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Development and Resource Management Department  
Jennifer K. Clark, AICP, Director

November 7, 2018

Please reply to:  
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(Sent via email only)

**SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. P18-00687 FOR PROPERTY LOCATED AT 3018 WEST CLINTON AVENUE (APN: 442-071-41)**

The Fresno City Planning Commission, on November 7, 2018, approved Conditional Use Permit Application No. P18-00687, which pertains to approximately ±0.19 square feet of tenant space located on the northwest corner of West Clinton and North Marks Avenues and requests authorization to upgrade to a State of California Alcoholic Beverage Control Type 21 alcohol license (Package Store – sale of beer, wine and distilled spirits for consumption off the premises where sold) for the existing Johnny Quik convenience store. The proposed project was determined to be exempt from the California Environmental Quality Act by the Development and Resource Management Department on November 7, 2018 through a Section 15301/Class 1 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 prior to commencement of land use activity:**

Planner to check when completed	
<input type="checkbox"/>	1. Development and use of the property shall comply with the (attached) Standard Fresno Police Department ABC CUP Conditions of Approval. Submit a copy of the Security Plan, as approved by the Fresno Police Department prior to commencement of land use activity. Please contact Detective Dawnielle Serrano at (559) 621-6529 regarding compliance with the conditions.

<input type="checkbox"/>	2.	The applicant shall purchase or transfer an existing Type 20 alcohol license from within the limits of the city of Fresno.
<input type="checkbox"/>	3.	Add applicable notes from the attached document titled "Notes and Requirements for Entitlement Applications".

## PART B – OTHER REQUIREMENTS

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

- a) Operations shall occur in accordance with Operational Statement for Conditional Use Permit Application No. P18-00687 dated June 4, 2018.
- b) Operation shall take place in accordance with the CG (*Commercial General*) zone district and all other applicable sections of the Fresno Municipal Code.
- c) Operations and development of the subject property shall occur in accordance with all requirements included within Section 15-2706 of the FMC pertaining to uses with Alcohol Sales, including but not limited to, the following:
  - i) Lighting. The exterior of the premise, including adjacent public sidewalks and all parking lots under the control of the establishment, shall be illuminated during all hours of darkness during which the premises are open for business in a manner so that persons standing in those areas at night are identifiable by law enforcement personnel. However, required illumination shall be placed and/or shielded in a way that minimizes interference with the neighboring residences.
  - ii) Litter and Graffiti.
    - Trash and recycling receptacles shall be provided by public entrances and exits from the building.
    - The owner or operator shall provide for daily removal of trash, litter, and debris from premises and on all abutting sidewalks within 20 feet of the premises.
    - The owner or operator shall remove graffiti within 48 hours.
  - iii) Pay Phones and Vending Machines. External pay phones and snack vending machines are prohibited.
  - iv) Video Surveillance.
    - Establishments must equip a fully functional color digital video camera system.
    - The system must continuously record, store, and 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.

- The system shall have the correct date and time stamped onto the image at all times.
- The camera storage capacity should be for at least two weeks (14 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.
- If utilizing a digital video recorder, it must be capable of storing at least 14 days of real-time activities.
- 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.
- 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.
- There shall be four 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.
- All interior cameras shall record in color.
- 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.

v) Signage.

- The provisions specified under Article 26, Signs and this subsection shall apply. Where conflict may occur between the provisions of Article 26 and this subsection, the more restrictive provisions shall govern.
- The following copy is required to be prominently posted in a readily visible manner on an interior wall or fixture and not on windows:  
"California State Law Prohibits the Sale of Alcoholic Beverages to Persons Under 21 Years of Age."  
"No Loitering is Allowed On or In Front of These Premises."  
"No Open Alcoholic Beverage Containers are Allowed on These Premises."

- No more than 15 percent of the square footage of each window and clear door that is visible to the public from a public thoroughfare, sidewalk, or parking lot of an off-sale alcohol retail outlet shall bear advertising, signs, or other obstructions of any sort.

The area covered by signs or advertising includes all clear areas within signs or advertising, such as the clear area within neon signs.

Signage, advertising, or other obstructions inside or outside the establishment that are not physically attached to the windows or doors, but are visible from a public thoroughfare, sidewalk, or parking lot in the same manner as if they were physically attached is included in the 15 percent limitation.

Any signage required by law shall not count towards the 15 percent limitation, but shall nonetheless follow rules related to visual obstruction.

- Advertising and signage on windows and clear doors shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlets, including the area in which the cash registers are maintained, from exterior public sidewalks, parking lots, or entrance to the outlets.
  - Any establishment located within 250 feet of a sensitive use may not advertise alcohol sales in a manner visible from the outside of the establishment, such as from a public thoroughfare, sidewalk, or parking lot.
- vi) Loitering and Other Nuisance Activities. The operation of the establishment shall not result in repeated nuisance activities on the property, which may include, but are not limited to, repeated disturbances of the peace, illegal drug activity, public drunkenness, drinking in public, alcoholic beverage and tobacco sales to minors, harassment of passerby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, loitering, excessive littering, graffiti, illegal parking, excessive loud noises (especially in the late night or early morning hours), traffic violations, curfew violations, lewd conduct, or other violations of City, State, or federal laws, especially when contributing to a proportionally high rate of police reports and arrests to the area.
- vii) Training. The owners and all employees of the establishment who are involved in the sale of alcoholic beverages must complete approved course(s) in training of liquor sales and handling within sixty days after approval of the Conditional Use Permit becomes final, or for employees hired after the approval of the Conditional Use Permit, within sixty days from the date of hire. To satisfy this requirement, a certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service (CCC/RBS) or other certifying or licensing body designated by the State of California.
- viii) Compliance with Laws. The establishment must remain in compliance with all local, State, and federal laws, regulations, and orders, as well as all conditions of

approval imposed on the use. This includes compliance with annual City business license fees.

