City of FRESNO

REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. X-A
COMMISSION MEETING 11-17-10

APPROVED BY

DEPARTMENT DIRECTOR

November 17, 2010

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

KEITH BERGTHOLD, Assistant Director
Development and Resource Management Department

THROUGH: KEVIN FABINO, Planning Manager
Planning Division

BY: SOPHIA PAGOULATOS, Planner
Planning Division

SUBJECT: **STATUS REPORT ON CONDITIONAL USE PERMIT C-09-230 (TWIST RESTAURANT AND LOUNGE**

RECOMMENDATION

Informational only. No action required.

SUMMARY

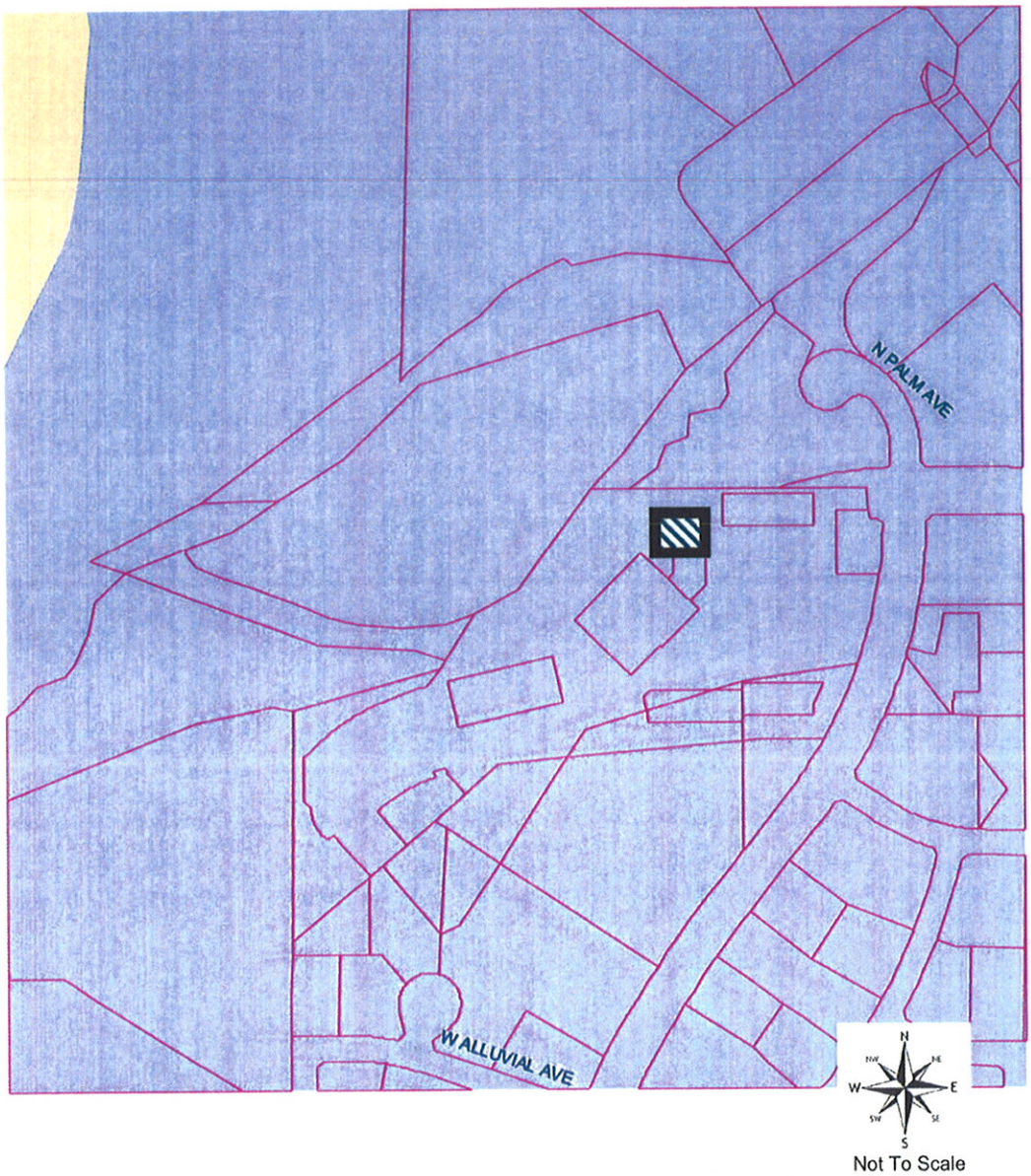
At its April 21, 2010 meeting, the Planning Commission approved Conditional Use Permit C-09-230 which amended an existing conditional use permit by adding a nightclub component to the existing restaurant located at 7835 North Palm Avenue, Suite 106 (Twist Restaurant and Ultra Lounge). This item is now before the Planning Commission pursuant to Condition of Approval B-2, which reads as follows:

> Six (6) months after final approval City staff shall place on the agenda a recommendation that the Planning Commission meet and review compliance with the conditions of the special permit.

A status report from the Fresno Police Department is attached for your review, along with the C-09-230 conditions of approval for reference.

