

Exhibit L



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Planning and Development Department
Jennifer K. Clark, AICP, Director

December 11, 2023

Please reply to:
Jose Valenzuela
(559) 621-8070

Samer Sabbah
Omni Development Group LLC
ssabbah@omnidevelopmentgroup.net
(Sent via email only)

**SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. P21-06064, FOR PROPERTY
AT 4390 WEST ASHLAN AVENUE (APN: 510-100-50)**

Dear Mr. Sabbah:

On December 11, 2023, the Planning and Development Department Director denied Conditional Use Permit Application No. P21-06064, requesting authorization to obtain a State of California Alcoholic Beverage Control Type 20 alcohol license (sale of beer and wine for consumption off the premises where sold) for the proposed Arco AM-PM convenience store and service station at the address mentioned above. The property is zoned CG/UGM (*Commercial General/Urban Growth Management*).

This denial action is based upon the project's compliance with the requirements of Fresno Municipal Code (FMC) Section 15-2706-F (Location Restrictions for New Establishments). The proposed off-sale alcoholic beverage establishment is located within an overconcentrated census tract. Census Tract 38.09 has six active licenses and currently four are permitted.

According to FMC Section 15-2706-F-6, a new establishment may be excepted from the location restrictions if the Review Authority determines all of the following:

- a. The proposed use is not located within an area in which the Chief of Police has determined, based upon quantifiable information, that the proposed use: (a) would be detrimental to the public health, safety, or welfare of persons located in the area; or (b) would increase the severity of existing law enforcement or public nuisance problems in the area.
- b. The proposed off-premises sale of alcoholic beverages is incidental and appurtenant to a larger retail use and provides for a more complete and convenient shopping experience.
- c. The proposed outlet for the off-premises sale of alcoholic beverages would act as a public convenience or necessity to an underserved portion of the community and/or enhance the vitality of an existing commercial area without presenting a significant adverse impact on public health or safety.

- d. The primary use of the establishment, based on information provided by the applicant, has been determined by the Review Authority to meet the definition of a General Market including a supermarket, neighborhood grocery store or a Healthy Food Grocer.

The Director was unable to make all the required findings.

Therefore, in accordance with required findings specified for Conditional Use Permits under Chapter 15, Article 53, §15-5306 of the FMC, the proposed use, to establish a Type 20 off-sale alcohol license for the proposed Arco AM-PM service station and convenience store, is denied based on the following:

FINDINGS PER FMC SECTION 15-5306 (CUP for Alcohol Sales)	
<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; and</i>	
Finding a:	<p>Finding (a) cannot be made for the following reason: The proposed alcohol sales component is not a use by right and is required to obtain a conditional use permit under the Responsible Neighborhood Market Act (FMC Sec. 15- 2706.) The project will not comply with FMC Section 15-2706-F (Location Restrictions). The establishment is located near another alcoholic beverage establishment, in violation of FMC Section 15-2706-F-2; specifically, it is within 1,000 feet of existing establishments with an off-sale license; Super Liquor IV, Johnny Quik, Valero, and Seven Eleven are all in close proximity. In addition, the proposed establishment is within a high-concentration area. Per ABC, the Census Tract 38.09 is currently over-concentrated with four existing licenses allowed and six existing. Approval of the proposed project would result in 7 existing licenses which is greater than the license amount allowed for the population in this Census Tract. Thus, the proposed location is in a high concentration area.</p> <p>Further, the proposed project does not meet with any of the exceptions to location restrictions found under FMC Sec. 15-2706-F-6.</p>
<i>b. The proposed use is consistent with the General Plan and any other applicable plan and design guideline the City has adopted; and</i>	
Finding b:	<p>Finding (b) cannot be made for the following reason: The proposed alcohol sales component of the project is consistent with the current General Plan land use designation of Commercial General; however, the requested off-sale alcohol license will not reduce current adverse impacts on adjacent properties and/or on the general public and will be inconsistent with general plan goals to promote healthy communities and improve quality of life in established neighborhoods and to protect and improve public health and safety.</p> <p>As noted within the Public Utilities and Services section of the Fresno General Plan, the location and prevalence of off-sale alcohol sales and high exposure to the easy availability of alcohol sales affect public health, safety, and quality of life in a neighborhood. In public meetings held during the development of the General Plan, concerns regarding market saturation, fear of crime, and danger to schools were</p>

	<p>raised.</p> <p>Furthermore, concentrations of alcohol sales outlets or the establishment of outlets that are in close proximity to one another further increases the perceived lack of safety in a neighborhood and can contribute to a variety of health and safety problems, including higher rates of alcohol-related hospitalizations, drunken driving accidents, and pedestrian injuries; thus the proposed project has the potential to cause deleterious effects and nuisances on surrounding neighborhoods and businesses, especially when the establishment are concentrated near other existing establishments.</p>
<p><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; and</i></p>	
Finding c:	<p>Finding (c) cannot be made for the following reason: As described in Finding (b) above, the proposed alcohol sales component of the project will not reduce current substantially adverse impacts to the public health, safety, or general welfare of the community in that its location near other establishments and within an area of high crime will be detrimental to surrounding properties or improvements. Areas in which there are multiple off-sale establishments located within close proximity to one another can contribute to a variety of health and safety problems, including higher rates of alcohol-related hospitalizations, drunken driving accidents, and pedestrian injuries. As noted within the Public Utilities and Services section of the Fresno General Plan, the location and prevalence of off-sale alcohol sales can have a negative effect on neighborhood health. Alcohol sales establishments possess certain characteristics that have the potential to cause deleterious effects and nuisances on surrounding neighborhoods and businesses, especially when such establishments are in areas of high crime and concentration.</p>
<p><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 and</i></p>	
Finding d:	<p>Finding (d) cannot be made for the following reason: The location and operating characteristics of the proposed alcohol sales component are incompatible with the surrounding vicinity and land uses, given the project is located in an area of high concentration and near other existing off-sale establishments. Furthermore, the proposed project conflicts with the Fresno General Plan goals to promote healthy communities, improve quality of life in established neighborhoods, and protect and improve public health and safety.</p>
<p><i>e. The site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required.</i></p>	
Finding e:	<p>Finding (e) cannot be made for the following reason: While the type and intensity of the use proposed may be suitable with respect to access, the proposed alcohol sales component is within an area of high concentration and, therefore, has the potential to contribute to a variety of safety problems including drunken driving accidents and pedestrian injuries which result in increased calls for police and emergency services. Therefore, the project is not suitable based on the services required to address public safety concerns.</p>
<p><i>f. The proposed use is consistent with the Fresno County Airport Land Use Compatibility Plan</i></p>	

<i>(as may be amended) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5.</i>	
Finding f:	Finding (f) can be made. The proposed use is consistent with the Fresno County Airport Land Use Compatibility Plan (ALUCP). The project is outside the boundaries of the Fresno Yosemite International Airport, Chandler Airport, and the Sierra Sky Park airport influence areas. Furthermore, the proposed building will be less than 30 feet. Therefore, the proposed project use and height are consistent with the ALUCP.

APPEALS

If you wish to appeal the decision, a written request must be received by the Planning and Development Department by **December 27, 2023**. The written request should be addressed to Jennifer K. Clark, Director, and include the application number referenced above. Please submit the request in writing (mail or email to publiccommentsplanning@fresno.gov and CC the planner listed below) to the Planner by the date noted above. An \$933.77 fee shall apply to an appeal from the applicant.

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

Sincerely,



Jose Valenzuela, Supervising Planner
Development Services Division