



## REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. **VIII-A**  
COMMISSION MEETING 08/03/16

August 3, 2016

APPROVED BY

FROM: MIKE SANCHEZ, Assistant Director  
Development Services Division

THROUGH: MCKENCIE CONTRERAS, Supervising Planner  
Development Services Division

BY: SARA ALLINDER, Contract Planner  
Development Services Division

### SUBJECT

Consideration of Conditional Use Permit Application No. C-16-034 and related Environmental Assessment No. C-16-034, filed by Dirk Poeschel of Dirk Poeschel Land Development Services, on behalf of Chaz Enterprises, for property located on the northeast corner of East Champlain Drive and North Hickory Hill Drive in the City of Fresno.

### RECOMMENDATION

1. ADOPT Environmental Assessment No. C-16-034, dated June 27, 2016, a determination that the proposed project is exempt from California Environmental Quality Act (CEQA) through a Class 32 Categorical Exemption.
2. APPROVE Conditional Use Permit Application No. C-16-034 requesting authorization to establish a State of California Alcoholic Beverage Control Type 47 alcohol license (*Restaurant – sale of beer, wine, and distilled spirits for consumption on the licensed premises*) for the 4,506 square foot Vino Grille and Spirits restaurant, which includes a proposed 1,309 square foot outdoor patio space subject to the following:
  - a. Development shall take place in accordance with the Conditions of Approval, dated July 22, 2016 (Exhibit I).

### EXECUTIVE SUMMARY

Dirk Poeschel of Dirk Poeschel Land Development Services, on behalf of Chaz Enterprises, has filed Conditional Use Permit Application No. C-16-034, pertaining to approximately 1.16 acres of property located on the northeast corner of East Champlain Drive and North Hickory Hill Drive. The applicant requests authorization to establish a State of California Alcoholic Beverage Control Type 47 alcohol license (*Restaurant – sale of beer, wine, and distilled spirits for consumption on the licensed premises*) for the 4,506 square foot Vino Grille and Spirits restaurant, which includes a proposed 1,309 square foot outdoor patio space. A restaurant with alcohol sales is an allowed use in the O/UGM/cz (*Office/Urban Growth Management/conditions of zoning*) zone district, subject to a conditional use permit. Two letters of concern were received in response to the Notice of Intent to Take Action. The Development and Resource Management Department Director has referred this application to the Planning Commission for action, in accordance with Fresno Municipal Code (FMC) Section 15-4904-M, with a

recommendation to approve Conditional Use Permit Application No. C-16-034, subject to the recommended conditions of approval, dated July 22, 2016.

## PROJECT INFORMATION

|                                  |                                                                                                                                                                                                                                                                                                                                                                                              |
|----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| PROJECT                          | Conditional Use Permit Application No. C-16-034 is a request to establish a State of California Alcoholic Beverage Control Type 47 alcohol license ( <i>Restaurant – sale of beer, wine, and distilled spirits for consumption on the licensed premises</i> ) for the 4,506 square foot Vino Grille and Spirits restaurant, which includes a proposed 1,309 square foot outdoor patio space. |
| APPLICANT                        | Dirk Poeschel of Dirk Poeschel Land Development Services, on behalf of Chaz Enterprises                                                                                                                                                                                                                                                                                                      |
| LOCATION                         | 1440 East Champlain Drive, Suite 106; Located on the northeast corner of East Champlain Drive and North Hickory Hill Drive (APN: 567-030-75)<br><b>(Council District 6, Councilmember Brand)</b>                                                                                                                                                                                             |
| SITE SIZE                        | Approximately 1.16 acres                                                                                                                                                                                                                                                                                                                                                                     |
| PLANNED LAND USE                 | Office                                                                                                                                                                                                                                                                                                                                                                                       |
| ZONING                           | O/UGM/cz ( <i>Office/Urban Growth Management/conditions of zoning</i> ) zone district                                                                                                                                                                                                                                                                                                        |
| PLAN DESIGNATION AND CONSISTENCY | The request to establish a State of California Alcoholic Beverage Control Type 47 alcohol license is consistent with the existing O/UGM/cz zone district and Office planned land use designation of the Fresno General Plan and Woodward Park Community Plan.                                                                                                                                |
| ENVIRONMENTAL FINDING            | Staff has determined that the proposed project is exempt from CEQA through a Class 32 Categorical Exemption, dated June 27, 2016.                                                                                                                                                                                                                                                            |
| PLAN COMMITTEE RECOMMENDATION    | The District 6 Plan Implementation Committee recommended approval of the project subject to conditions.                                                                                                                                                                                                                                                                                      |
| STAFF RECOMMENDATION             | <u>ADOPT</u> : Environmental Assessment No. C-16-034<br><u>APPROVE</u> : Conditional Use Permit Application No. C-16-034                                                                                                                                                                                                                                                                     |

## BORDERING PROPERTY INFORMATION

|       | Planned Land Use                                        | Existing Zoning                                                                                                                                                     | Existing Land Use                              |
|-------|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| North | Medium Low Density Residential                          | <b>RS-4/UGM</b><br>(Residential Single-Family, Medium Low Density/Urban Growth Management)                                                                          | Single Family Residential                      |
| East  | Medium High Density Residential                         | <b>RM-1/UGM</b><br>(Residential Multi-Family, Medium High Density/Urban Growth Management)                                                                          | Multiple Family Residential                    |
| South | Community Commercial<br>Medium High Density Residential | <b>CC/UGM</b><br>(Commercial - Community/Urban Growth Management)<br><br><b>RM-1/UGM</b><br>(Residential Multi-Family, Medium High Density/Urban Growth Management) | Shopping Center<br>Multiple Family Residential |
| West  | Medium Low Density Residential                          | <b>RS-4/UGM</b><br>(Residential Single-Family, Medium Low Density /Urban Growth Management)                                                                         | Single Family Residential                      |

## ENVIRONMENTAL FINDING

The proposed project was determined to be exempt from CEQA by the Development and Resource Management Department on June 27, 2016 through a Class 32 Categorical Exemption. No further environmental assessment is needed. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project. CEQA (Public Resource Code Section 21000 et seq.) permits a public agency to determine whether a particular project is exempt from CEQA. A determination of a Categorical Exemption, Section 15332/Class 32 of CEQA Guidelines was made and Environmental Assessment No. C-16-034 (Categorical Exemption) was completed for this project.

Under the Section 15332/Class 32 exemption, in-fill projects are considered exempt should they meet certain conditions. Conditional Use Permit Application No. C-16-034 meets all specified conditions in accordance with Section 15332 of CEQA as follows:

The conditional use permit application is consistent with the Fresno General Plan and Woodward Community Plan land use designation of Office and conforms to all applicable policies. The lease site area is less than five acres, is completely surrounded by urban uses,

and does not contain any significant value as habitat for endangered, rare, or threatened species. The subject site is adequately served by all required utilities and public services. The project complies with the conditions of the Class 32 Categorical Exemption.

## **BACKGROUND / ANALYSIS**

### **Project Description**

Conditional Use Permit Application No. C-16-034 requests authorization to establish a State of California Alcoholic Beverage Control Type 47 alcohol license (*Restaurant – sale of beer, wine, and distilled spirits for consumption on the licensed premises*) for the Vino Grille and Spirits restaurant, which includes a proposed 1,309 square foot outdoor patio space. Restaurants with alcohol sales is a permitted use, subject to approval of a conditional use permit, in accordance with Table 15-1302 (Use Regulations – Employment Districts). The restaurant will be occupying a tenant space in a previously approved building (approved under Site Plan Review Application No. S-15-064). No additional construction is proposed under this permit.

The Development and Resource Management Department mailed a Notice of Intent to Take Action to surrounding property owners within 1,000 feet of the subject site on June 29, 2016, in accordance with FMC Section 15-5305. Two letters of concern were received in response to the mailed notice. In accordance with FMC Section 15-4904-M the Director has referred Conditional Use Permit Application No. C-16-034 to the Planning Commission for action, with a recommendation to approve the application, subject to certain conditions.

### **Proposed Use Allowed Pursuant to a Conditional Use Permit**

Pursuant to Table 15-1302 (Use Regulations – Employment Districts), restaurants with alcohol sales is permitted in the O (*Office*) zone district subject to a conditional use permit. The Vino Grille and Spirits restaurant will be occupying a tenant space in a previously approved building (approved under Site Plan Review Application No. S-15-064). No additional construction is proposed under this permit; however, establishment of a 1,309 square foot outdoor dining and patio space is proposed under this conditional use permit.

### Conditions of Zoning

There are conditions of zoning for the subject site imposed through Rezone Application No. R-96-11. However, all conditions of zoning applicable to the subject site are related to development standards, which have been addressed, as required, under Site Plan Review Application No. S-15-064. No use restrictions apply to the subject site.

