



REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. VIII-B
COMMISSION MEETING 11-17-10

APPROVED BY

John D. Bishop
DEPARTMENT DIRECTOR

November 17, 2010

FROM: JERRY D. BISHOP, Assistant Director *B*
Development and Resource Management Department

THROUGH: MIKE SANCHEZ, Planning Manager *MS*
Development Services Division

BY: ISRAEL TREJO, Planner *IT*
Development Services Division

SUBJECT: CONSIDERATION OF AN APPEAL OF DIRECTOR ACTION APPROVING
CONDITIONAL USE PERMIT APPLICATION NO. C-10-042 AND ENVIRONMENTAL
FINDING FOR ENVIRONMENTAL ASSESSMENT NO. C-10-042

RECOMMENDATION

Upon consideration of staff evaluation, it can be concluded that proposed Conditional Use Permit Application No. C-10-042 is appropriate for the project site. Therefore, staff recommends the Planning Commission take the following actions:

1. APPROVE the environmental finding of Environmental Assessment No. C-10-042 dated September 8, 2010, a determination that the proposed project is exempt from CEQA through a Class 1 and Class 32 Categorical Exemption.
2. DENY the appeal and UPHOLD the action of the Development and Resource Management Department Director approving Conditional Use Permit Application No. C-10-042 subject to the following:
 - a. Development shall take place in accordance with the Conditions of Approval detailed in the approval letter for Conditional Use Permit Application No. C-10-042 dated September 8, 2010.

EXECUTIVE SUMMARY

Conditional Use Permit Application No. C-10-042, filed by Leo Valdivia, pertains to property located on Broadway Street between San Joaquin and Amador Streets. The applicant requests authorization to allow dancing until 4 a.m. at the Rainbow Ballroom. The Rainbow Ballroom is currently operating under a previously approved dance permit and has an existing Type 47 (Restaurant – sale of beer, wine and distilled spirits) Alcoholic Beverage Control (ABC) license.

Dancing until 4 a.m. is allowed in the Central Area Community Plan boundaries south of Divisadero Street, pursuant to section 12-327 of the Fresno Municipal Code (FMC). Night clubs legally operating under previously approved dance permits are considered nonconforming pursuant to section 12-326 of the FMC. A request to close at a later time, i.e., dancing until 4 a.m., will cause a loss of nonconforming status. As such, the Rainbow Ballroom is required to obtain a conditional use permit to operate as a night club; the subject application serves that purpose in addition to the request to allow dancing until 4 a.m.

The Development and Resource Management Department Director approved the subject conditional use permit application on September 8, 2010. In accordance with the Special Permit Procedure of the Fresno Municipal Code, a notice of granting of the conditional use permit application was mailed to

property owners (and others) within 500 ft. of the subject site (Exhibit D). In response to this notice, an appeal was received from the H.E.A.T. for Southwest Fresno, a community group (see attached Exhibit C).

PROJECT INFORMATION

PROJECT	Conditional Use Permit Application No. C-10-042 is a request allow dancing until 4 a.m. at the Rainbow Ballroom
APPLICANT	Leo Valdivia
LOCATION	Located on Broadway Street between San Joaquin and Amador Streets
SITE SIZE	± 0.43 acre
LAND USE	Existing - Night club Proposed - Night club with dancing until 4 a.m.
ZONING	C-M (<i>Commercial and Light Manufacturing District</i>)
PLAN DESIGNATION AND CONSISTENCY	The request to allow an existing night club to have dancing until 4 a.m. is consistent with the existing C-M zone district and the light industrial planned land use designation of the 2025 General Plan, the Central Area Community Plan and the Fulton/Lowell Specific Plan
ENVIRONMENTAL FINDING	Staff has determined that the proposed project is exempt from CEQA through Class 1 and Class 32 Categorical Exemption, dated September 8, 2010
PLAN COMMITTEE RECOMMENDATION	There is no Plan Implementation Committee in Council District 3
STAFF RECOMMENDATION	Staff recommends approval of Conditional Use Permit Application No. C-10-042 subject to the Conditions of Approval detailed in the approval letter dated September 8, 2010.

BORDERING PROPERTY INFORMATION

	Planned Land Use	Existing Zoning	Existing Land Use
North	Commercial Mixed Use Level II	C-M <i>(Commercial and Light Manufacturing District)</i>	Automotive Repair
East	Commercial Mixed Use Level II	C-M <i>(Commercial and Light Manufacturing District)</i>	Commercial - Automotive
South	Commercial Mixed Use Level II	C-4 <i>(Central Trading District)</i>	Commercial - Automotive
West	Commercial Mixed Use Level II	M-1 <i>(Light Manufacturing District)</i>	Industrial

ENVIRONMENTAL FINDING

The proposed project was determined to be exempt from CEQA on September 8, 2010, under a Class 1 and 32 Categorical Exemption.

Section 15301/Class1 states 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. Under the Section 15332/Class 32 exemption, in-fill development that meets the following conditions is exempt from the California Environmental Quality Act (CEQA): a) 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, b) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses, c) the project site has no value as habitat for endangered, rare or threatened species, d) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and e) the site can be adequately served by all required utilities and public services.

The project proposes to extend the hours of operation (dancing until 4 a.m.) at an existing night club. The subject site is currently operating under a previously approved dance permit and has an existing Type 47 (Restaurant – sale of beer, wine and distilled spirits) ABC license. The project area is located within an existing building and will not result in an expansion of the building or alterations to the subject site.

BACKGROUND / ANALYSIS

Conditional Use Permit Application No. C-10-042 is a request to allow dancing until 4 a.m. at the Rainbow Ballroom. The Rainbow Ballroom is currently operating under a previously approved dance permit and has an existing Type 47 (Restaurant – sale of beer, wine and distilled spirits) ABC license. The use was reviewed under the recently adopted Restaurants, Taverns and Night Club ordinance within section 12-326 of the Fresno Municipal Code (FMC).

The Development and Resource Management Department Director approved the subject conditional use permit application on September 8, 2010. In accordance with the Special Permit Procedure of the Fresno Municipal Code, a notice of granting of the conditional use permit application was mailed to property owners (and others) within 500 ft. of the subject site (Exhibit D). In response to this notice, an appeal was received from the H.E.A.T. for Southwest Fresno, a community group (see attached Exhibit C).

Dancing/Night Club

Dancing until 4 a.m. is allowed in the Central Area Community Plan boundaries south of Divisadero Street, pursuant to section 12-327 of the Fresno Municipal Code (FMC). The Rainbow Ballroom is currently operating under a previously approved dance permit and has an existing Type 47 (Restaurant – sale of beer, wine and distilled spirits) ABC license.