ix) Posting of Conditions. A copy of all conditions of approval and training requirements shall either be posted in a conspicuous and unobstructed place near the entrance, cashier counter, or customer service area of the establishment or posted in an employee area and provided upon request (e.g. via flyer or brochure) to patrons and enforcement officials.

x) Prohibited Products. The sale or distribution of one or more of the following shall be prohibited.

- Wine in containers of less than 750 milliliters.
- Single containers of beer, malt liquor, wine coolers, and similar alcoholic beverages not in original factory packages of four-packs or greater.
- Distilled spirits in containers of less than 375 milliliters.
- Paper or plastic cups in quantities less than their usual and customary packaging.

d) Operation shall take place in accordance with the attached “Notes and Requirements for Entitlement Applications” as applicable.

e) Property development standards and operational conditions are contained in Articles 12, 20, 23, 24 and 25 of the FMC. Any project revisions, development, and operation must comply with these property development standards and operational conditions.

f) Operation shall take place in accordance with the policies of the Fresno General Plan, West Area Community Plan, and with the Commercial General planned land use designation.

## 2) City and Other Services

a) Operation shall take place in accordance with the attached memoranda and letters from City of Fresno Departments and partner agencies as related to the ABCUP, including:

- County of Fresno Department of Public Health dated June 19, 2018; and,
- Fresno Fire Department dated July 11, 2018.

## 3) Miscellaneous Requirements

a) Contact the California Alcoholic Beverage Control Department for the license to sell alcoholic beverages.

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

- c) 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.
  
- d) Approval of this special permit may become null and void in the event that development is not completed in accordance with all the conditions and requirements imposed on this special permit, the Zoning Ordinance, and all Public Works Standards and Specifications. The 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. These 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 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 in writing to the Director within 15 days. In the event you wish to appeal the Director's decision, you may do so by filing a written appeal with the Director. The appeal shall include the appellant's interest in or relationship to the subject property, the decision or action appealed and specific reasons why the applicant believes the decision or action appealed should not be upheld.

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

**EXPIRATION DATES**

The exercise of rights granted by this special permit must be commenced by November 7, 2021 (three years from the date of approval), pursuant to FMC Section 15-5013. 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 P18-00687 shall expire on November 7, 2025 and a new conditional use permit must be obtained prior to that expiration date for the use only (not the physical structure(s)).

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

Sincerely,



Jose Valenzuela, Planner  
Development Services Division

Enclosures: Exhibits  
Comments from Partner Agencies & Departments  
Standard Fresno Police Department ABC CUP Conditions of Approval  
Notes and Requirements for Entitlement Applications

C: 3018 West Clinton Avenue

## Agency Comments

### **Fresno Fire Department dated July 11, 2018:**

1. ( ) All back checks will be performed between the hours of 1:30 p.m. and 3:00 p.m. Monday –Friday, at Fresno Fire Department located at 911 H Street. No appointment is necessary. Applicants must be at the front counter and sign the log before 3pm or you will be required to come back another day.

2. ( ) If there are questions regarding FFD Development Policies, you may access them at: <https://www.fresno.gov/fire/fire-prevention-investigation/development-policies/>

3. ( ) Fire Department back check items require a wet signature from Fire Department staff.  
Back check items signed by any person other than sworn Fire Department staff are invalid.

4. ( ) All revisions to plans shall be called out with a cloud or delta.

5. ( ) Provide minimum 2A:10B:C portable fire extinguishers (per NFPA 10). One extinguisher is required for each 3,000 square feet or portion thereof of floor space, with travel distance not to exceed 75 feet. A minimum of 2 portable fire extinguishers are required based on the square footage. Show locations of portable fire extinguishers on plan. 2016 CFC, Section 906.3. (ordinary hazard occupancies)

6 ( ) Provide an “Emergency Pump Shutoff Switch” within 100 feet of, but not less than 20 feet from the fuel dispensers. The switch shall be installed at an approved location and signed “EMERGENCY FUEL SHUTOFF”.  
2016 CFC, Section 2303.2. With the pictures submitted, it is unclear the signage for the emergency shutoff is present.

### **County of Fresno Department of Public Health dated June 19, 2018:**

- Should the facility undergo remodel to accommodate the change of alcohol license, then prior to issuance of building permits, the applicant shall submit complete food facility plans and specifications to the Fresno County Department of Public Health, Environmental Health Division, for review and approval. Contact the Consumer Food Protection Program at (559) 600-3357 for more information.

Kevin Tsuda, 559-600-3271 [ktsuda@co.fresno.ca.us](mailto:ktsuda@co.fresno.ca.us)