### Development Code

The proposed use is subject to the special use regulations of Section 15-2751 (Restaurants with Alcohol Sales, Bars, Nightclubs, and Lounges). The primary operational restriction is a limitation on serving time for restaurants. Table 15-2751-G (Special Standards) requires all restaurants serving alcohol to stop sales, service, and consumption of alcohol by 11 p.m. The proposed hours of operation for the restaurant are Monday through Friday 10 a.m. – 12 a.m., Saturday 9 a.m. – 12 a.m., and Sunday 9 a.m. – 11 p.m., except for New Year's Eve when the restaurant would stay open until 1 a.m. To comply with the special use regulations of Section 15-2751, the conditions of approval have placed a restriction on the sales, service, and

consumption of alcohol to be consistent with the time specified in Table 15-2751-G, currently 11 p.m., recognizing there may be future amendments to this section of the Code resulting in different time restrictions. Exceptions to the restriction on alcohol service for New Year's Eve would require a special events permit, to be reviewed and approved through a separate permit process. All other applicable regulations of this section have been incorporated into the conditions of approval.

The proposed outdoor dining area is subject to certain requirements of Section 15-2744 (Outdoor Dining and Patio Areas). One requirement pertains to parking requirements for outdoor dining and patio areas exceeding 800 square feet. For every square foot in excess of 800 square feet, parking shall be provided at a rate of 50% of the primary use. This parking is in addition to the parking required for the building. The proposed 1,309 square foot outdoor patio space would require that two additional parking spaces be provided (509 square feet / 150 square feet for full service restaurants / 2).

The total parking requirement for the building is 50 parking spaces, which assumes 30 spaces required for VINO Grille and Spirits (4,506 square feet / 150 square feet for full service restaurants), 1 space for the wine retail component of VINO Grille and Spirits (250 square feet / 450 square feet for retail sales), and 19 spaces required for the remaining office space (5,130 square feet / 275 square feet for medical and dental offices), in accordance with Table 15-2409 of the FMC. The proposed outdoor patio space would require an additional 2 parking spaces for a total of 52 parking spaces required on-site. There are 52 approved parking spaces, which satisfies the minimum required.

All other applicable regulations of the Development Code have been incorporated into the recommended conditions of approval.

### **Police Department Review**

The Fresno Police Department reviewed and approved the project subject to the provided conditions of approval dated May 18, 2016. One condition of approval requires the applicant to submit a security plan for review and approval by the Fresno Police Department. A security plan has been submitted to and approved by the Police Department to satisfy this condition (see Exhibit E).

### **Alcoholic Beverage Control Regulations**

In addition to obtaining a conditional use permit from the City of Fresno, the applicant is required to obtain a Type 47 license from the California Department of Alcoholic Beverage Control (ABC) for the sale of beer, wine, and distilled spirits for consumption on the licensed premises. Prior to the issuance of an ABC license, ABC is awaiting the decision on the subject conditional use permit application. The sale of alcohol at the VINO Grille and Spirits restaurant will be subject to any additional requirements imposed through issuance of the Type 47 license through ABC. The license must be approved prior to any sale of alcohol on the site.

## Committee Meetings

The District 6 Plan Implementation Committee reviewed Conditional Use Permit Application No. C-16-034 on June 6, 2016 and approved the project, subject to the following conditions:

- Operating hours are not to extend past midnight, except New Year's Eve/Day only which can continue until 1 a.m.
- The proposed outdoor patio space can exceed the 800 square foot threshold as proposed.

Conditional Use Permit Application No. C-16-034 is consistent with the Committee's conditions, except that the hours of operation for the sale, service, and consumption of alcohol will be limited to the time specified in accordance with the special regulations for restaurants with alcohol sales in Section 15-2751, which is currently 11 p.m.

## Notice of Planning Commission Hearing

The Development and Resource Management Department mailed notices of this Planning Commission hearing to surrounding property owners within 1,000 feet of the subject property, as well as other interested parties, pursuant to Section 15-5007 of the FMC on July 22, 2016.

## ANALYSIS OF THE LETTERS OF CONCERN

There were two letters of concern received in response to the Notice of Intent to Take Action issued for the project. The letters were received from Scott Vincent and Zvonimir Repar, both residents of the existing single family residential neighborhood located to the northwest of the subject site.

It should be noted that because the letters were received in response to the Notice of Intent to Take Action, the commenters were relying primarily on the information submitted with the application and not on the final recommended conditions of approval, which have addressed some of the concerns identified.

Below is an analysis of the comments contained in the letters.

Vincent Letter of Concern, dated July 7, 2016 (Exhibit H)

### **Comment #1**

*Clarification of the Use.* The operational statement as originally submitted requested that the restaurant and the sale of alcohol be permitted to continue until 1:00 a.m. Monday through Saturday and until 11:00 p.m. on Sundays. Mr. Vincent notes that the FMC restricts the hours of operation for a restaurant with alcohol sales to 11:00 p.m., citing Table 15-2751-G and stating that restaurants open after 11:00 p.m. would be required to be processed as a bar.

### **Response:**

Table 15-2751-G requires that the sales, service, and consumption of alcohol be stopped no later than 11:00 p.m. for restaurants with alcohol sales. There are no restrictions on the hours of operation for restaurants

not serving alcohol.

The conditions of approval require that the restaurant establish a last call prior to the time noted in Table 15-2751-G and pick up all alcoholic beverages by the specified time. This is consistent with the special use regulations for restaurants serving alcohol as specified in the FMC. The restaurant (without alcohol sales) will stay open until midnight Mondays through Saturdays and until 11 p.m. on Sundays, except New Year's Eve when the restaurant will remain open until 1 a.m. However, a special events permit will be required for any exceptions to the time restrictions on the sales, service, and consumption of alcohol for New Year's Eve, which will be reviewed through a separate permit process. The operational statement has been revised to reflect this change (Exhibit D).

**Comment #2**

*Procedural Issues.* Mr. Vincent notes that restaurants serving alcohol past 11:00 p.m. are required to be processed as a "bar", in accordance with Table 15-2751-G of the FMC, which would require a neighborhood meeting be held prior to application submittal.

**Response:**

As VINO Grille and Spirits is not going to be serving alcohol past the cut-off time as noted in Table 15-2751-G, the requirements for a neighborhood meeting are not applicable to this project.

**Comment #3**

*Issues with the Operational Statement.* The comment letter identifies three concerns related to information contained in the operational statement:

- Seating Plan. Mr. Vincent notes that the seating plan submitted as part of the application packet could accommodate up to 223 potential customers.
- Employees. Mr. Vincent estimates that a staff of 9 to 11 would be necessary to accommodate the number of potential customers he cites under the seating plan comment.
- Security. Mr. Vincent questions what security measures will be provided at the location, as they are not specifically noted in the operational statement.

**Response:**

Seating plan and employees. The seating plan reviewed by Mr. Vincent was provided by the applicant to demonstrate a potential layout within the restaurant and outdoor patio area and shows areas of use within the restaurant (banquet room, dining area, bar, outdoor patio space). As noted in the operational statement, it is expected that an average of 75 customers for an average dinner/wine tasting service be accommodated consistent with the attendance at the current location. A staff of 6 employees per shift is also reflective of this anticipated customer load.

However, to address this concern, the applicant has revised the seating plan to show table layouts within the designated areas of use, which may accommodate up to approximately 170 customers.

It should be noted that the conditions of approval do not include a requirement that the restaurant be limited to the seating plan provided. Rather, the seating plan is provided for additional information purposes and is subject to the requirements of the Building and Fire codes, which may affect anticipated occupancy. Further, the FMC requirements for development, in particular parking, are related to the square footage of a space – not the seating plan – and as discussed in the response to Comment #4 below, the use complies with the parking requirements.

Security. The conditions of approval require that a security plan be submitted for the operation and be approved by the Fresno Police Department. A security plan has been submitted by the applicant and has been approved by the Police Department (Exhibit E). The security plan includes, among other items: 24/7 contact information for safety and security management, 24/7 alarm monitoring, requirements for filing security incident reports related to known calls for service, and a minimum of 12 surveillance cameras on-site.

**Comment #4**

*Parking.* Mr. Vincent refers to his concerns cited under Comment #3 relative to the seating plan and employees to demonstrate his concern over the availability of parking on-site for the proposed use. He notes that the proposed use and adjacent uses (e.g., the GB3 facility) each experience a spike in attendance around the dinner time and would put greater demand on parking spaces during this time with the potential for overflow parking on Hickory Hill Drive and Greenwich Avenue.

**Response:**

As noted in the response to Comment #3, parking requirements for restaurants are calculated based on square footage of the use, not seating. The proposed use, including the outdoor patio area, meets the parking requirements, calculated as follows:

The total parking requirement for the entire building on the subject site is 50 parking spaces, which assumes 30 spaces required for Vino Grille and Spirits (4,506 square feet / 150 square feet for full service restaurants), 1 space for the wine retail component of Vino Grille and Spirits (250 square feet / 450 square feet for retail sales), and 19 spaces required for the remaining office space (5,130 square feet / 275 square feet for medical and dental offices), in accordance with Table 15-2409 of the FMC. Note that the remaining office space was calculated using the square footage per parking space that would result in the highest number of parking spaces for the use – one parking space for every 275 square feet for medical and dental offices instead of one parking space



for every 400 square feet of business and professional office space.