Night clubs legally operating under previously approved dance permits are considered nonconforming pursuant to the recently adopted Restaurants, Taverns and Night Club ordinance (section 12-326 of the FMC). Additionally, pursuant to section 12-326-I.2 of the FMC, a request to close at a later time, i.e., dancing until 4 a.m., will cause a loss of nonconforming status. As such, the Rainbow Ballroom is required to obtain a conditional use permit for a night club; the subject application serves that purpose in addition to the request to allow dancing until 4 a.m.

Fresno Police Department

The Fresno Police Department has required the applicant to develop and maintain a written security plan. The security plan must be approved by the Fresno Police Department before dancing until 4 a.m. is allowed.

Time to Stop Sales, Service and Consumption of Alcohol

Table III under section 12-326.E.3 of the FMC indicates that for a night club, within the C-M zone district, the time to stop sales, service and consumption of alcohol is 2:00 am nightly.

Floor Area

Table III under section 12-326.E.3 of the FMC indicates that for a night club within the C-M zone district and located within the Central Area Community Plan, there is no maximum allowable floor area.

Parking

Pursuant to Fresno Municipal Code 12-306.I.2.2.d, the general requirement for parking for a night club is one space per 75 square feet of gross floor area. However, pursuant to section 12-306-I.2.1.d. (1) of the Fresno Municipal Code, parking space requirements shall not apply upon a change of occupancy for any building which was constructed before February 13, 1954, provided that the parking area or space existing immediately before a change of occupancy is not reduced. Staff has located permits for the subject site dating back to 1917.

District 3 Plan Implementation Committee

There is no District 3 Plan Implementation Committee at this time.

ANALYSIS OF THE APPEAL LETTER

Below is an analysis of the issues raised in the appeal letter dated September 23, 2010 (Exhibit C).

Issue #1: Increases the possibility of physical confrontations and driving under the influence.

Response:

The Fresno Police Department has required the applicant to develop and maintain a written security plan for the subject property. The security plan must be approved by the Fresno Police Department before dancing until 4 a.m. is allowed.

Additionally, the time to stop sales, service and consumption of alcohol is 2:00 a.m. nightly. The subject application does not extend the hours of alcohol consumption.

Issue #2: The approval of the project sets a precedent for other night clubs to petition to remain open longer, thus resulting in the above mentioned concerns.

Response:

Dancing until 4 a.m. (with a conditional use permit) is only allowed in the Central Area Community Plan boundaries south of Divisadero Street, pursuant to section 12-327 of the FMC.

NOTICE OF PLANNING COMMISSION MEETING

The Development and Resource Management Department mailed notices of this Planning Commission hearing to surrounding property owners within 500 feet of the subject property (Exhibit D).

CONDITIONAL USE PERMIT APPLICATION REVIEW FINDINGS

No special permit may be issued unless it is found that the privilege exercised under the permit, as it may be conditioned, conforms to the findings of Section 12-405-A-2 of the Fresno Municipal Code. Based upon analysis of the conditional use permit application, staff concludes that all of the required findings can be made for this conditional use permit application as follows:

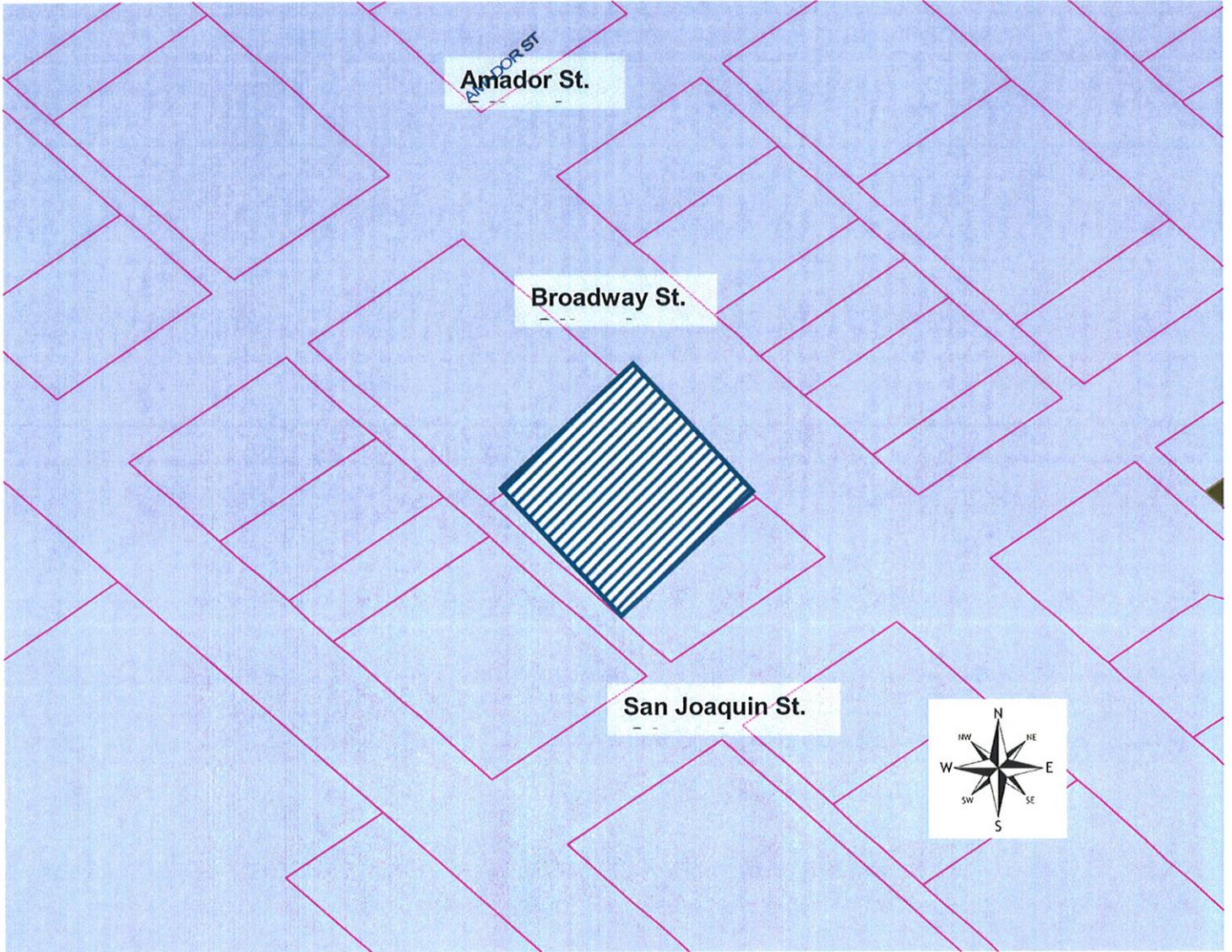
Findings per Fresno Municipal Code Section 12-405-A-2	
<p>a. <i>All applicable provisions of this Code are complied with and the site of the proposed use is adequate in size and shape to accommodate said use, and accommodate all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,</i></p>	
<p>Finding a:</p>	<p>The subject site is adequate in size and shape to accommodate the proposed use. Conditional Use Permit Application No. C-10-042 will comply with all applicable codes given that the special permit conditions of approval will ensure that all conditions are met prior to the site being occupied by the proposed use.</p>
<p>b. <i>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></p>	
<p>Finding b:</p>	<p>The subject application is a request to allow dancing until 4 a.m. at an existing night club. The proposed project will be located in an existing building approved for commercial uses. The subject property is adjacent to a collector street (Broadway Street) and is capable of handling the traffic generated by the subject site. Finally, a night club operates at a time (night time) when traffic is at its lowest.</p>
<p>c. <i>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 the FMC.</i></p>	
<p>Finding c:</p>	<p>The subject site was intended to function with commercial uses. In addition, the applicant will be required to comply with the conditions of approval as required by the Police Department which will stipulate certain requirements that must be met by the applicant. These conditions are intended to help protect the public health, safety and welfare of patrons and neighbours, alike.</p>

