY:

Janet Gardner

R.E.H.S., M.P.H.

Environmental Health Specialist

Digitally signed by Janet Gardner
DN: cn=Janet Gardner, o=Environmental Health Division, ou=Fresno County
Public Health Department, email=jgardner@co.fresno.ca.us, c=US
Date: 2010.06.03 09:44:50 -07'00'

(559) 445-3271

cc: Baruti/Casagrande/Tolzmann/Xiong, Environmental Health Division
Gloria Leon, The Crest Theatre (MS_GLORIA_L@yahoo.com)

C-10-124 Crest Theatre



Preparing Career Ready Graduates

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SUPERINTENDENT

Michael E. Hanson

October 27, 2010

Sophia Pagoulatos, Development Services/Planning
Planning & Development Department
2600 Fresno Street, Third Floor
Fresno, CA 93721-3604

**SUBJECT: CONDITIONAL USE PERMIT NO. C-10-124-ABCUP
 1170 Broadway Plaza**

Dear Ms. Pagoulatos,

In response to the City's request for comments on the pending Conditional Use Permit (C.U.P.) referenced above, Fresno Unified School District (FUSD) has the following comments and concerns.

The proposed Crest Theatre Nightclub located at 1170 Broadway Plaza, is requesting to establish a Type 48 (sale of beer, wine and distilled spirits for consumption on the premises where sold) ABC liquor license. It is located within approximately 3,470 feet from Lowell Elementary School.

As per the State of California's Alcohol Beverage Control Act, an alcohol license can be refused by the State if the location is "within at least 600 feet from schools." Although schools are not within close proximity to the establishment, FUSD still has concerns regarding potentially dangerous interaction between our students and the proposed operation. FUSD's response on this project is subject to the Alcohol Beverage Control Act and the Fresno Police Department's review and support of the project with regard to the concentration and use of alcohol-related business in close proximity to school sites.

Any new commercial/industrial development which occurs, may ultimately affect the District by generating employees. The children of those employees living in the District will need to be housed in District schools.

The Fresno Unified School District levies a commercial/industrial development fee of \$0.47 per square foot. If no new square footage is constructed, no development fee will be charged. Any new development on the property will be subject to the development fee prior to issuance of a building permit.

If you have any questions or require additional information regarding our comments and concerns, please contact Deana Clayton, Project Manager, at (559) 457-3066.

Sincerely,

Lisa LeBlanc, Executive Director
Facilities Management and Planning

LL:hh

c: Miguel Naranjo, Principal, Lowell Elementary School