Parking for the proposed outdoor dining area is calculated separately and due to its size, is subject to additional parking requirements in accordance with Section 15-2744 (Outdoor Dining and Patio Areas). For every square foot of outdoor dining and patio areas in excess of 800 square feet, parking shall be provided at a rate of 50% of the primary use. This parking is in addition to the parking required for the building. The proposed 1,309 square foot outdoor patio space would require that two additional parking spaces be provided (509 square feet / 150 square feet for full service restaurants / 2).

A total of 52 parking spaces are required on-site (50 for the building plus 2 for the outdoor dining and patio space). There are 52 approved parking spaces, which satisfies the minimum required.

**Comment #5**

*Traffic.* Mr. Vincent cites his disagreement with the traffic impact study completed for the GB3 facility and notes that the addition of a bar that includes a potential of 223 coming to the site during peak dinner hours has the potential to have an impact on the street serving the site, resulting in a cumulative affect that should be analyzed as part of the review.

**Response:**

Traffic generated from the proposed restaurant is estimated to be 739 average daily trips (63 a.m. peak hour trips and 57 p.m. peak hour trips), as calculated in accordance with the Institute for Traffic Engineers Manual for high-turnover restaurants. The expected traffic does not meet the threshold for a traffic impact analysis of 100 peak hour trips. No further analysis was required of the proposed project.

**Comment #6**

*Noise.* Mr. Vincent cites his concern over noise and odors from the use of the outdoor patio area, particularly related to the availability of premium cigars encouraging late night use of the outdoor patio.

**Response:**

The applicant is no longer intending to sell premium cigars. The operational statement has been revised to reflect this change (Exhibit D). Further, the use is required to meet all noise restrictions of the FMC, which designate a maximum noise level of 70 dBA during daytime hours (7 a.m. to 10 p.m.) and 60 dBA during nighttime hours (10 p.m. to 7 a.m.). Chapter 10, Article 1 of the FMC also provides additional ambient noise levels for residential uses, which are applicable to all uses in the City. The conditions of approval require the establishment to monitor noise levels to ensure compliance. The FMC also provides a process for residents to file a complaint through Code Enforcement in the event these conditions are not being met.

**Comment #7**     *Appropriateness of Zoning.* Mr. Vincent expresses, in his professional opinion, that locating a bar across the street from a residential neighborhood is clearly incompatible with the surrounding neighborhood and that the proposed use, even though permitted in the O (*Office*) zone district, should be limited to services for those who work in the area.

**Response:**

The Office designation allows for limited retail uses including business services, food services, and convenience goods. The O (*Office*) zone district implements the Office planned land use designation and allows office uses as well as retail uses, including food service, for those who work in the area. The O (*Office*) zone district also specifically allows restaurants serving alcohol subject to a conditional use permit.

**Comment #8**     *Expansion of the Adjacent Shopping Center.* Mr. Vincent expresses a concern that the uses being permitted on the subject site, which is zoned O (*Office*), are not meeting the original intent of the district designation, which was to provide a buffer between the commercial shopping center uses located to the east of the subject site and the residential neighborhoods to the west.

**Response:**

Restaurants are a permitted use, requiring only a development review permit, as they are consistent with the intent of the zone district to provide services to those who work in the area. The proposal to sell alcohol is allowed, subject to a conditional use permit. Conditional Use Permit Application No. C-16-034 meets all the requirements as specified in the FMC and is consistent with the intent of the zone district to provide food services to those who work in the area.

Repar Letter of Concern, dated July 7, 2016 (Exhibit H)

**Comment #1**     Mr. Repar cites his concern with noise and traffic generated by the proposed use as well as with the closing time for the use (cited in the letter as 1 a.m. Monday through Saturday).

**Response:**

Please refer to the responses to the Vincent Letter of Concern for Comment #1 (Clarification of the Use), #5 (Traffic), and #6 (Noise).

**Comment #2**     Mr. Repar cites his concern with the appropriateness of the use in the O (*Office*) zone district.

**Response:**

Please refer to the response to the Vincent Letter of Concern for Comment #7 (Appropriateness of Zoning).

## CONDITIONAL USE PERMIT APPLICATION REVIEW FINDINGS

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Fresno General Plan and Woodward Park Community 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 above and by the accompanying environmental assessment.

A conditional use permit shall only be granted if the decision-maker determines that the project as submitted or as modified conforms to the findings of Section 15-5306 of the FMC. 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:

| <b>Findings per Fresno Municipal Code Section 15-5306</b>                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>A. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Code and all other chapters of the Municipal Code.</i>      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Finding A:                                                                                                                                                                                    | The proposed use of restaurant with alcohol sales is a permitted use in the O (Office) zone district, subject to approval of a conditional use permit, in accordance with Table 15-1302 (Use Regulations – Employment Districts). The development standards applicable to the proposed use, including those special use regulations for Restaurants with Alcohol Sales, Bars, Nightclubs, and Lounges (Section 15-2751) and Outdoor Dining and Patio Areas (Section 15-2744) have been incorporated into the conditions of approval. |
| <i>B. The proposed use is consistent with the General Plan and any other applicable plan and design guideline the City has adopted.</i>                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Finding B:                                                                                                                                                                                    | The restaurant with the proposed sale of alcohol is a conditionally permitted use and the proposed project is consistent with the applicable policies of the General Plan and the Woodward Park Community Plan as well as with the planned land use designation of Office.                                                                                                                                                                                                                                                           |
| <i>C. The proposed use will not be substantially adverse to the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements.</i> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Finding C:                                                                                                                                                                                    | Compliance with the conditions of approval, including those conditions imposed by the Fresno Police Department for security and calls for service standards as well as compliance with the required Alcohol Beverage Control license, will ensure that the proposed use will not be detrimental to the public health, safety, or general welfare of the community, and will not be detrimental to surrounding properties or improvements.                                                                                            |
| <i>D. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity.</i>    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

|                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Finding D:                                                                                                                                                                  | The restaurant with the proposed sale of alcohol, is compatible with the surrounding land uses and meets all required development standards, including parking requirements. Further, restaurants with alcohol sales is an allowed use, subject to a conditional use permit, in the O ( <i>Office</i> ) zone district and is consistent with the planned land use designation of Office. |
| E. <i>The site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required.</i> |                                                                                                                                                                                                                                                                                                                                                                                          |
| Finding E:                                                                                                                                                                  | The site has been previously approved in accordance with the applicable development standards and is physically suitable for the type and intensity of the use, including the proposed alcohol sales and outdoor dining area. Access, emergency access, utilities, and services are being installed currently and will be maintained to serve the site at adequate capacities.           |

## CONCLUSION

In conclusion, given that all mandated conditional use permit findings required pursuant to Section 15-5306 of the FMC can be made for Conditional Use Permit Application No. C-16-034, and given the project meets all requirements of a Class 32 Categorical Exemption and is thus exempt from CEQA, staff recommends that the Planning Commission approve Conditional Use Permit Application No. C-16-034 as previously described in this staff report.

Action by the Planning Commission is final unless appealed to the City Council in accordance with FMC Section 15-5017.

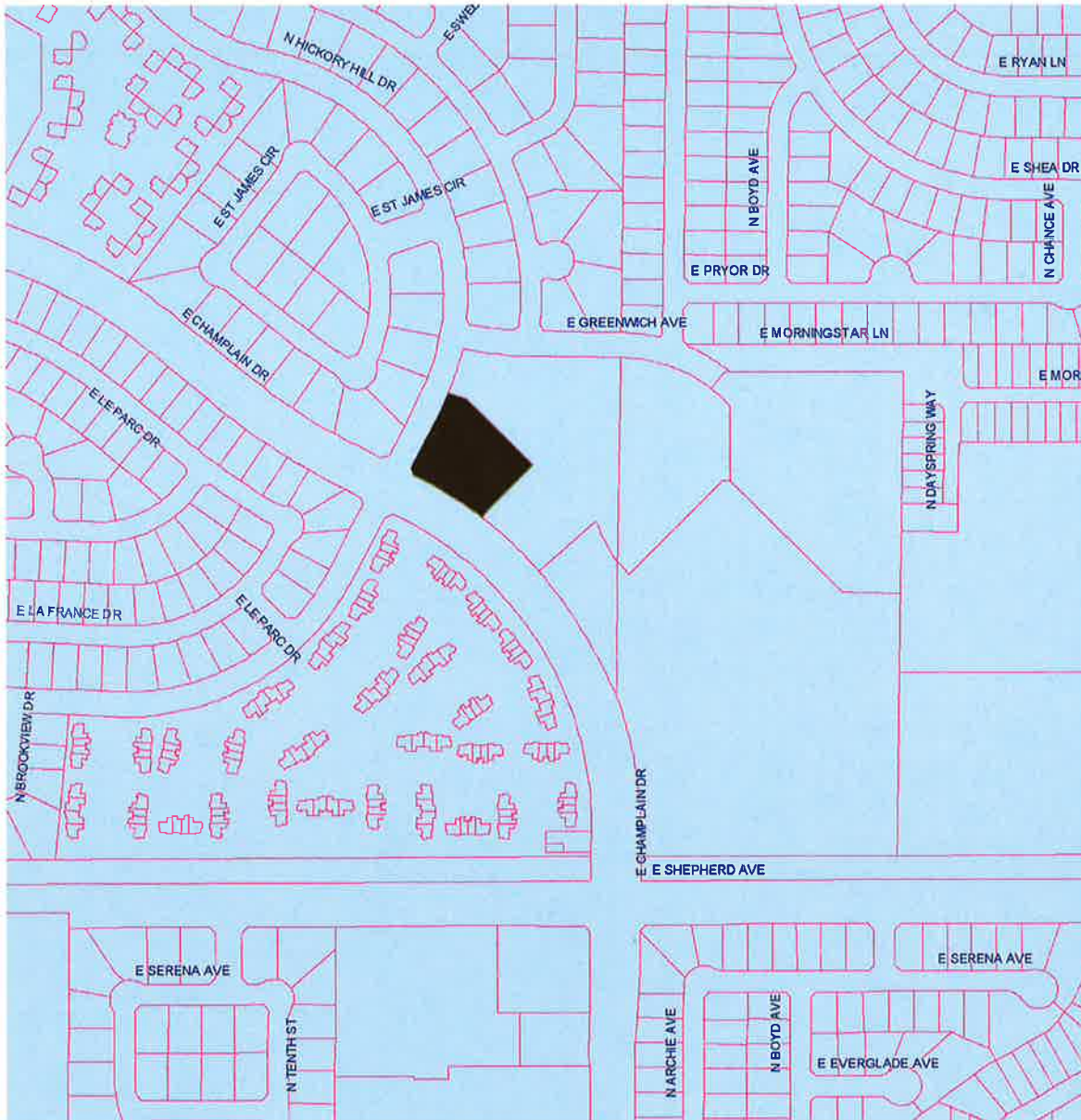
Attachments:

- Exhibit A – Vicinity Map
- Exhibit B – 2015 Aerial Photograph of Site
- Exhibit C – Noticing Map
- Exhibit D – Operational Statement
- Exhibit E – Security Plan
- Exhibit F – Site Plan
- Exhibit G – Floor Plan
- Exhibit H – Letters of Concern
- Exhibit I – Conditions of Approval dated July 22, 2016

Exhibit "A"  
Vicinity Map

## VICINITY MAP

Conditional Use Permit Application No. C-16-034  
1440 East Champlain Drive, Suite 106



Subject Property



Exhibit "B"  
2015 Aerial Photograph



Conditional Use Permit Application No. C-16-034  
1440 East Champlain Drive, Suite 106

Conditional Use Permit Application No. C-16-034  
1440 East Champlain Drive, Suite 106

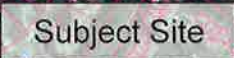




Exhibit "C"  
Public Hearing Notice Mailing List Vicinity Map

Buffered at: 1000 Feet, Legal Notices, Owners  
56703075

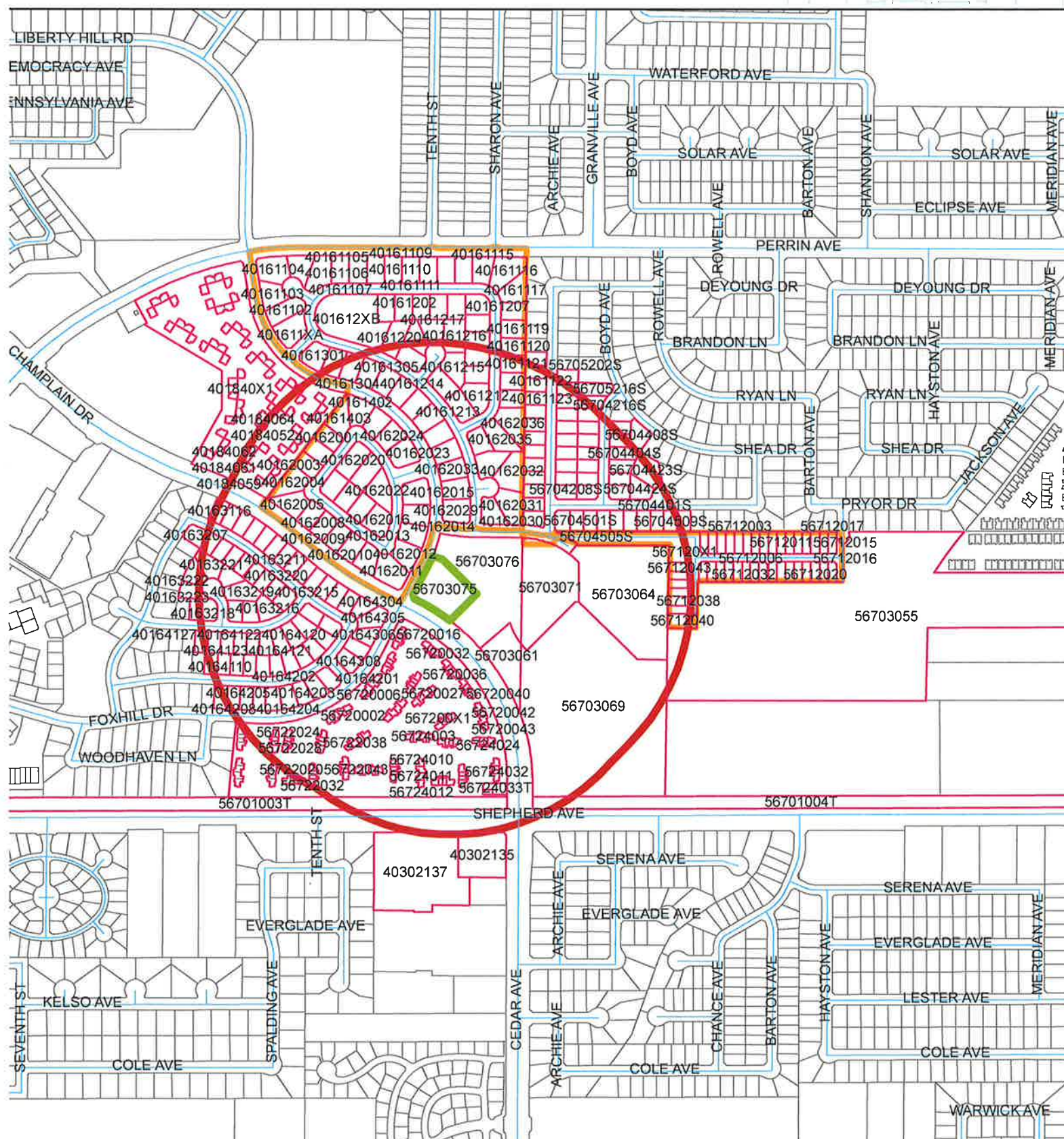


Exhibit "D"  
Operational Statement

**Vino Grille & Spirits  
1440 E. Champlain Dr. Suite 106  
Conditional Use Permit Request  
Revised July 22, 2016**

**Property Owner:**

Via Champlain LLC, a California Limited Liability Company  
c/o Ms. Tina Nugyen  
8835 N. Cedar Ave.  
Fresno, Ca. 93721

**Applicant:**

Chaz Enterprises, Inc.  
c/o Chuck and Jennifer Van Fleet  
1560 E. Champlain Ave. Suite 101  
Fresno, Ca. 93720

**Representative:**

Mr. Dirk Poeschel, AICP  
Dirk Poeschel Land Development Services, Inc.  
923 Van Ness Ave., Suite 200  
Fresno, CA 93721

**Location:**

1440 E. Champlain Dr., Suite 106. Please see the attached project site and seating plan.

**Request**

1. To allow a TYPE 47 ABC license for a 4,500 square foot +/- restaurant with a 1,350 sq. ft. outdoor dining area with alcohol, food and beverage product sales.
2. Some special events where a customer reserves the entire restaurant will occur most likely during holidays or for special occasions, such as birthdays, or small educational dinners, etc.

Please see the attached site plan for the proposed seating plan.

## **Background**

Vino Grille & Spirits will be owned & Operated by Chuck & Jen Van Fleet. Vino 100 started 10 years ago and Vino & Friends 6 years ago. During the first 5 years it was obvious that there was a need to add food to pair with the wine not only to create a better customer experience but also to increase profitability. The next phase of growth is the opening of Vino Grille & Spirits.

Co-applicant Ms. Jennifer Van Fleet is the heart and soul of the kitchen. She has created a new kitchen culture that thrives on collaboration and teamwork. Jen found her real calling by becoming the Pastry Chef as well as Kitchen Manager. The proposed location is within a building under construction so parking, access points, landscaping etc. are all established.