Conclusion

In conclusion, given that all mandated conditional use permit findings required pursuant to Section 12-405-A-2 of the Fresno Municipal Code can be made for Conditional Use Permit Application No. C-10-042 and given that the project meets all requirements of a Class 1 and Class 32 Categorical Exemption and is thus exempt from CEQA, staff recommends that the Planning Commission deny the appeal and uphold the action of the Director as previously described in this staff report.

- Attachments:
- Exhibit A: Vicinity Map
 - Exhibit B: 2008 Aerial Photograph of site
 - Exhibit C: Appeal Letter
 - Exhibit D: Noticing Map (500-foot radius)
 - Exhibit E: Approval Letter/Conditions of Approval dated September 8, 2010
 - Exhibit F: Comments from Responsible Agencies
 - Exhibit G: Environmental Assessment No. C-10-042, dated September 8, 2010

VICINITY MAP



CONDITIONAL USE PERMIT APPLICATION NO. C-10-042

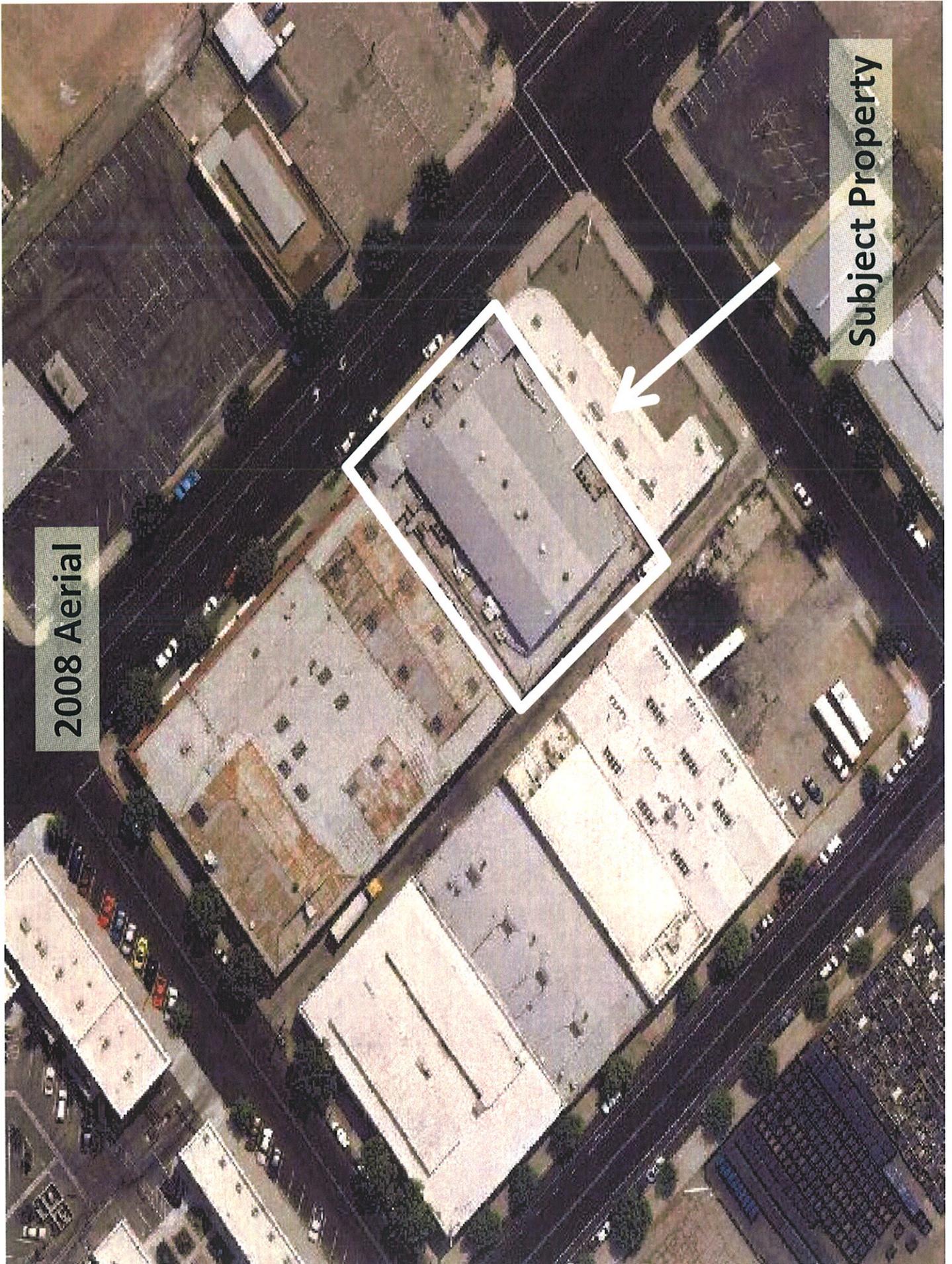
1725 Broadway Street

LEGEND



Subject Property

Exhibit B



Subject Property

2008 Aerial

Exhibit C

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

SEP 23 2010
Planning Division
Planning & Development Dept
CITY OF FRESNO

September 23, 2010

City of Fresno
Development & Resource Management Dept.
2600 Fresno St., Rm. 3043
Fresno, CA 93721

Attn: Israel Trejo

Re: Conditional Use Permit Application No. C-10-042

HEATSWFC objects to the conditional use permit application for the following reasons:

1. Extending the period to operate, especially with the sale & use of alcohol, increases the possibility of crime related to the use of alcohol, such as physical confrontations and driving under the influence.
2. It sets a precedent for other nightclubs to petition to remain open longer, thus resulting in the above mention concerns.

The recent nightclub assault and shooting is a prime example of the concerns being raised.

