



# County of Fresno

DEPARTMENT OF PUBLIC HEALTH  
DAVID POMAVILLE, DIRECTOR  
DR. KEN BIRD, HEALTH OFFICER

January 11, 2017

Jared Olsen  
Development and Resource Management  
2600 Fresno Street, Third Floor  
Fresno, CA 93721-3604

FA0280334  
LU0018820  
2602

Dear Mr. Olsen:

PROJECT NUMBER: C-17-001

**Conditional Use Permit Application No. C-17-001-ABCUP** was filed by Santos Arevalo of Sabormx Mexican Bistro pertains to  $\pm 2,000$  square feet of space located in a small shopping center called The Grove in Northwest Fresno. The applicant requests authorization to upgrade the State of California Alcoholic Beverage Control Type 41 alcohol license to a Type 47 alcohol license (*Restaurant – sale of beer, wine and distilled spirits for consumption on licensed premises*) for Sabormx Mexican Bistro. The property is zoned O (*Office*). (Reference: C-15-018)

**APNs: 507-350-20S**

**ZONING: O**

**ADDRESS: 4045 W. Figarden Drive, #101**

Recommended Conditions of Approval:

- Should the facility undergo remodel to accommodate the sale of distilled spirits, 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. The applicant may also be required to apply for and obtain an additional permit to operate a bar from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program, Plan Check at (559) 600-3357 for more information.
- Prior to distilled spirits sales the applicant shall obtain their upgraded Type 47 ABC license. Contact the California Alcoholic Beverage Control Department at (559) 225-6334 for more information.

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REVIEWED BY:

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

(559) 600-3271

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cc: Tolzmann, Rogers & Cox- Environmental Health Division (CT 42.10)  
Santos Arevalo- Applicant ([sabormx@yahoo.com](mailto:sabormx@yahoo.com))

***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)

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# Fresno Unified School District

*Preparing Career Ready Graduates*

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Michael E. Hanson

January 11, 2017

Jarred Olsen  
Development and Resource Management  
City of Fresno  
2600 Fresno Street, Third Floor  
Fresno, CA 93721-3604

**SUBJECT: CONDITIONAL USE PERMIT NO. C-17-001-ABCUP  
4045 W. FIGARDEN DR., SUITE 101**

Dear Mr. Olsen,

In response to the City's request for comments on the pending Conditional Use Permit (C.U.P.) referenced above, Fresno Unified School District (FUSD) has the following comments and concerns.

The existing 'SABORmx Mexican Bistro' located at 4045 West Figarden Drive is requesting authorization to upgrade the existing State of California Alcoholic Beverage Control Type 41 alcohol license to a Type 47 (*Restaurant – sale of beer, wine, and distilled spirits for consumption on the licensed premises*) alcohol license. It is located within approximately 580 feet from Figarden Elementary School.

As per the State of California's Alcohol Beverage Control Act, an alcohol license can be refused by the State if the location is "within at least 600 feet from schools." Per California Business and Professions Code Section 23789(b), "The department is specifically authorized to refuse the issuance, other than renewal or ownership transfer, of any retail license for premises located within at least 600 feet of schools and public playgrounds or nonprofit youth facilities, including, but not limited to, facilities serving Girl Scouts, Boy Scouts, or Campfire Girls. This distance shall be measured pursuant to rules of the department." The District **does not support** the license upgrade request and continues to have concerns regarding potentially dangerous interaction between our students and the proposed operation. FUSD's response on this project is subject to the Alcohol Beverage Control Act and the Fresno Police Department's review and support of the project with regard to the concentration and use of alcohol-related business in close proximity to school sites.

The Fresno Unified School District levies a commercial/industrial development fee and the current fee rate is \$0.56 per square foot. However since no new construction is proposed, no development fee would be charged for this project.

If you have any questions or require additional information regarding our comments and concerns, please contact our office at (559) 457-3066.