The proposed restaurant and wine sales area will have 4,500+/- sq. ft. of usable indoor space and about 1,350 sq. ft. of outdoor space. The outside patio will have a 36-inch-high fence to separate the *licensed premises*. Vino Grille & Spirits will continue to have wine clubs and sell quality wine for off sale consumption

Some of the accessories that we will be selling include, but are not limited to:

- Gift baskets
- Wine glasses and decanters
- Olive oils and vinegars
- Basic wine accessories
- Wine for retail sale or Vino Grille & Spirits Wine Clubs

## **Conditional Use Permit Proposed Operational Characteristics**

### **Operations & Hours**

Monday through Friday 6:00am to 12 midnight

Saturday 6:00am to 12 midnight

Sunday 7:00am to 11:00pm

Hours of operation will extend to 1 am on New Year's Eve.

The restaurant will sell breakfast, lunch and dinner items. The restaurant menu will focus on producing healthy foods using locally grown when possible. Some cooking and wine dinners will occur likely three times a year. Alcohol sales will not begin before 10am.

### **Employees**

Likely 6 employees will be required for each shift.

### Traffic/Parking

It is estimated typical lunch business will total 30 customers with an average dinner and wine tasting business to total 75 customers. Adequate parking is available within the existing development. Employees will park in the rear of the subject location. Deliveries will be during typical times as the other restaurants in the area.

### Alcohol Consumption

The applicant has purchased a TYPE 47 license from another Fresno operator. The applicant is essentially moving his existing facility to a better location and adding liquor consumption. A TYPE 47 license authorizes the sale of beer, wine and distilled spirits for consumption on the licenses premises and the sale of beer and wine for consumption off the licenses premises. **No distilled spirits can or will be sold for off-site consumption.** The applicants have an excellent record with ABC and the City of Fresno Police Department.

The restaurant operation and related alcohol consumption will comply with all State of California regulations and with all City of Fresno Police Department requirements. The existing development has security. Vino Grille & Spirits will not sell "shots" or blended drinks.

### Noise

Typical restaurant dining music will be provided. On some occasions, live music will be provided indoors to create a relaxed dining atmosphere. The restaurant will comply with the City Noise Ordinance. No dancing is proposed.

c:\users\dirk.000\soonr workplace\prejob\vino & friends\operational statement.doc



Exhibit "E"  
Security Plan

## Vino Grille & Spirits Security Plan

Maximum Occupancy is yet to be determined.

This security plan is written to address issues inside and outside of the restaurant, including the safety and security of the business, as well as the immediate surrounding areas.

- **24/7 Contact:** Chuck Van Fleet will be the contact person(s) for all safety and security management. He can be reached 24 hrs/seven days a week at 559-908-9052. If this number changes, the Fresno PD will be provided the new/updated number.
- **Onsite Manager:** A manager will be on duty during business hours and will be responsible for monitoring and controlling the behavior of patrons.
- **Alcohol related issues:** Bartenders and all employees responsible for the sale and service of alcohol beverages are trained to recognize the symptoms of an obviously intoxicated patron and will not allow the serving of alcohol to an obviously intoxicated patron.
- **ABC Education:** All primary positions that deal with alcohol have already attended the ABC LEADS class and evidence will be provided at the request of the Fresno Police Department. As ABC offers classes by appointment on their schedule, current un-trained employees and new hires, hired to sell or serve alcoholic beverages, should be assigned to attend the first available class, and shall have completed the class within 6 months of the date of hire. Proof of class completion will be provided to the Fresno Police Department upon their request
- **First Aid:** Supplies are located in the kitchen, service areas and the manager's office.
- **Fire Protection:** Fire extinguishers are located in the kitchen, service areas and outside the manager's office.
- **Alarm:** A security company monitors Burglary and fire alarm 24 hrs/7 days a week.
- **Emergencies:** All employees will be trained to report emergencies to law enforcement and to the manager on duty.
- **Safe Rides:** We will work with the taxi companies and Uber & Lift to provided safe rides home.
- **Incident Reports:** Security Incident Reports, related to known calls for service, completed by both State Licensed Uniformed Security Guards and/or on-site State Licensed Proprietary Security Officers, shall be completed and sent to the Police Department within ten (10) days of the incident.
- **Surveillance Video:** We will have 12 or m cameras. There will be at least one camera placed to focus on each area where alcoholic beverages are being dispensed. Additionally, there shall be at least one camera placed to focus on the front door, the outside area where patrons wait to enter the establishment, and the majority of open floor space. The video camera storage capacity should be for at least fourteen (14) days. Recordings of (any) -criminal activity shall be provided to the Fresno Police Department within 24 hours of the initial request. Cameras should be periodically monitored during the time the premises are operating.

A Digital Video Recorder-DVR shall be the preferred means of recording, and shall be operational during open business hours, will be properly maintained at all times and an employee will be present during business hours that has been instructed in its use and down-load capabilities. All cameras shall be properly maintained and operational during business hours and positioned toward their specified area.

- **Special Events:** Notification will be made to the Fresno PD-Northwest District Commander or his/her designee, at least two weeks prior to any "Special Event or Special Entertainment Event," which is reasonably anticipated to attract a larger or different type of crowd than the business is currently accustomed to and will include any adjustments needed to the current security plan ("Event"). "Event" does not include things like ordinary weekly advertising or social media publications, which are a part of regular nightclub/restaurant operations. The Fresno Police Department has indicated it is committed to timely review notifications.

In those cases where the business commits to an event less than two weeks before the expected date, notification will be made as soon as possible to the Police Department. During this "Abbreviated Approval Process," the Police Department has indicated it is committed to expeditious overview of the event along with any security plan needs, to complete the review process.

- **On Site Security:** With regards to the size of crowds for special events, we will employ off duty police officers. The number of off duty officers for a special event will be in direct relation to the number of attendees. We will work directly with the Fresno PD on a case-by-case basis.

It is our intention to continually work with any of the police departments to insure a relaxing none threatening atmosphere for our restaurant. We welcome an open communication at all time so that we will continue our excellent relationship. Please feel free to contact me with any questions.

Sincerely,



Chuck Van Fleet  
Owner – Vino Grille & Spirits  
[chuck@vinogrille.com](mailto:chuck@vinogrille.com)  
559-908-9052 Cell  
559-434-1771 Restaurant  
559-434-7171 Fax

Exhibit "F"  
Site Plan

## KEY NOTES

- (A) TRIM A RECTANGULAR CORNER  
 (B) TRIM A RECTANGULAR END  
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### EXISTING SITE DATA

- PROJECT SITE AREA: 10 AC (DOCS 54)  
 12 BUILDING AREA: 4,500 SQ. FT.  
 BUILDING CONTAINER: OTHER  
 13 PAVED AREA: 4,500 SQ. FT.  
 14 CONC. WALK AREA: 1,075 SQ. FT.  
 15 LANDSCAPING AREA: 1,100 SQ. FT.  
 16 EXISTING PAVING CALCULATIONS  
 17 EXISTING PAVING: 2 SECTIONS  
 18 NO. OF DOCKPIERS: 6 BRIDGES, 1 AC PAVING SPACES  
 19 NO. OF TRUCKS: 100 TRUCKS, 40 TRUCKS REQUIRED  
 20 NO. OF TRUCKS: 100 TRUCKS, 40 TRUCKS REQUIRED  
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### VICINITY MAP

**LEGAL DESCRIPTION**

PARCEL, 1/4 OF PARCEL, MAP NO. 200-10, IN THE CITY OF IRVING, COUNTY OF IRVING, STATE OF CALIFORNIA, AS PER MAP RECORDED HEREIN, TO YOU IN WITNESS WHEREOF, I HAVE SET MY HAND AND SEAL OF OFFICE, THIS 11TH DAY OF MARCH, 1998.

## GENERAL NOTES

- [illegible]

## GENERAL NOTES

- [illegible]

DATE P. 004

## SITE PLAN

0-01-1-1723

A101

Exhibit "G"  
Floor Plan





VINO AND FRIENDS  
TENANT IMPROVEMENT  
1440 EAST CHAMPLAIN DRIVE, SUITE 106  
FRESNO, CA

**Abstract**



JOHN EDWIN LINDEN TOW, 1900-1908

100

TENANT  
IMPROVEMENT  
FLOOR PLAN

|           |            |
|-----------|------------|
| ALMA      | 10/22      |
| ATE       | 10/15/2016 |
| COMMUNITY | 8 MAY 2016 |
| HANBY     | 10/2       |

A201

## KEY NOTES

1. NAME OF THE PARTY \_\_\_\_\_
2. ADDRESS \_\_\_\_\_
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## LEGEND

- [illegible]

ATTACHMENT LEGEND:

DOORS NUMBER

1

UNDO: TYPE

SCALE: 1/4" = 1'-0"

7.1 AREA = 1506.87;  
OUTSIDE BEATING = 1309.87.

SCALE: 1/4" = 1'-0"

$$\text{SCALE: } 14^{\circ} \times 10^3$$

Exhibit "H"  
Letters of Concern

July 7, 2016

Ms. Jennifer Clark, AICP, Director  
**CITY OF FRESNO DEVELOPMENT &  
RESOURCE MANAGEMENT**  
2600 Fresno Street, Room 3065  
Fresno, California 93721

*Sent via email*

Subject: Request to Deny Approval of Conditional  
Use Permit Application No. C-16-034  
**VINO GRILL & SPIRITS**  
1440 East Champlain Drive, Suite 101  
Fresno, California  
Assessor's Parcel 567-030-75