Sincerely,
Members of HEATSWFC



Development & Resource Mgmt. Department

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

John M Dugan AICP, Director

September 8, 2010

Please Reply To:
Israel Trejo
(559) 621-8044

Leo Valdivia
1725 Broadway Street
Fresno, CA 93721

SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. C-10-042 FOR PROPERTY LOCATED AT 1725 BROADWAY STREET

Dear Mr. Valdivia:

The Development and Resource Management Department has approved Conditional Use Permit Application No. C-10-042, which is a request to allow dancing until 4 a.m. at the Rainbow Ballroom (any day of the week). The Rainbow Ballroom is currently operating under a previously approved dance permit and has an existing Type 47 (Restaurant – sale of beer, wine and distilled spirits) ABC license. The use was reviewed under the recently adopted Restaurants, Taverns and Night Club ordinance within section 12-326 of the Fresno Municipal Code (FMC); the proposed use is considered a night club within section 12-326 of the FMC.

A notice of approval was mailed to property owners within 500 feet of the subject site (measured from the exterior boundaries of the site) on September 8, 2010. **Approval will not become effective until the mandatory 15-day appeal period has passed with no appeals received in response to the mailed notice.**

If an appeal is received on or prior to September 23, 2010, the project will be scheduled for a hearing before the Fresno City Planning Commission.

CONDITIONS OF APPROVAL

Conditional Use Permit Application No. C-10-042 is approved subject to the following conditions:

- 1. Development shall comply with the conditions of approval dated September 8, 2010.

Please be advised that this project may be subject to a variety of discretionary conditions of approval. These conditions are based on adopted City plans and policies, those determined through site plan review and environmental assessment essential to mitigate adverse effects on the health, safety and welfare of the community, and recommended 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.

Conditional Use Permit Application No. C-10-042
September 8, 2010
Page 2

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.

If you wish to appeal the decision, a written request must be received at the Development and Resource Management Department by September 23, 2010. The written request should be addressed to John M. Dugan, Director and include the application number referenced above.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Israel Trejo", with a long horizontal flourish extending to the right.

Israel Trejo, Planner
Planning Division

Attachments:

Conditions of Approval dated September 8, 2010
Comments from responsible agencies/departments

CITY OF FRESNO
PLANNING AND DEVELOPMENT DEPARTMENT

CONDITIONS OF APPROVAL
SEPTEMBER 8, 2010

CONDITIONAL USE PERMIT APPLICATION NO. C-10-042

PART A - PROJECT INFORMATION

1. Assessor's Parcel No: 466-195-02
2. Zone Map No: 2449
3. Job Address: 1725 Broadway Street
4. Street Location: Located on Broadway Street between San Joaquin and Amador Streets
5. Existing Zoning: C-M (*Commercial and Light Manufacturing District*) zone district
6. Planned Land Use: Commercial Mixed Use Level II
7. Plan Areas: The 2025 Fresno General Plan, the Central Area Community Plan, the Fulton/Lowell Specific Plan and the Fulton Redevelopment Area
8. Project Description: Conditional Use Permit Application No. C-10-042 is a request to allow dancing until 4 a.m. at the Rainbow Ballroom (any day of the week). The Rainbow Ballroom is currently operating under a previously approved dance permit and has an existing Type 47 (Restaurant – sale of beer, wine and distilled spirits) ABC license. The use is being reviewed under the recently adopted Restaurants, Taverns and Night Club ordinance within section 12-326 of the Fresno Municipal Code (FMC); the proposed use is considered a night club within section 12-326 of the FMC. Dancing until 4 a.m. is allowed in the Central Area Community Plan boundaries south of Divisadero Street, pursuant to section 12-327 of the FMC. Though the Rainbow Ballroom has a valid dance permit, the existing use is considered nonconforming pursuant to section 12-326-I.1 of the FMC. Additionally, pursuant to section 12-326-I.2 of the FMC, a request to close at a later time (dancing until 4 a.m.) causes a loss of nonconforming status. As such, the Rainbow Ballroom is required to obtain a conditional use permit to allow for the operation of a nightclub as well as the request to allow dancing until 4 a.m.; the subject application serves that purpose.

PART B - GENERAL CONDITIONS AND REQUIREMENTS

The proposed project is approved subject to the enclosed list of conditions dated September 8, 2010.

Environmental Assessment No. C-10-118, resulting in a Categorical Exemption Class 1 and Class 32, was prepared for the project on September 8, 2010.

To complete the back-check process for building permit relative to planning and zoning issues, submit eight copies of this corrected, final site plan, together with six copies of the elevations, landscape, and irrigation plans, and any required covenants and/or studies or analyses to the Planning Division, Current Planning Section, for final review and approval, ten days before applying for building permits.

Copies of this final approved site plan, elevations, landscape, and irrigation plans stamped by the Planning Division **must be substituted** for unstamped copies of same in each of the four sets of construction plans submitted for plan check prior to issuance of building permits. The final approved site plan must also include all corrections identified in the plan check process.

Be advised that on-site inspections will not be authorized unless the final stamped approved site plan, elevations, landscape, and irrigation plans are included in the plan check file copy.

Please call for an appointment for final sign-off for building permits following your receipt and substitution of the four copies of the stamped, corrected, approved exhibits in the plan check sets. Contact Israel Trejo at (559) 621-8044 or via e-mail at Israel.Trejo@fresno.gov to schedule an appointment.

IMPORTANT: PLEASE READ CAREFULLY

Please note that this project may be subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through site plan review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community, and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

All code requirements, are mandatory and may only be modified by variance, provided the findings pursuant to Fresno Municipal Code (FMC) Section 12-405.A can be made.

Approval of this special permit shall be considered null and void in the event of failure by the applicant and/or the authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development including, but not limited to, the following:

1. All existing and proposed improvements including but not limited to buildings and structures, signs and their uses, trees, walls, driveways, outdoor storage, and open land use areas on the subject property and all of the preceding which are located on adjoining property and may encroach on the subject property;
2. All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property;
3. Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.

Approval of this special permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this special permit, the Zoning Ordinance, and all Public Works Standards and Specifications. The Planning and Development Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plan not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or revisions.

No uses of land, buildings, or structures other than those specifically approved pursuant to this site plan shall be permitted. **(Include this note on the site plan.)**

Transfer all red line notes, etc., shown on all original site plan exhibits to the final site plan. **CORRECTIONS SHALL INCLUDE ALL THOSE LISTED IN THIS DOCUMENT AND THOSE LISTED IN THE CORRECTION LIST PROVIDED BY THE PLAN CHECK PROCESS.**

The exercise of rights granted by this special permit must be commenced by September 8, 2014 (four years from the date of approval). There is no exception.

NOTICE TO PROJECT APPLICANT

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees, dedications, reservation or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

PART C - PUBLIC IMPROVEMENT REQUIREMENTS

The following requirements are based on city records and the accuracy of the existing and proposed on-site and off-site conditions depicted on the exhibits submitted. Requirements not addressed due to omission or misrepresentation of information, for which this review process is dependent, will be imposed whenever such conditions are disclosed. Questions relating to dedications, street

improvements or off-street parking lot geometrics may be directed to Mario Rocha at (559) 621-8684 of the Public Works Department, Engineering Division.

