



## Legislation Details (With Text)

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**Title:** Consideration of Conditional Use Permit Application No. C-15-190 and related Environmental Assessment No. C-15-190, for property located on the southwest corner of East Olive Avenue and North Broadway (Council District 3).

1. APPROVE the finding of a Class 1 and Class 32 Categorical Exemption prepared for Environmental Assessment No. C-15-190 dated February 17, 2017.

2. APPROVE Conditional Use Permit Application No. C-15-190 to allow for the operation of a "Night Club" (with patio) in an existing building, subject to compliance with the Conditions of Approval dated March 1, 2017.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibits A-L.pdf

Date	Ver.	Action By	Action	Result
3/1/2017	1	Planning Commission	approved	Pass

## REPORT TO THE PLANNING COMMISSION

**March 1, 2017**

**FROM:** MIKE SANCHEZ, Assistant Director  
Development and Resource Management Department

**THROUGH:** WILL TACKETT, Supervising Planner  
Development Services Division

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

## SUBJECT

Consideration of Conditional Use Permit Application No. C-15-190 and related Environmental Assessment No. C-15-190, for property located on the southwest corner of East Olive Avenue and North Broadway (Council District 3).

**1. APPROVE** the finding of a Class 1 and Class 32 Categorical Exemption prepared for

Environmental Assessment No. C-15-190 dated February 17, 2017.

- 2. APPROVE** Conditional Use Permit Application No. C-15-190 to allow for the operation of a “Night Club” (with patio) in an existing building, subject to compliance with the Conditions of Approval dated March 1, 2017.

### **EXECUTIVE SUMMARY**

Trelawny Bruce, on behalf of Splash Bar Inc., has filed Conditional Use Permit Application No. C-15-190 requesting authorization to allow for the operation of a “Night Club” in an existing building. The subject building was previously occupied by the Landmark Restaurant. The applicant requests authorization to establish a State of California Alcoholic Beverage Control (ABC) Type 48 alcohol license (Bar, Night Club - sale of beer, wine, and distilled spirits for consumption on the licensed premises). The project applicant also proposes to have an approximate 1,400 square foot patio. The project site, located within the Tower District, is located on the southwest corner of East Olive Avenue and North Broadway. The proposed project was reviewed under the provisions of the restaurants, taverns and night clubs ordinance within the previous Code, i.e. the C-6 (*Heavy Commercial District*) zone district standards and other requirements within Chapter 12 of the Fresno Municipal Code (FMC). Pursuant to the requirements of the previous Code, this project has been scheduled for review and approval by the Fresno City Planning Commission. Staff recommends that the Planning Commission approve Conditional Use Permit Application No. C-15-190, subject to the conditions of approval dated March 1, 2017.

### **ENVIRONMENTAL FINDING**

The proposed project was determined to be exempt from CEQA on February 17, 2017, under a Class 1 and Class 32 Categorical Exemption. The Section 15301/Class1 exemption consists of the operation, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.

The subject property contains an existing building that previously housed the Landmark Restaurant which sold beer, wine and distilled spirits. Building permits will be required for any improvements to the interior/exterior of the building. The proposed improvements are consistent with a Class 1 Categorical Exemption.

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 subject property general plan designation is Main Street - Commercial which allows commercial uses. Pursuant to Section 15-104.D of the new Development Code, planning permit applications that have been accepted by the City as complete prior to the effective date of the Development Code (January 3, 2016), shall be subject to the Code requirements in effect as of the date the application was deemed complete, unless the applicant chooses to use the updated provisions of the Development Code in their entirety. The subject application was accepted for processing on December 30, 2015, and, as such, the application is subject to the requirements of the previous Code, i.e. Chapter 12 of the Fresno Municipal Code. The proposed use is allowed, subject a conditional use permit. The subject property is located within the city limits, is under 5 acres and is

substantially surrounded by urban uses. The project site has no value, as habitat for endangered, rare or threatened species. Based on the project analysis, the project is not expected to result in any significant effects relating to traffic, noise, air quality, or water quality. The subject site has access to required utilities and public services.

## **BACKGROUND / ANALYSIS**

Trelawny Bruce, on behalf of Splash Bar Inc., has filed Conditional Use Permit Application No. C-15-190 requesting authorization to allow for the operation of a “Night Club” in an existing building. The subject building was previously occupied by the Landmark Restaurant. The applicant requests authorization to establish a State of California Alcoholic Beverage Control (ABC) Type 48 alcohol license (Bar, Night Club - sale of beer, wine, and distilled spirits for consumption on the licensed premises). The project applicant also proposes to have an approximate 1,400 square foot patio. The project site, located within the Tower District, is located on the southwest corner of East Olive Avenue and North Broadway. The proposed project was reviewed under the provisions of the restaurants, taverns and night clubs ordinance within the previous Code, i.e. the C-6 (Heavy Commercial District) zone district standards and other requirements within Chapter 12 of the Fresno Municipal Code (FMC). Pursuant to the requirements of the previous Code, this project has been scheduled for review and approval by the Fresno City Planning Commission. Staff recommends that the Planning Commission approve Conditional Use Permit Application No. C-15-190, subject to the conditions of approval dated March 1, 2017.