Dear Ms. Clark:

Please allow this letter to serve as my request that Conditional Use Permit C-16-034 as referenced in the Development and Resource Management Department notice dated June 29, 2016 be denied. The proposed project is a 4,500 square foot bar with a 1,350 square foot outdoor patio to be located in a building that was designed for professional office uses under Site Plan Review 15-064, which is consistent with the intent of the O Zone District. My concerns, which include procedural and technical issues, are as follows:

1. **Clarification of the Use:** In reading the Operational Statement provided by the applicant, they list the hours of operation as Monday through Friday from 10:00 am to 1:00 am; Saturdays from 9:00 am to 1:00 am; and Sunday from 9:00 am to 11:00 pm. Under Table 15-2351-G of the Development Code, this facility is required to be designated as a "bar" due to its operation after 11:00 pm at night. As such, all processing requirements and any review of the application should be under the requirements for a bar and not a restaurant.
2. **Procedural Issues:** Under Table 15-2351-G, a bar located less than 300 feet from residential uses is required to have neighborhood meeting with notices provided to residents within 500 feet of the property and with notices of the meeting not less than 11" x 17" posted on the property. This meeting is required to occur prior to the submittal of an application. As a resident within 500 feet of the proposed bar, I can state that neither I nor my neighbors were invited to such a meeting.

3. **Issues with the Operational Statement:** In reviewing the Operational Statement filed by the Applicant, the following items raise concern:
- a. **Seating Plan:** The Statement mentions that a seating plan is attached, however, only a floor plan with seating shown only at the bar is provided. This is mentioned not to be picky, but to understand the potential number of customers that can be seated at one time. Utilizing the California Building Code to determine the maximum occupant load for the seating areas of the bar, they are as follows:

|                        |             |
|------------------------|-------------|
| 1. Seating Area:       | 81 persons  |
| 2. Banquet Area:       | 52 persons  |
| 3. Patio Area:         | 90 persons  |
| 4. Total Occupant Load | 223 persons |

The significance of this is that it relates to the number of potential customers on an average day, which is stated as 75 customers for an average dinner / wine tasting service. This number appears to be well understated based upon industry standards expecting two table turns during a dinner service and the current flow of customers to the current location in the Via Montana Shopping Center.
  - b. **Employees:** It is stated that there will likely be 6 employees per shift, which again, does not make sense based upon industry standards and observation of the current business. A more accurate count would be at least one person in the retail area, two line cooks, a dishwasher, a bar tender, and at least 4 to 6 wait staff to serve a potential of 223 customers for a total of 9 to 11 employees. While this does not seem like a significant change, it does impact the amount of available parking for the use.
  - c. **Security:** The Operational Statement indicates that the existing development "has security", yet the building is not as yet constructed. Unless they are intending to expand any security provided at the Via Montana Shopping Center (of which I am not aware), I do not understand how this claim is made.
4. **Parking:** The reason that the number of employees and potential customers for a dinner service is important is the impact that it will have on the available parking. The Site Plan indicates that only 51 stalls are provided on-site, and even though there is likely a cross-access easement with the GB3 facility, both uses share high impact times around the dinner hour as evidenced by the problems that currently occur at the center at Palm and Nees. In this case, it would be expected that as many as 10 stalls are likely going to be used by the staff, leaving only 41 stalls for up to 223 customers. The likely result is that cars will begin parking along Hickory Hill and Greenwich Avenue, directly adjacent to single family residences. In the original Master Conditional Use Permit approval, a condition was included that required these streets to be marked "no parking" to alleviate this issue. I would recommend a similar condition on this project.

5. **Traffic:** A traffic impact study was completed for the adjacent fitness center, of which I continue to have disagreements with based upon the following:
  - a. The study was completed at time when school was out-of-session, which generally reduces traffic counts and in normally outside of professional practices.
  - b. The study stated that the fitness center would only generate 1500 trips per day, and allowed approximately 50% in, and 50% out, which translates to a total of 750 trips to and from the site. The fitness center's operational statement expected 2,000 members coming to the site per day, so there is already a gap of 1,250 members per day unless most are ride sharing or walking.

Adding a bar that includes a potential of 223 customers coming to the site during peak dinner hours has the potential to have an impact on the streets serving the site and the cumulative impacts of this use should be analyzed as a part of the review.

6. **Noise:** While I understand that the project will be subject to the City of Fresno noise Ordinance, I do have concern with the operation of the outdoor patio with a seating capacity of up to 90 persons. This patio is allowed to be used until 12 pm, and it is my concern that the sale of "premium cigars" (as noted in the Operational Statement) will encourage late night use of the patio. Again, this patio is located less than 150 feet from single family residences raises my concerns regarding late-night noise and odors (not everyone likes the smell of cigars).
7. **Appropriateness of Zoning:** With the adoption of the new Citywide Development Code, this parcel was designated to the O Office Zone District, as is the adjacent parcel where the fitness center is located. This designates the uses for this property as administrative, financial, business, professional, medical and public offices as acceptable uses as they are typically less intensive than other commercial uses. The District does allow retail uses and food service "for those who work in the area" (i.e. the office). It also states that it is intended for locations "where the noise or traffic generated by retail sales, restaurants, and service commercial may be incompatible with surrounding neighborhoods". In my professional opinion, locating a bar with operating hours to 1:00 am directly across a residential street (60 feet wide) is clearly incompatible with the surrounding neighborhood and does not serve those working in the area as there are no virtually no offices available.
8. **Expansion of the Adjacent Shopping Center:** If you look at the existing and proposed development of the parcels along the east side of Champlain Drive between East Shepherd Avenue and Hickory Hill Drive and consider the uses, it appears that the parcel originally designated for offices as a buffer to the residences to the north is simply becoming an expansion of the adjacent shopping center. We are ending up with an O Zone District that has no

Ms. Jennifer Clark  
July 7, 2016  
Page 4

offices within it. I do not believe that is the intent of the Ordinance.

In general, I must state that many of the issues mentioned above tend to disappear when the project is located in a development that this type of use is intended and zoned for (as the current location is within the Via Montana Shopping Center). That is why this type of use is not intended for the O Zone District as stated in the Development Code due to the interface with residences.

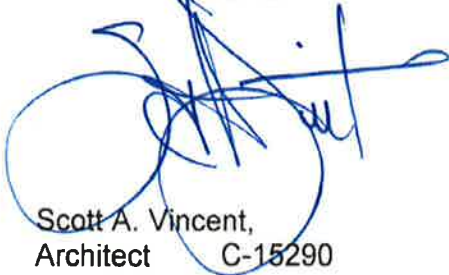
I also understand that some of the items (such as traffic and parking) will be addressed with comments such as neighbors will walk to the facility, and I agree. My wife and I currently walk to Via Montana regularly, but on hot or wet days, we still drive and not all of the customers live within walking distance. But depending on the actions of the customer is not a mitigation measure.

Finally, this application needs to follow the requirements of the Development Code. The use needs to be properly identified, and outreach to the neighborhood should have been required prior to submittal of the application

Thank you in advance for your consideration of these items, and would request that I be advised of any final decision regarding the application. Should you have any questions or comments, please feel free to give me a call at 225-2602.

Kindest Regards,

**THE VINCENT COMPANY ARCHITECTS, INC.**



Scott A. Vincent,  
Architect C-15290

## McKencie Contreras

---

**From:** Zvonimir Repar <zrepar@comcast.net>  
**Sent:** Thursday, July 07, 2016 10:50 PM  
**To:** McKencie Contreras  
**Subject:** Hickory Hill and Champlain Development

Dear Ms. Contreras,

I am writing to you because my concerns about the new **restaurant & bar** with the **open patio** coming to the corner of Hickory Hill and Champlain. I live in the nearby neighborhood and am concerned about the **noise and traffic** that the bar will generate. The applicants requested that the bar be **open until 1 am every night** except Sunday (11 pm). This bar is right **across the street from the existing residences**.

In addition, this property is in the **"O" zone district**. Please refer to your **City Development Code** for the "O" zone purpose ("This district is intended for locations where the **noise or traffic** generated by retail sales, **restaurants**, and service commercial may be **incompatible with surrounding residential neighborhoods**.")

Thank you for your consideration and support with this issue.

Best regards,

—  
Zvonimir Repar  
9372 N. St. Martin Dr.  
Fresno, CA 93720  
559.434.1114  
559.260.4243 CELL  
559.434.8260 FAX



Exhibit "I"  
Conditions of Approval

**CITY OF FRESNO**  
**DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT**

**CONDITIONS OF APPROVAL**

JULY 22, 2016

**CONDITIONAL USE PERMIT APPLICATION NO. C-16-034**  
**1440 East Champlain Drive**

The Planning Commission will consider approval of Conditional Use Permit Application No. C-16-034 at a noticed public hearing on August 3, 2016 at 6:00 p.m. Staff recommends that the special permit application be approved subject to the conditions listed in this document.