TRAFFIC SIGNAL MITIGATION IMPACT FEE

- a) This project shall pay its Traffic Signal Mitigation Impact Fee at the time of building permit based on the trip generation rate(s) as set forth in the latest edition of the ITE Generation Manual.

OTHER AGENCIES IMPACT FEES

- a) Satisfy the Fresno County Facilities Impact Fee Obligation. Provide County Facilities Impact Fee receipt from the County Public Works and Planning Department (488-3496) as proof of payment or exemption prior to issuance of permits.
- b) Satisfy the Fresno County Regional Transportation Mitigation Fee (RTMF), as required by the RTMF Joint Powers Agency (559-233-4148). The RTMF Informational Summary and the Record of Payment forms are available at the Planning and Development public counter.
- c) The completed Record of Payment of the RTMF form of the must be submitted to the City prior to the issuance of building permits. Prior to issuance of the Certificate of Occupancy, the Record of Payment of the RTMF form must be signed indicating the Disposition of RTMF by the RTMF JPA.

PART D - PLANNING/ZONING REQUIREMENTS

1) PLANNING

- a) Development is subject to the following plans and policies:
 - i) C-M (*Commercial and Light Manufacturing District*) zone district
 - ii) Central Area Community Plan
 - iii) Fulton/Lowell Specific Plan
 - iv) Fulton Redevelopment
 - v) 2025 Fresno General Plan
- b) The subject application is a request to allow dancing until 4 a.m. at the Rainbow Ballroom (any day of the week). The Rainbow Ballroom is currently operating under a previously approved dance permit and has an existing Type 47 (Restaurant – sale of beer, wine and distilled spirits) ABC license. The use is being reviewed under the recently adopted Restaurants, Taverns and Night Club ordinance within section 12-326 of the Fresno Municipal Code (FMC); the proposed use is considered a night club within section 12-326 of the FMC. Dancing until 4 a.m. is allowed in the Central Area Community Plan boundaries south of Divisadero Street, pursuant to section 12-327 of the FMC. Though the Rainbow Ballroom has a valid dance permit, the existing use is considered nonconforming pursuant to section 12-326-I.1 of the FMC. Additionally, pursuant to section 12-326-I.2 of the FMC, a request to close at a later time (dancing until 4 a.m) causes a loss of nonconforming status.

As such, the Rainbow Ballroom is required to obtain a conditional use permit to allow for the operation of a nightclub as well as the request to allow dancing until 4 a.m.; the subject application serves that purpose.

2) FLOOR AREA

- a) The project was reviewed under the provisions of the recently adopted text amendment as related to restaurants, taverns and night clubs. Table III under section 12-326.E.3 of the FMC indicates that for a night club, within the C-M zone district and located within the Central Area Community Plan, there is no maximum floor area.

3) TIME TO STOP SALES SERVICE AND CONSUMPTION OF ALCOHOL

- a) Section 12-326.E.3 of the FMC indicates that for a night club, within the C-M zone district, the time to stop sales, service and consumption of alcohol is 2:00 am nightly.

4) POSTING OF HOURS OF OPERATION

- a) The applicant shall conspicuously post the hours of operation for the nightclub near the entrance of the establishment. It shall be 8.5×11 inches in size. Provide a copy of the posting to the City of Fresno for review and approval.

5) POPULATION DENSITY (Residential Projects)

- a) Not applicable.

6) ADDRESSING

- a) **Only those addresses assigned by the City of Fresno will be recognized as 'Official Addresses'. The Official Address for the site is 1725 Broadway Street.** The United States Post Office will only recognize addresses assigned by the City of Fresno. If a non-official address is given to a building and or/separate suites, the City of Fresno has the authority to charge a fee and have those addresses corrected. In addition, the United States Post Office will cease mail delivery to those addresses that are not 'Official Addresses'.

7) BUILDING HEIGHT

- a) Pursuant to section 12-224.5.D of the FMC, the maximum allowable building height is 75 feet in the C-M zone district. The existing building is not proposed to be added to in height.

8) LOT COVERAGE

- a) Pursuant to section 12-224.5.G of the FMC, there is no maximum lot coverage in the C-M zone district. The existing building is not proposed to be added to.

5) BUILDING SETBACK, OPEN SPACES AND LANDSCAPING

- a) Provide the following minimum setbacks:
- All building and landscape setbacks on-site shall remain as existing.

- b) No structures of any kind (*including free standing signs and/or fences*) may be installed or maintained within the above-landscaped areas. No exposed utility boxes, transformers, meters, piping (excepting the backflow prevention device), etc., are allowed to be located in the landscape areas or setbacks or on the street frontages of the buildings. All transformers, etc., shall be shown on the site plan. The backflow device shall be screened by landscaping or such other means as may be approved. **(Include this note on the site plan.)**
- c) Trees shall be maintained in good health. However, trees may not be trimmed or pruned to reduce the natural height or overall crown of the tree, except as necessary for the health of the tree and public safety; or as may otherwise be approved by the Planning and Development Department. **(Include this note on the site and landscape plans.)** Remove the tree stumps located throughout the property.
- d) Landscaping must be in place before issuance of the certificate of occupancy. A Hold on Occupancy shall be placed on the proposed development until such time that landscaping has been approved and verified for proper installation by the Planning Division. **(Include this note on the site and landscape plans.)**

6) SPACE BETWEEN BUILDINGS

- a) No requirements, pursuant to section 12-224.5.F of the FMC.

7) FENCES, HEDGES, AND WALLS

- a) All existing fences or walls must comply with section 12-306.H of the FMC.

8) OFF-STREET PARKING

- a) Pursuant to Fresno Municipal Code 12-306.I.2.2.d, the general requirement for parking for a night club is one space per 75 square feet of gross floor area. However, pursuant to section 12-306-I.2.1.d. (1) of the Fresno Municipal Code, parking space requirements shall not apply upon a change of occupancy for any building which was constructed before February 13, 1954, provided that the parking area or space existing immediately before a change of occupancy is not reduced. Since the building on the subject property was constructed prior to February 13, 1954, no additional parking spaces are required. **All existing parking for the subject property shall remain.**
- c) All handicapped stalls shall be marked with the international symbol of spaces and a warning that vehicles in violation of Section 10-1017 of the Municipal Code shall be towed away. The international symbol and tow-away warning shall be posted conspicuously on seven-foot poles. **(Include this note on the site plan.)**
- d) All handicapped parking stalls shall be placed adjacent to facility access ramps or in strategic areas where the handicapped shall not have to wheel or walk behind parked

vehicles while traveling to or from handicapped parking stalls and ramps. **(Include this note on the site plan.)**

- e) Lighting where provided to illuminate parking shall be hooded and so arranged and controlled so as not to cause a nuisance either to highway traffic or to the living environment. The amount of light shall be provided according to the standards of the Department of Public Works. **Depict all proposed lights on the site plan.**

9) OUTDOOR ADVERTISING

- a) Signs, other than directional signs, are not approved for installation as part of this special permit. **(Include this note on the site plan.)** Should additional signs be required, the applicant must submit for a Sign Review Permit.