Attachments:
Exhibit A – Vicinity Map
Exhibit B – Police Department Report dated October 20, 2010
Exhibit C- Conditions of approval for C-09-230

VICINITY MAP



Subject Property

VICINITY MAP

Conditional Use Permit No. C-09-230

PROPERTY ADDRESS

7835 N. Palm Avenue, Ste. 106

PLANNING AND DEVELOPMENT DEPARTMENT

APNs: 405-530-67

Zone District: C-2/UGM/cz
By: S. Pagoulatos,

Exhibit A

Twist – Report For Planning Commission

Prepared by the Fresno Police Department

October 20, 2010

Background

In April, 2010, owners of the Twist Restaurant were granted an ABCUP to operate a nightclub at the business, 7835 N. Palm Avenue, Fresno. For several months prior, the Fresno Police Department had been responding to the location, which was opened as a restaurant in late 2007, regarding a variety of calls for service (CFS). Concerns of the Fresno Police Department at the time consisted of:

- Excessive CFS
  - Including disturbances, intoxicated subjects, and violations which were referred to the California Department of Alcoholic Beverage Control (ABC)
- Dancing at the location
  - In violation of their existing ABCUP
- Inadequate security measures
  - In violation of their existing ABCUP

Despite numerous documented violations of their existing ABCUP, an agreement was reached between the owners, the Fresno Police Department and the Planning Department to approve conditions for a nightclub type ABCUP, with the stipulation that the permit only be valid for one year. A six month review would take place to "grade" the establishment and their operation as a nightclub.

Grade

Understanding that on a scale of 'A' being the best and 'F' being the worst, in the opinion of the Fresno Police Department Twist and its owners/operators would have been graded with an 'F' in May, 2010. Conditions placed on the establishment, as explained in the ABCUP, were implemented in an attempt to address concerns of the Fresno Police Department and still allow the establishment to operate as a nightclub.

In reviewing the operating of Twist after six months, it is the opinion of the Fresno Police Department that the establishment would now receive a grade of 'C-'. While this is an improvement since the beginning of the review period, there are still concerns that the

Exhibit B

establishment is not meeting its required goals, as explained in the ABCUP. Concerns of the Fresno Police Department at this time consist of:

- CFS
  - While the amount of CFS at the establishment has decreased in volume, averaging approximately 3 CFS per month since May 15, 2010, there continues to be a concern that patrons are becoming intoxicated while at the establishment and creating disturbances, driving away from the location, becoming unable to care for themselves, etc. Several meetings between the owners of Twist and representatives of the Fresno Police Department have taken place to discuss this concern; however, there are still repeated CFS regarding these same issues.
- Inadequate Security
  - Incidents have increased in the parking lot and several complaints were received regarding security at the location. A recent change in companies responsible for security outside the establishment has helped to resolve this issue.
- Overcrowding
  - Complaints about the amount of people allowed into the establishment have been received by the Fresno Police Department. During a surprise inspection as well as during regular checks of the establishment, these complaints have not been shown to be an issue.

The Twist and its operation as a nightclub will continue to be monitored during the remainder of its review period.

CITY OF FRESNO
PLANNING AND DEVELOPMENT DEPARTMENT

CONDITIONS OF APPROVAL
APRIL 21, 2010

CONDITIONAL USE PERMIT AMENDMENT
APPLICATION NO. C-09-230
7835 NORTH PALM AVENUE, SUITE 106

Conditional Use Permit Amendment Application No. C-09-230 is approved by the Fresno Planning Commission on April 21, 2010 subject to the following conditions of approval:

A. General Conditions

1. Development shall take place in accordance with the C-2 (*Community Shopping Center*) zone district as defined in Section 12-218 of the Fresno Municipal Code;

2. Development shall comply with Fresno Municipal Code (Sections 12-326, 327) related to restaurants, taverns and night clubs;

3. Exercise of the special permit shall comply with Exhibit A (Floor Plan), dated November 10, 2009;

4. Exercise of the special permit shall comply with Exhibit O, Operational Statement dated March 10, 2010;

5. Exercise of the special permit shall comply with the Restaurant/Tavern/Nightclub CUP Conditions dated April 7, 2010;

6. Exercise of the special permit shall take place in accordance with all city, county, state and federal laws and regulations, including ABC licensing requirements.

B. Expiration or Amendment of Special Permit

1. The special permit entitled Conditional Use Permit Amendment Application No. C-09-230 shall expire twelve (12) months after final approval.

2. Six (6) months after final approval City staff shall place on the agenda a recommendation that the Planning Commission meet and review compliance with the conditions of the special permit.

3. Not later than ninety (90) days before expiration of the special permit, applicant may file an application for a revised exhibit to remove the condition of expiration.

4. At any time prior to expiration or revocation of the special permit, an application for a special permit to convert use of the property to eliminate the "Night Club" designation shall be considered a revised exhibit to the existing special permit.

5. Nothing in these conditions shall preclude the applicant from filing for a new special permit as otherwise authorized by law. The Planning Commission or decision making body may consider applicant's compliance or failure to comply with the conditions of this special permit in connection with a subsequent application for amendment, minor amendment or other special permit as a factor whether the proposed use will be detrimental to the public welfare or injurious to property or improvements.

6. In the event special permit Conditional Use Permit Amendment No. C-09-230 expires, and no other application for a new special permit has been approved, the terms and conditions of the existing Conditional Use Permit No. C-08-270 shall be applicable.