**Project Description:** Dirk Poeschel of Dirk Poeschel Land Development Services, on behalf of Chaz Enterprises, has filed Conditional Use Permit Application No. C-16-034 pertaining to approximately 1.16 acres of property located on the northeast corner of East Champlain Drive and North Hickory Hill Drive.

Conditional Use Permit Application No. C-16-034 requests authorization to establish a State of California Alcoholic Beverage Control alcohol license Type 47 (*Restaurant – sale of beer, wine, and distilled spirits for consumption on the licensed premises*) for the 4,506 square foot VINO Grill and Spirits restaurant, which includes a 1,309 square foot outdoor patio, and the related environmental document. The proposed project was determined to be exempt from the California Environmental Quality Act by the Development and Resource Management Department on June 27, 2016 through a Class 32 Categorical Exemption. The approval of this project is subject to compliance with the following Conditions of Approval:

**CONDITIONS OF APPROVAL**

**PART A – ITEMS TO BE COMPLETED**

**The following items are required:**

|                                          |    |                                                                                                                                     |
|------------------------------------------|----|-------------------------------------------------------------------------------------------------------------------------------------|
| Planner to<br>check<br>when<br>completed |    |                                                                                                                                     |
| <input type="checkbox"/>                 | 1. | Submit a copy of the Security Plan, as approved by the Fresno Police Department, <b>prior to commencement of land use activity.</b> |

## PART B – OTHER REQUIREMENTS

### 1. Planning/Zoning/Environmental Compliance Requirements

- a) The restaurant will be located within a previously approved building (under Site Plan Review No. S-15-064). No physical improvements are proposed under this permit. Any applicable development and operational standards are noted below.
- b) Development shall take place in accordance with Exhibit A, dated April 29, 2016.
- c) Development and operation shall take place in accordance with the attached “Notes and Requirements for Entitlement Applications” as applicable.
- d) Development shall take place in accordance with the policies of the Fresno General Plan and Woodward Community Plan and with the office planned land use designation.
- e) Development shall take place in accordance with the *O/UGM/cz (Office/Urban Growth Management/conditions of zoning)* zone district and all other applicable sections of the Fresno Municipal Code.
- f) Comply with the operational statement submitted for the proposed project dated May 9, 2016, except that the sales, service, and consumption of alcohol shall be restricted to the time specified in Section 15-2751, currently set at 11 p.m.
- g) A last call for alcohol sales shall be established prior to the time specified in Section 15-2751 with pick up of all alcoholic beverages no later than the time specified.
- h) A special events permit shall be required for any exceptions to the time restrictions on the sale, service, and consumption of alcohol specified in Section 15-2751, for special events including New Year’s Eve.
- i) Noise decibel levels shall be monitored by the establishment to ensure compliance with all applicable noise standards.
- j) Whenever an event is promoted by a Third Party the licensee/owner and/or proprietor and/or operator of the premises shall require that said Third Party obtain a business tax certificate from the City prior to holding such event.
- k) Misters, heaters, and other such devices for moderating temperatures of the outdoor dining area shall be permitted subject to assurance of adequate safety measures and resource efficiency.
- l) Lighting shall not disrupt or unnecessarily impact adjoining properties or roadways.

- m) Music may not be amplified in the outdoor dining area. All music, live or recorded, shall comply with all applicable noise standards.
- n) Barriers shall be provided and maintained as required by the Department of Alcoholic Beverage Control.
- o) Development shall comply with all prior permits on the property, except as specifically modified by C-16-034.

2. City and Other Services

- a) Development shall take place in accordance with the following requirements and/or attached memoranda and letters from City of Fresno Departments and partner agencies:
  - i) Fresno Police Department letter, dated May 18, 2016.
  - ii) Fresno County Department of Public Health letter, dated May 6, 2016.
  - iii) Fresno Fire Department letter, dated May 24, 2016.

3. Miscellaneous Requirements

- a) 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:
  - i) 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;
  - ii) All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property; and,
  - iii) Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.
- b) 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 Development Code, and all applicable Public Works Standards and Specifications. The Development and Resource Management Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plans not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or

revisions.

## **APPEALS**

Please be advised that this project may be subject to a variety of discretionary conditions of approval: those conditions based on adopted City plans, ordinances and policies; those determined to be required through the interdepartmental/interagency review process; and those determined through the environmental assessment process as necessary to mitigate adverse effects on the health, safety and welfare of the community. The conditions of approval may also include requirements for development and use that would, on the whole, enhance the project and its relationship to the neighborhood and environment.

All conditions of approval based on adopted plans, codes, and regulations are mandatory. Conditions based on the Fresno Municipal Code (FMC) may only be modified by variance, provided the findings required by FMC Section 15-5506 can be made. Discretionary conditions of approval may be appealed, but will ultimately be deemed mandatory unless appealed within 15 days of the date of action in accordance with Section 15-5017.

If you wish to appeal the decision, a written request must be received at the Development and Resource Management Department by **August 18, 2016**. The written request should be addressed to Jennifer K. Clark, Director, shall include the application number referenced above, and 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.

## **BACKCHECK PROCESS**

**Please Note:** To complete the back-check process the applicant must demonstrate compliance with all required conditions of approval prior to commencement of the land use activity. Submit any required items to McKencie Contreras in the Development Services Division for final review and approval, prior to commencement of the land use activity.

## **EXPIRATION DATES**

The exercise of rights granted by this special permit must be commenced by August 3, 2019 (three years from the date of approval), pursuant to FMC Sections 15-5013-A, C, D and E. An extension of up to one additional year may be granted, provided that the findings required under FMC Section 15-5013-A.1 are made by the Director. All required improvements must be installed prior to the operation of the proposed use. Pursuant to Section 15-5308 of the FMC an expiration date of seven years from the date of approval has been established for Conditional Use Permits. Therefore, the approval for C-16-034 shall expire on August 3, 2023 and a new conditional use permit must be obtained prior to that expiration date.

Conditions of Approval  
Conditional Use Permit Application No. C-16-034  
July 22, 2016  
Page 5

Enclosures: Operational Statement, dated May 9, 2016  
Exhibit A, dated April 29, 2016  
Fresno Police Department letter, dated May 18, 2016  
Fresno County Department of Public Health letter, dated May 6, 2016  
Fresno Fire Department letter, dated May 24, 2016  
Notes and Requirements for Entitlement Applications



**FIRE DEPARTMENT**

**DATE:** May 24, 2016

**TO:** MCKENCIE CONTRERAS, Supervising Planner  
Development and Resource Management Department

**FROM:** LAURIE SAWHILL, Senior Fire Prevention Inspector  
Fire Department, Community Risk Reduction Unit

A red handwritten signature, likely of Laurie Sawhill, is written over the "FROM:" line.

**SUBJECT:** 1440 E. CHAMPLAIN DR #106, C-16-034-ABCUP

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

Approved as submitted.

Confirm suite number. Application documents indicate suite 101 and plans show 106.  
Provide correct suite number to Fire for building and inspection records.

This project was reviewed by the Fire Department only for requirements related to water supply, fire hydrants, and fire apparatus access to the buildings on site. Review for compliance with fire and life safety requirements for the building interior and its intended use are reviewed by both the Fire Department and the Building and Safety Section of DARM when a submittal for building plan review is made as required by the California Building Code by the architect or engineer of record for the building.



## County of Fresno

### DEPARTMENT OF PUBLIC HEALTH

DAVID POMAVILLE, DIRECTOR

DR. KEN BIRD, HEALTH OFFICER

May 6, 2016

LU0018495

2602

McKencie Contreras  
Development and Resource Management  
2600 Fresno Street, Third Floor  
Fresno, CA 93721-3604

Dear Ms. Contreras:

PROJECT NUMBER: C-16-034

**Conditional Use Permit Application No. C-16-034-ABCUP** was filed by Dirk Poeschel of Poeschel Land Development Services, on behalf of Chaz Enterprises, and pertains to tenant space (4,506 square-foot restaurant and 1,303 square-foot outdoor dining area) within a  $\pm 1.16$ -acre office complex located on the northeasterly corner of East Champlain Drive and North Hickory Hill Drive. The applicant requests authorization to establish a State of California Alcoholic Beverage Control alcohol license Type 47 (Restaurant - sale of beer, wine, and distilled spirits for consumption on the licensed premises) for the Vino Grill and Spirits restaurant. The property is zoned O/UGM/cz (Office/Urban Growth Management/conditions of zoning).

**APN: 567-030-75**

**ZONING: O/UGM/cz**

**ADDRESS: 1440 East Champlain Drive 101**

#### 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) 600-3357 for more information.
- Prior to operation, the applicant shall apply for and obtain permits to operate food facilities 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) 600-3357 for more information.
- Prior to alcohol sales, the applicant shall obtain their new license to sell alcoholic beverages. Contact the California Alcoholic Beverage Control Department at (559) 225-6334 for more information.
- The proposed project described in the operational statement has the potential to expose nearby residents to elevated noise levels. Consideration should be given to your City's municipal code.