PART E - CITY AND OTHER SERVICES

10) HEALTH PROTECTION REQUIREMENTS

- a) Comply with the requirements of the attached County of Fresno, Department of Public Health, letter dated February 24, 2010.

11) POLICE DEPARTMENT – SECURITY PLAN

- a) The establishment shall develop and maintain a written security plan for the subject property which is acceptable to the Fresno Police Department's Area Commander or designee. This plan may be amended as circumstances warrant from time to time by obtaining the agreement of such Fresno Police Department representative. **The security plan shall be approved by the Fresno Police Department before dancing until 4 a.m. is allowed.** The plan shall include:

- An adequate number of acceptable licensed security personnel (minimum of 4 uniformed on exterior) and interior security (minimum of 4) personnel on evenings of dance activities.
- Readily identifiable personnel to monitor and control the behavior of customers inside the building premises.
- Patrols outside in the parking lot and any adjacent property under the establishment's control to ensure the areas are (a) free of people loitering or causing a disturbance and (b) are cleared of patrons and their vehicles one-half hour after closing.
- Notice from the establishment to the Area Commander at least one week prior to promotional events and special entertainment events, other than scheduled dancing, which are reasonably anticipated to attract larger or different patronage.
- The establishment must provide a current program of activities with the Area Commander or his designee with at least two months prior notice of all activities.
- The establishment must correct any safety or security problem or security plan violation upon written notice of such problem from the Fresno Police Department.

After the initial security plan is approved and implemented, the Fresno Police Department will periodically meet with the establishment to review the security plan and any calls for service to the licensed location. Reviews will be each month for the first six months, each six months for the next two years, and annually thereafter.

12) FIRE DEPARTMENT

- a) The Fire Department has indicated in a memo dated February 25, 2010, that the maximum occupant load for the subject building is 1,800 people.

13) REDEVELOPMENT AGENCY

- a) Comply with the letter dated March 17, 2010, from the Redevelopment Agency of the City of Fresno.

PART F - MISCELLANEOUS

Approval of this site plan is contingent upon the submittal of corrected site plans showing all existing/proposed on-site conditions as reflected on all exhibits and the following:

- 1) Roof-mounted and detached mechanical equipment shall be screened from view and acoustically baffled to prevent the noise level rating for the equipment from exceeding 55 Ldn measured at the nearest property line. **(Include this note on the site plan.)**
- 2) If archaeological and/or animal fossil material is encountered during project surveying, grading, excavating, or construction, work shall stop immediately. **(Include this note on the site plan.)**
- 3) If there are suspected human remains, the Fresno County Coroner shall be immediately contacted. If the remains or other archaeological material is possibly Native American in origin, the Native American Heritage Commission (Phone: 916/653-4082) shall be immediately contacted, and the California Archaeological Inventory/Southern San Joaquin Valley Information Center (Phone: 805/644-2289) shall be contacted to obtain a referral list of recognized archaeologists. An archaeological assessment shall be conducted for the project, the site shall be formally recorded, and recommendations made to the City as to any further site investigation or site avoidance/preservation. **(Include this note on the site plan.)**
- 4) If animal fossils are uncovered, the Museum of Paleontology, U.C. Berkeley shall be contacted to obtain a referral list of recognized paleontologists. A paleontologist shall conduct an assessment and, if the paleontologist determines the material to be significant, it shall be preserved. **(Include this note on the site plan.)**



County of Fresno

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

February 24, 2010

David Braun
City of Fresno
Planning & Development Department
2600 Fresno Street
Fresno, CA 93721

FA0000990
LU0015545
PE 2602

Dear Mr. Braun:

PROJECT NUMBER: C-10-042 ABCUP

Conditional Use Permit Application No. C-10-042 ABCUP was filed as a major revised exhibit by Leo Valdivia and pertains to 0.43 acre of property located on the southwesterly side of Broadway between Amador and San Joaquin Streets in Downtown Fresno. The applicant requests authorization to operate the current Rainbow Ballroom as a nightclub serving alcoholic beverages and remain open until 4 a.m. ~~on Friday and Saturday nights and on approved city holiday event days.~~ The applicant has a State of California Alcoholic Beverage Control Type 47 license (*restaurant - sale of beer, wine, and distilled spirits for consumption on the licensed premises*). The property is zoned C-M (*Commercial and Light Manufacturing*).

APN: 466-195-02

ZONING: C-M

ADDRESS: 1725 Broadway

Recommended Conditions of Approval:

- The violations listed on the Official Food Facility Inspection Report dated January 12, 2010 (enclosed) shall be corrected. Contact Chao Xiong at (559) 445-3357 for more information or to schedule an inspection.
- Should the facility undergo remodel to accommodate the expanded use as a nightclub, then 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.

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: 2010.02.24 14:55:57 -0800

(559) 445-3271

jg

cc. Hank Gill, Supervising Environmental Health Specialist (CT 0100)
Chao Xiong, Environmental Health Division
Baruti/Casagrande/Tolzmann, Environmental Health Division

C-10-042 Comments



Official Food Facility Inspection Report

Department of Public Health Environmental Health Division
 1221 Fulton Mall, P.O. Box 11867, Fresno, CA 93775, 559-445-3357
 www.fcdph.org Email: EnvironmentalHealth@co.fresno.ca.us

Check here if facility, or portion of the facility, was ordered to close.

PAGE 1 OF 2

FACILITY NAME Rainbow Ballroom		IDENTIFIER Main Bar		DATE 01/12/10	
SITE ADDRESS 1725 Broadway		CITY/ZIP Fresno 93721	CT 01.00	FA FA 0000990	
OWNER Leo Valdivia Enterprises		FACILITY PHONE 264-6404	PERMIT EXPIRATION DATE 12/31/10		PR/CO PR 0062800
<input checked="" type="checkbox"/> ROUTINE <input type="checkbox"/> REINSPECTION <input type="checkbox"/> COMPLAINT <input type="checkbox"/> CONSTRUCTION		PERMIT POSTED? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	TIME IN 2:00PM	TIME OUT 2:30PM	PE 1602

See reverse side for the code sections and general requirements that correspond to each violation listed below

In = In compliance N/O = Not observed N/A = Not applicable COS = Corrected on-site MAJ = Major violation OUT = Violations