### **Development Code**

Pursuant to Section 15-104.D of the current Development Code, planning permit applications that have been accepted by the City as complete prior to the effective date of the Development Code (January 3, 2016), shall be subject to the Code requirements in effect as of the date the application was deemed complete, unless the applicant chooses to use the updated provisions of the Development Code in their entirety. The subject application was accepted for processing on December 30, 2015, and, as such, the application is subject to the requirements of the previous Code, i.e. the C-6 (*Heavy Commercial District*) zone district standards and other requirements within Chapter 12 of the FMC.

### **Zoning**

This application is subject to the C-6 (*Heavy Commercial District*) standards. It is noted, however, that the current zoning of the subject property is the CC (Commercial - Community) zone district pursuant to the citywide rezone approved by the Fresno City Council on February 4, 2016.

### **Night Club Hours**

The applicant is proposing to be allowed to operate as a night club seven days a week from 11 a.m. to 2:00 a.m.

### **Time to Stop Sales, Service and Consumption of Alcohol**

#### Night Club

Table III under section 12-326.E.3 of the FMC indicates that for a night club, within the C-6 zone district, the time to stop sales, service and consumption of alcohol is 2:00 a.m.

## **Music**

The project must comply with the noise requirements of the Fresno Municipal Code and Fresno General Plan. Amplified music is required to be limited to the indoor area of the site. Dancing on the patio is not allowed. Pursuant to Section 10-106 of the FMC, any sound exceeding the ambient noise level at the property line by more than five decibels (dbs) shall be deemed to be prima facie evidence of a violation.

Doors and windows shall remain closed, after 10 p.m., to minimize noise, except as needed to allow for the normal entry and exit of patrons to and from the establishment. Emergency access is required to be maintained per City standards.

## **Parking**

The Fresno Municipal Code requires 1 parking space per 75 square feet of building space which would require 78 spaces (5,870 sq. ft./75). It is noted, however, the Tower District Design Guidelines allow required parking to be reduced to a minimum of at least 40% of the required parking. Forty percent of 78 parking spaces equals 31 parking spaces. As such, the proposed 45 parking spaces meets the minimum number of required parking spaces.

## **CONDITIONS OF APPROVAL**

Standard conditions of approval for restaurants, taverns and nightclubs were developed to ensure uniform application of requirements on a citywide basis. Those conditions are included and shall be applied to Conditional Use Permit Application No. C-15-190. These conditions address a myriad of issues related to the operation of alcohol-related uses, including employee education, security, video surveillance, and enforcement procedures. The applicant must show compliance with all conditions prior to commencing the new night club operations.

### **Fresno Police Department**

The Fresno Police Department has conditioned the proposed project subject to their letter dated February 13, 2017. One of the conditions from the police department is that the applicant shall maintain a written security plan which is acceptable to the Fresno Police Department.

### **District 3 Plan Implementation Committee**

The District 3 Advisory Committee recommended approval of Conditional Use Permit No. C-15-190 at their meeting on January 25, 2016, by a vote of 4-0.

### **Tower District Review Committee**

The Tower District Review Committee recommended approval of Conditional Use Permit No. C-15-190 at their meeting on February 17, 2017, by a vote of 4-0.

## **NOTICE OF PLANNING COMMISSION MEETING**

The Development and Resource Management Department mailed notices of this Planning Commission hearing to all surrounding property owners within 500 feet of the subject property,

pursuant to Section 12-326-G-2 of the Fresno Municipal Code.

Attachments:

- Exhibit A: Site Plan, dated February 7, 2017
- Exhibit B: 2015 Aerial Photograph of site
- Exhibit C: Project Information
- Exhibit D: Bordering Property Information
- Exhibit E: Elevation Plan, dated February 7, 2017
- Exhibit F: Floor Plan, dated February 7, 2017
- Exhibit G: Conditional Use Permit Findings
- Exhibit H: Noticing Map (500 foot radius)
- Exhibit I: Operational Statement dated February 7, 2017 (exhibit O within conditions of approval)
- Exhibit J: Conditions of approval for the project dated March 1, 2017
- Exhibit K: Comments from Responsible Agencies
- Exhibit L: Environmental Assessment No. C-15-190 dated February 17, 2017