***Promotion, preservation and protection of the community's health***

1221 Fulton Mall / P.O. Box 11867 / Fresno, California 93775 / Phone (559) 600-3271 / FAX (559) 455-4646

Email: [EnvironmentalHealth@co.fresno.ca.us](mailto:EnvironmentalHealth@co.fresno.ca.us) ♦ [www.co.fresno.ca.us](http://www.co.fresno.ca.us) ♦ [www.fcdph.org](http://www.fcdph.org)

Equal Employment Opportunity ♦ Affirmative Action ♦ Disabled Employer



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REVIEWED BY:

**Kevin Tsuda**

Digitally signed by Kevin Tsuda  
DN: cn=Kevin Tsuda, o=Fresno  
County Department of Public Health,  
ou=Environmental Health Division,  
email=ktsuda@co.fresno.ca.us, c=US  
Date: 2016.05.06 14:29:56 -07'00'

Kevin Tsuda, R.E.H.S.  
Environmental Health Specialist II

(559) 600-3271

---

cc: Tolzmann, Rogers & Kalugin- Environmental Health Division (CT 55.16)  
Dirk Poeschel- Consultant ([dirk@dplds.com](mailto:dirk@dplds.com))  
Tina Nguyen- Owner ([tinanguyen@hotmail.com](mailto:tinanguyen@hotmail.com))  
Chaz Enterprises- Applicant ([chuck@vinoandfriends.com](mailto:chuck@vinoandfriends.com))



**POLICE DEPARTMENT**  
***Northeast Problem Oriented Policing***  
1450 E. Teague  
Fresno, California 93720  
(559) 621-6400 Fax: (559) 436-6245



Jerry Dyer  
Chief of Police

**RESTAURANT ABCUP CONDITIONS**

May 18, 2016

City of Fresno, Development Department  
Director of Planning & Development.  
Special Permit, Conditional Use Permit  
2600 Fresno Street  
Fresno, California, 93721-3604

**Attn. McKencie Contreras**

**Re: SPECIAL PERMIT NO. C-16-034**  
**Vino Grill and Spirits**  
**1440 E. Champlain Dr. #101**  
**Fresno, Ca 93720**  
**A.P.N. 567-030-75**

Dear McKencie Contreras,

Pursuant to your Department's request, the Fresno Police Department has reviewed the special permit application for property located at **1440 E. Champlain Dr. #101**. The property has been zoned **O/UGM/cz.** (Office/Urban Growth Management). The Fresno Police Department's primary concern with the application is the propensity of the operations on the premises to generate calls for police service, and therefore, be detrimental to the public welfare.

We understand from the Operational Statement that the applicant intends to operate this restaurant between the hours of:

|                     |                         |
|---------------------|-------------------------|
| Monday thru Friday, | 10:00 a.m. – 12:00 a.m. |
| Saturday            | 9:00 a.m. – 12:00 a.m.  |
| Sunday              | 9:00 a.m. – 11:00 p.m.  |

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, and 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 use 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 to the surrounding area. If approved, this Conditional Use Permit would allow for an **on-sale Type 47 ABC license** (*Restaurant – Authorizes the sale of beer, wine, and distilled spirits for consumption on or off the premises where sold*). We request the following conditions be included as Conditions of Approval for Conditional Use Permit Application No. **C-16-034**. These conditions will help to insure maintain an environment that is least likely to generate criminal activity, public complaints and police calls for service.

The Fresno Police Department is not in opposition of this Conditional Use Permit, providing the applicant agrees to the listed conditions. If the following conditions are not included as conditions of approval of CUP No., **C-16-034** 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 Detective Chris Lee #524 with notice of the Director's decision regarding this Conditional Use Permit as well as a complete copy of the conditions of approval, if the Director approves 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 of 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 Nuisances - High Calls for Police Service)  
FMC 12-224 (C-M Zone, Adult Theater activities not permitted, see 12-105-T-1.1  
for definition of Adult Theater, and 12-306-N-30 for additional  
limitations on Adult Business activities.)

A current version of the Fresno Municipal Code may be viewed at the City of Fresno's  
website: [www.Fresno.gov](http://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 and federal law, rules and regulations,  
including but not limited to the following California Business and Professions Code  
sections, Labor Code, and ABC 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 25631 (No sale of alcoholic beverages between 2:00 a.m. and 6:00 a.m.)  
BP 25665 (Minors Remaining in Public Premises)  
Labor Code Section 6404.5 (Smoking in Places of Employment)  
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. Video Camera**

Prior to exercising any privileges granted by CUP No. **C-16-034** the applicant must  
install a fully functional color digital video camera system ("System") that meets the  
following requirements:

3.1 The System must continuously record, store, be capable of playing back images  
and be fully functional at all times, including during any hours the business is closed.  
The System must be maintained in a secured location inside of the business.

3.2 The System shall have the correct date and time stamped onto the image at all  
times.

3.3 The camera storage capacity should be for at least two weeks (fourteen calendar  
days). Such cameras must be capable of producing a retrievable and identifiable image  
than can be made a permanent record and that can be enlarged through projection or other  
means.

3.4 The System shall be capable of producing a CD or digital playback feature and may be provided to an authorized representative of the Fresno Police Department within 24 hours of the initial request relating to a **criminal investigation only**.

3.5 The interior of the business must have at least one camera placed to focus on each cash register transaction to include the clerk as well as the customer waiting area.

3.6 There shall be four (4) exterior cameras placed so as to record activities in the primary customer parking areas of their business. These cameras should be of sufficient quality to be able to identify persons and or vehicles utilizing the business parking lot.

3.7 All interior cameras shall record in color.

3.8 All exterior cameras shall record in color and have automatic low light switching capabilities to black and white. Exterior cameras should be in weatherproof enclosures and located in a manner that will prevent or reduce the possibility of vandalism.

It is recommended, but not required, that the owner/operator provide the IP address(s) to the Fresno Police Department Communications Center for any system that is browser-based or viewable from a remote site. The Fresno Police Department may, with reasonable notice, perform periodic inspections of the System to ensure compliance with these specifications. An inoperable System may be good cause for seeking revocation of this Conditional Use Permit.

#### **4. ABC Education**

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

- 4.1 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,
- 4.2 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 designated to sell alcoholic beverages, tobacco or inhalants does not currently have such training then:

- 4.3 The ABC-licensed proprietors shall have confirmed with the Development Department within 15 days of the final approval of the CUP or within 15 days of the opening to the public of a new store, whichever is later, that a date certain has

been scheduled with the local ABC Office for said prospective employees to take the LEAD Program course; and

- 4.4 Within 30 days of taking said course the employee(s) or responsible employer shall deliver to the Planning Department each required LEAD Program Certificate evidencing completion of said course.

**5. 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 is adequate to address security issues that may arise from the event or promotion or approval of a new Security Plan that will be in place for the promotional or special event.

**6. 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-16-034**. 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 establishment or licensed security personnel retained from a security firm.

- Confirm that the security personnel shall regularly monitor 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.

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 time 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.**

- **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 two (2) state licensed uniformed security guards.**

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

**If the 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.**

**7. Consumption of Alcoholic Beverages and Loitering.**

- 7.1 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 the exterior portion of adjacent property not owned or controlled by the applicant, the applicant shall immediately report such consumption to the Fresno Police Department.
- 7.2 The establishment shall not allow any loitering on building premises or any adjacent property under its ownership or control.
- 7.3 The establishment shall not allow any gambling on building premises or any adjacent property under its control.

**8. Property Responsibility**

“Frequent” responses by the Fresno Police Department arising out of or relating to the operation or management of the real property owned or controlled by the permittee 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 in an FPD recommendation to the Director of Planning and Development to commence proceedings to revoke the Conditional Use Permit for violation of the Management of Real Property Ordinance. In addition to recommending the commencement of revocation proceedings, the FPD may pursue any of the other 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” means response by the Fresno Police Department is occurring more than 1.5 times the average number of such responses (3 calls for every 2) for property of a similar size and character within the same policing district.



**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 address**

The owner and/or proprietor and /or applicant shall be responsible to conspicuously post the hours of operation near the entrance of the establishment. It shall be 8.5x11 inches in size. This posting shall be made available to City officials upon request.

**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 applicant's 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.

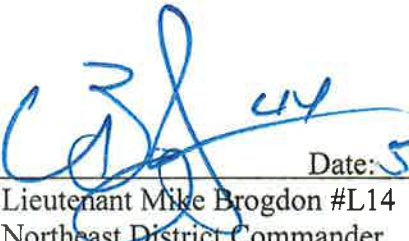
There shall be no amusement devices or Billiard tables maintained upon the premises without the proper permits issued through the City of Fresno Business Tax Division.

13. The establishment shall ensure that all employees involved, either directly or indirectly, in the sale of alcoholic beverages are aware of and comply with these conditions. The establishment shall have each employee sign a written acknowledgment 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.

FRESNO POLICE DEPARTMENT

 Date: 5/18/16  
Detective Chris Lee #524  
Northeast District POP

 Date: 5-18-16  
Sergeant Mike Landon #S150  
Northeast District-Investigations/POP

 Date: 5.18.16  
Lieutenant Mike Brogdon #L14  
Northeast District Commander