DEMONSTRATION OF KNOWLEDGE	IN	N/O	OUT	PROTECTION FROM CONTAMINATION	IN	N/O	N/A	COS	OUT	MAJ		
1. Demonstration of knowledge; food safety certification Food Safety Cert Name: Julian Gallardo Exp. Date: 10/12/12	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	14. Food contact surfaces: clean and sanitized Sanitizer Type: Linen 200 ppm <input type="radio"/> Cl <input checked="" type="radio"/> Qt. Utensil sink 200 ppm <input type="radio"/> Cl <input checked="" type="radio"/> Qt. Dishwasher _____ ppm Chlorine or <input type="radio"/> Hot Water Temp: _____	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>		
EMPLOYEE HEALTH & HYGIENIC PRACTICES	IN	N/O	COS	OUT	MAJ	FOOD FROM APPROVED SOURCES	IN	N/O	N/A	COS	OUT	MAJ
2. Communicable disease; reporting, restrictions & exclusions	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	15. Food obtained from approved source	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3. No discharge from eyes, nose, and mouth	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	16. Compliance with shell stock tags, condition, display	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4. Proper eating, tasting, drinking or tobacco use	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	17. Compliance with Gulf Oyster Regulations	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
PREVENTING CONTAMINATION BY HANDS	IN	N/O	COS	OUT	MAJ	CONFORMANCE WITH APPROVED PROCEDURES	IN	N/A	COS	OUT	MAJ	
5. Hands clean and properly washed; gloves used properly	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	18. Compliance with variance, specialized process, reduced oxygen packaging, & HACCP Plan	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
6. Adequate handwashing facilities supplied & accessible	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	CONSUMER ADVISORY	IN	N/O	N/A	COS	OUT	MAJ
TIME AND TEMPERATURE RELATIONSHIPS	IN	N/O	N/A	COS	OUT	MAJ	19. Consumer advisory provided for raw or undercooked foods	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
7. Proper hot and cold holding temperatures Cold ≤41°F Cold Temp N/A Hot Temp Hot	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	HIGHLY SUSCEPTIBLE POPULATIONS	IN	N/A	COS	OUT	MAJ	
8. Time as a public health control; procedures & records	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	20. Licensed health care facilities/ public & private schools; prohibited foods not offered	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
9. Proper cooling methods	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	WATER/HOT WATER	IN	COS	OUT	MAJ		
10. Proper cooking time & temperatures	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	21. Hot and cold water available Temp ≥120°F	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>		
11. Proper reheating procedures for hot holding	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	LIQUID WASTE DISPOSAL	IN	COS	OUT	MAJ		
PROTECTION FROM CONTAMINATION	IN	N/O	N/A	COS	OUT	MAJ	22. Sewage and wastewater properly disposed	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	
12. Returned and reservice of food	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	VERMIN	IN	COS	OUT	MAJ		
13. Food in good condition, safe and unadulterated	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	23. No rodents, insects, birds, or animals	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>		

SUPERVISION	OUT
24. Person in charge present and performs duties	<input type="radio"/>
PERSONAL CLEANLINESS	
25. Personal cleanliness and hair restraints	<input type="radio"/>
GENERAL FOOD SAFETY REQUIREMENTS	
26. Approved thawing methods used, frozen food	<input type="radio"/>
27. Food separated and protected; sneeze guards	<input type="radio"/>
28. Washing fruits and vegetables	<input type="radio"/>
29. Toxic substances properly identified, stored, used containers	<input type="radio"/>
FOOD STORAGE/ DISPLAY/ SERVICE	
30. Food storage; food storage containers identified	<input type="radio"/>
31. Consumer self-service	<input type="radio"/>
32. Food properly labeled & honestly presented	<input type="radio"/>
EQUIPMENT/ UTENSILS/ LINENS	
33. Nonfood contact surfaces clean	<input type="radio"/>
34. Warewashing facilities: installed, maintained, used, test strips	<input checked="" type="radio"/>
35. Equipment/ Utensils approved; installed; clean; good repair, capacity	<input checked="" type="radio"/>
36. Equipment, utensils and linens: storage and use; pressurized cylinders	<input type="radio"/>
37. Vending machines	<input type="radio"/>
38. Adequate ventilation and lighting; designated areas, use	<input type="radio"/>

39. Thermometers provided and accurate	OUT	<input type="radio"/>
40. Wiping cloths: properly used and stored	<input type="radio"/>	
PHYSICAL FACILITIES		
41. Plumbing: proper backflow devices	<input type="radio"/>	
42. Garbage and refuse properly disposed; facilities maintained	<input type="radio"/>	
43. Toilet facilities: properly constructed, supplied, cleaned	<input type="radio"/>	
44. Premises; personal/cleaning items; vermin-proofing; unused equipment	<input type="radio"/>	
PERMANENT FOOD FACILITIES		
45. Floor, walls and ceilings: built, maintained, and clean	<input checked="" type="radio"/>	
46. No unapproved private homes/ living or sleeping quarters	<input type="radio"/>	
SIGNS/ REQUIREMENTS		
47. Signs posted; last inspection report available	<input type="radio"/>	
COMPLIANCE & ENFORCEMENT		
48. Plan Review	<input type="radio"/>	
49. Permits Available	<input type="radio"/>	
50. Impoundment	<input type="radio"/>	
51. Permit Suspension	<input type="radio"/>	

INTERIM PERMIT TO OPERATE ISSUED. Valid for 90 days.
 Authorized by: _____

RECEIVED BY (Print) Julian Gallardo	TITLE MANAGER	RECEIVED BY (Signature) <i>Julian Gallardo</i>
SPECIALIST (Print) Chao Xiang	SPECIALIST (Signature) <i>Chao Xiang</i>	REINSPECTION DATE: 1 1

NOTICE: REINSPECTION FEES WILL BE CHARGED FOR REINSPECTIONS DUE TO UNCORRECTED VIOLATIONS



Official Food Facility Inspection Report

(Continuation Page)

FACILITY NAME <i>Rainbow Bullhorn</i>	IDENTIFIER <i>Main Bar</i>	DATE <i>01/12/10</i>
SITE ADDRESS, CITY, ZIP <i>1725 Broadway Fresno 93721</i>	FA <i>0000990</i>	PE <i>1602</i>
PROV CO <i>PR0062800</i>		

TEMPERATURE CONTROL: Documentation required for all facilities with potentially hazardous food

Type of Food	Temp (°F)	Temp Violation	Process/Holding Location	Type of Food	Temp (°F)	Temp Violation	Process/Holding Location
<i>1 Ambient</i>	<i>341</i>	<input type="radio"/>	<i>All refrigerators</i>	<i>6</i>		<input type="radio"/>	
<i>2</i>		<input type="radio"/>		<i>7</i>		<input type="radio"/>	
<i>3</i>		<input type="radio"/>		<i>8</i>		<input type="radio"/>	
<i>4</i>		<input type="radio"/>		<i>9</i>		<input type="radio"/>	
<i>5</i>		<input type="radio"/>		<i>10</i>		<input type="radio"/>	

See VC&D form. No potentially hazardous food at facility.