Sincerely,

  
Alex Belanger, Assistant Superintendent  
Facilities Management and Planning

AB:hl

c: Stephen Zoller, Principal, Figarden Elementary School



### **RESTAURANT ABCUP CONDITIONS**

January 23, 2017

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

**Attn. Jared Olsen, Planning Division**  
**Joann Zuniga, Planning Division**  
**Marissa Butler, Planning Division**

**Re: SPECIAL PERMIT NO. ABCUP C-17-001**  
**SABORmx Mexican Restaurant**  
**4045 W. Figarden Drive, Suite #101**  
**Fresno, CA 93722**  
**A.P.N. 507-350-20s**

Dear Mr. Olsen,

The City of Fresno has requested that the Fresno Police Department review the application of the property development at 4045 W. Figarden Drive, Suite #101. The property has been zoned O (Office). The Fresno Police Department's primary concern with the application is the propensity of the premises to generate calls for police service. We understand that the applicant requests authorization to upgrade the Type 41 Alcoholic Beverage Control license (restaurant) to a Type 47 (Restaurant-sale of beer, wine and distilled spirits for consumption on the licensed premises).

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, including, 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 for the surrounding area. This CUP allows for the retail sale of alcoholic beverages for on-site consumption in conjunction with the operation of a Restaurant, as defined by Fresno Municipal Code, section 12-105-R-5, pursuant to the requirements of FMC, sections 12-304 and 12-326. We understand from the Operational Statement that the applicant intends to operate this establishment as stated below:

<u>Restaurant operation:</u>	Hours	11:00 a.m. – 2:00 p.m. (lunch)	Tuesday – Thursday
	Hours	4:00 p.m. – 9:00 p.m. (dinner)	Tuesday-Thursday
	Hours	11:00 a.m. – 11:30 p.m.	Friday-Saturday
	Hours	11:00 a.m. – 4:00 p.m.	Sunday

We request the following conditions be included as Conditions of Approval for Conditional Use Permit Application No. C-17-001. These conditions will maintain an environment that is least likely to generate public complaints and calls for service. The Fresno Police Department is not in opposition of this Conditional Use Permit, provided the applicant agrees to the listed conditions. If the following conditions are not included as conditions of approval of CUP No. C-17-001 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 Dawnielle Serrano with notice of the Director's decision regarding this Conditional Use Permit as well as a complete copy of the conditions of approval, should the Director approve 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 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 12-306-N-30 Limitations on Adult Business Activities. Applicant shall also verify with the Planning Division that Adult Business Activities are permitted in the zone district where the applicant seeks to operate his/her business

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, federal, and local law, including but not limited to the following California Business and Professions Code sections and the California Department of Alcoholic Beverage Control 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 25665 (Minors Remaining in Public Premises)
- 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. ABC Education**

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

- (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,
- (2) Completed equivalent training acceptable to the ABC-- Fresno District Office to ensure proper distribution of beer, wine, distilled spirits, to adults of legal age.

If any prospective employee designated to sell alcoholic beverages, does not currently have such training then:

- (1) The ABC-licensed proprietors shall have confirmed with the Development Department within 15 days of the final approval of the CUP, that a date certain has been scheduled with the local ABC Office for the prospective employees to take the LEAD Program course; and

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

#### **4. 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.

#### **5. 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-17-001. 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, 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 may receive from the Fresno Police Department a form of a security plan that the establishment may refer to in preparing its security plan.

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 state licensed uniformed security and/ or to recommend suspension or revocation proceedings.**

## **6. Property Responsibility**

Frequent responses by the FPD 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 the commencement of CUP revocation proceedings pursuant to FMC, section 12-326-H and 12-405-E. 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" is defined by FMC, section 12-326-H-1-a.

**7. 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.”

**8. Posting hours of operation and address**

The owner and/or proprietor and /or applicant shall be responsible to conspicuously post the hours of operation for each phase type (i.e., restaurant, nightclub) near the entrance of the establishment. It shall be 8.5x11 inches in size, to be provided for by the City. This posting shall be made available to City officials upon request. Additionally, the address of each facility shall be posted in compliance with all City codes.

**9. 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 shall 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.


**10. The establishment shall ensure that all employees 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: 1-23-17

**Captain Burke Farrah**  
**Northwest District Commander**

 Date: 1/23/17

**Sergeant Jordan Beckford**  
**Northwest District Supervisor**

 #1031 Date: 01-23-17

**Detective Dawnielle Serrano**  
**Northwest District POP**