DF# OBSERVATIONS AND CORRECTIVE ACTIONS

#35 Repair or replace the faucet at the 3-compartment sink to stop the water leak. Provide cleaning for the interior stainless panel inside the ice machine to remove debris build-up.

#45 Repair or replace the ceiling in the alcohol beverage storage room. Paint is peeling off the ceiling.

#34 Provide quaternary ammonia test strips. 200 ppm quaternary ammonia present.

IF SIGNED HERE BY INSPECTOR (REHS) _____, UPON AUTHORITY OF THE ENVIRONMENTAL HEALTH DIRECTOR, THE ENVIRONMENTAL HEALTH PERMIT FOR THE BUSINESS IS IMMEDIATELY SUSPENDED DUE TO THE ITEMS MARKED WITH AN ASTERISK (*). THE BUSINESS IS TO REMAIN CLOSED UNTIL ALL OF THE CORRECTIONS ARE COMPLETED AND WRITTEN AUTHORIZATION TO REOPEN IS ISSUED BY THIS OFFICE. AN APPEAL OF THIS SUSPENSION MAY BE REQUESTED BY WRITING TO THE ENVIRONMENTAL HEALTH DIRECTOR.

RECEIVED BY: *[Signature]* INSPECTED BY: *[Signature]* *Chao Xiong*

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

Application No.: C-10-042 ABCUP (David Braun)
Assessor Parcel No.: 466-195-02
Site address: 1725 Broadway
Redevelopment Area: Fulton

Date: 3-17-10
Reviewer: Richard Yee,
Planner III /
Senior Project Coordinator
Telephone: 621-7614

Agency Staff Recommendation:

APPROVE PROJECT WITH THE FOLLOWING CONDITIONS:

1. The project site identified in Application No. C-10-042 ABCUP is located in the Fulton Redevelopment Area and is subject to all requirements of the adopted Redevelopment Plan.
2. The Redevelopment Agency does not object to the request in Conditional Use Permit Application No. C-10-042 ABCUP for authorization to operate the current Rainbow Ballroom as a night club serving alcoholic beverages and to remain open until 4 a.m. on ~~Friday and Saturday nights and on approved city holidays and events~~. Agency approval is only given if the current Rainbow Ballroom meets the definition of "Night Club" and satisfies the requirements as identified in Text Amendment No. TA-09-03 and its operation, as a night club, is in conformance with all requirements of the adopted Redevelopment Plan and the C-M (Commercial and Light Manufacturing) zone district and Section 12-304 (including subsequent applicable Sections) of the Fresno Zoning Ordinance.
3. The project shall also be consistent with all applicable requirements of the Redevelopment Agency of the City of Fresno Industrial Development Design Guidelines (adopted August 2003).
4. All requirements of past City of Fresno entitlements imposed on the development and operation of the current Rainbow Ballroom in association with the existing State of California Alcoholic Beverage Control Type 47 license (restaurant – sale of beer, wine and distilled spirits for consumption on the licensed premises), shall be completed and the establishment remains in good standing with all applicable regulatory departments of the City of Fresno, especially the Police Department.
5. The specific requirements (1. Operational Statement, etc.) identified in section F. Additional Criteria., of the Regulations in TA-09-03, should be completed and required to be incorporated in the review and consideration of CUP Application No. C-10-042.
6. All required parking shall be in conformance with the requirements of the Fresno Zoning Ordinance, especially the location and distance of the additional off-site parking.
7. The sale and service of alcoholic beverages shall be restricted between the hours of 2 a.m. to 4 a.m. in conformance with the requirements of TA-09-03.
8. 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.
9. All outdoor advertising on site for the night club shall be restricted and be in conformance with the requirements of the Fresno Zoning Ordinance and subject to approval of the City of Fresno

PLEASE MAKE APPLICANT AWARE OF AGENCY COMMENTS

and the Redevelopment Agency.

10. All outdoor storage on-site shall be screened from view of public streets and in conformance with requirements of City code.
11. It shall be the responsibility of Rainbow Ballroom (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.
12. 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 Rainbow Ballroom (business).
13. Due to the location of the project in a transitional commercial-industrial (land use) environment, specific attention should be given to any comments and/or appeals on the approval of this application, especially those concerning the association, operations and impacts of the night club and its sale and service of alcoholic beverages in this area.
14. Approval of this entitlement applies only to the business identified in Application No. C-10-042 ABCUP, any modifications or additions to the business shall not be allowed without the prior approval of the City of Fresno Development Department and the Redevelopment Agency.
15. The project shall be developed in accordance with the Operational Statement/Environmental Statements, Elevations and Site Plan (or as revised by the City of Fresno) submitted for Conditional Use Permit Application No. C-10-042 ABCUP.
16. The Agency reserves the right to reconsider the issuance of Conditional Use Permit Application No. C-10-042 ABCUP to the Rainbow Ballroom (business), should the City of Fresno or the Redevelopment Agency of the City of Fresno receives any complaints about the night club operations and/or sales of alcohol beverages inconsistent with the requirements of Application No. C-10-042 ABCUP; which can result in a recommendation to the Alcoholic Beverage Control (ABC) Department of the State of California to revoke the license.

Exhibit 0
CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. C-10-042

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: Leo Valdivia
1725 Broadway Street
Fresno, CA 93721

PROJECT LOCATION: 1725 Broadway Street
(APN: 466-195-02)

PROJECT DESCRIPTION: Conditional Use Permit Application No. C-10-042 is a request to allow dancing until 4 a.m. at the Rainbow Ballroom. The Rainbow Ballroom is currently operating under a previously approved dance permit and has an existing Type 47 (Restaurant – sale of beer, wine and distilled spirits) ABC license. Dancing until 4 a.m. is allowed in the Central Area Community Plan boundaries south of Divisadero Street, pursuant to section 12-327 of the Fresno Municipal Code (FMC)

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

EXPLANATION: Section 15301/Class1 states 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.

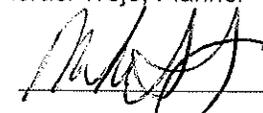
Section 15332/Class 32 consists of projects characterized as in-fill development meeting the conditions described in this Section. (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. (c) The project site has no value, as habitat for endangered, rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services.

The proposed project consists of a nightclub with dancing until 4 a.m. and is consistent with the 2025 Fresno General Plan. The operation of a night club on the site is allowed within the designated zone district. The site has no value as habitat for endangered, rare or threatened species and complies with the conditions of the Class 1 and Class 32 Categorical Exemptions. No adverse environmental impacts would occur as a result of the proposed project. The project proposes to allow extended hours of operation (dancing until 4 a.m.) at an existing nightclub. The subject site is currently operating under a previously approved dance permit and has an existing Type 47 (Restaurant – sale of beer, wine and distilled spirits) ABC license.

Date: September 8, 2010

Prepared By: Israel Trejo, Planner

Submitted By:



Mike Sanchez, Planning Manager
City of Fresno
Development & Resource Management Department
(559) 621-8277