



2600 Fresno Street, Third Floor
Fresno, California 93721-3604
(559) 621-8277 FAX (559) 498-1026

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

October 18, 2017

Please reply to:
Phillip Siegrist
(559) 621-8061

Sarkis Mkrtchyan
Uptown Market
2767 West Shaw Avenue, Suite 126
Fresno, CA 93711
uptownmarketdeli@gmail.com
(Sent via email only)

**SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. C-17-090 FOR PROPERTY
LOCATED AT 2767 WEST SHAW AVENUE S/A (APN: 424-17-201)**

The Fresno City Planning Commission, on October 18, 2017, approved Conditional Use Permit Application No. C-17-090, which pertains to approximately $\pm 2,750$ square feet of tenant space within the Peppertree Plaza Shopping Center located on the southeast corner of West Shaw and North Marks Avenues and requests authorization to establish a State of California Alcoholic Beverage Type 20 License (*Package Store – sale of beer and wine for consumption off the premises where sold*). The proposed project was determined to be exempt from the California Environmental Quality Act by the Development and Resource Management Department on October 18, 2017 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 complete d		
<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. C-17-090 dated January 14, 2017.
- b) Operation shall take place in accordance with the CMX (*Corridor/Center Mixed Use*) 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 13, 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, Bullard Community Plan, and with the Corridor Center Mixed Use 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 July 25, 2017; and,
 - Fresno Police Department dated July 25, 2017; and,
 - Fresno Unified School District dated July 21, 2017.

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 October 18, 2020 (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 C-17-090 shall expire on October 18, 2024 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,



Phillip Siegrist, 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: 2767 West Shaw Avenue, Suite 126



County of Fresno

DEPARTMENT OF PUBLIC HEALTH

David Pomaville, Director
Dr. Ken Bird, Health Officer

July 25, 2017

Phillip Siegrist
Development & Resource Management
2600 Fresno Street, Third Floor
Fresno, CA 93721-3604

FA0285060
LU0019064
2602

Dear Mr. Siegrist:

PROJECT NUMBER: C-17-090

Conditional Use Permit Application No. C-17-090-ABCUP was filed by Sarkis Mkrtchyan and pertains to a $\pm 2,750$ square-foot tenant space within the Peppertree Plaza Shopping Center located on the southeast corner of West Shaw and North Marks Avenues. The applicant requests authorization to establish a State of California Alcoholic Beverage Control Type 20 alcohol license (Package Store – authorizes the sale of beer and wine for consumption off the premises where sold.) for the Uptown Market convenience store. The property is zoned CMX (*Corridor/Center Mixed Use*).

APN: 424-17-201

ZONING: CMX

ADDRESS: 2767 W Shaw Avenue, Ste 126

Recommended Conditions of Approval:

- Should the facility undergo remodel to accommodate the sale of alcohol, 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.
- Prior to alcohol sales, the applicant shall obtain their license to sell alcoholic beverages. Contact the California Alcoholic Beverage Control Department at (559) 225-6334 for more information.

REVIEWED BY:

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

(559) 600-3271

kt

cc: Rogers, Moreno & B. Xiong- Environmental Health Division (CT. 47.01)

Promotion, preservation and protection of the community's health

1221 Fulton Mall / P. O. Box 11867, Fresno, CA 93775

(559) 600-3271 • FAX (559) 600-7629

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Preparing Career Ready Graduates

July 21, 2017

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

SUBJECT: **CONDITIONAL USE PERMIT APPLICATION NO. C-17-090-ABCUP**
2767 W. SHAW AVE., SUITE 126

Dear Mr. Siegrist,

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

The proposed 'Uptown Market' convenience store to be located at 2767 West Shaw Avenue, Suite 126 is requesting authorization to establish a State of California Alcoholic Beverage Control Type 20 (*Package Store – authorizes the sale of beer and wine for consumption off the premises where sold*) alcohol license. It is located within approximately 1,650 feet from Slater 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 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, if no new square footage is constructed no development fee would be charged

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

AB:hl

c: Kelli Wilkins, Principal, Slater Elementary School

BOARD OF EDUCATION

Brooke Ashjian, President
Claudia Cazares, Clerk
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Lindsay Cal Johnson
Elizabeth Jonasson Rosas
Carol Mills, J.D.

INTERIM SUPERINTENDENT

Robert G. Nelson

**CITY OF FRESNO - DEVELOPMENT AND RESOURCE MANAGEMENT DEPARTMENT
REQUEST FOR COMMENTS, CONDITIONS, ENVIRONMENTAL ASSESSMENT,
AND ENTITLEMENT APPLICATION REVIEW OF
CONDITIONAL USE PERMIT APPLICATION NO. C-17-090-ABCUP**

Police Dept - Northwest Area Commander

Return Completed Form to:

Phillip Siegrist, Development Services/Planning

Email: Phillip.Siegrist@fresno.gov and

Marissa.Butler@fresno.gov

Development and Resource Management

2600 Fresno Street, Third Floor

Fresno CA 93721-3604

PROJECT DESCRIPTION AND LOCATION:

Conditional Use Permit Application No. C-17-090-ABCUP was filed by Sarkis Mkrtchyan and pertains to a ±2,750 square-foot tenant space within the Peppertree Plaza Shopping Center located on the southeast corner of West Shaw and North Marks Avenues. The applicant requests authorization to establish a State of California Alcoholic Beverage Control Type 20 alcohol license (*Package Store – authorizes the sale of beer and wine for consumption off the premises where sold.*) for the Uptown Market convenience store. The property is zoned CMX (*Corridor/Center Mixed Use*).

The Development & Resource Management Department plans on recommending denial of the application due to the project being located in a high crime area, Pursuant of code 15-2706-E

APN: 424-17-201

ZONING: CMX

ADDRESS: 2767 W Shaw Avenue, Ste 126

DATE ROUTED: July 21, 2017

COMMENT DEADLINE: August 4, 2017

WILL THIS PROJECT AFFECT YOUR AGENCY/JURISDICTION? (If yes, specify.) Yes, per ABC this location is in a High Crime Reporting District. The Reporting District average number of criminal offenses is 543. The total number of offenses in this Reporting District is 1,293 (more than double allowed). The Fresno Police Department OPPOSES authorization to establish a Type 20 ABC license. This property is located within Zone 1750. The STOPP Team and FPD conducted a multi-agency operation to address one of the most problematic properties within the City of Fresno (gangs, guns, drugs and domestic issues). This Zone also borders Slater Elementary School, which will be the center of a Restore Fresno Project addressing crime issues within Zone 1850 and neighboring Zones 1750/1751. This project would be harmful to the health, peace and safety of the residential neighborhood/businesses, etc.

SUGGESTION(S) TO REDUCE IMPACTS/ADDRESS CONCERNS:
The Fresno Police Department does not support this project.

REQUIRED CONDITIONS OF APPROVAL: None. Per Fresno Municipal Code Section 15-2706 E - Location Restrictions for New Establishments Within High Crime Areas. The above Crime Reporting District information provides evidence that a condition exists.

IS ANY ADDITIONAL INFORMATION NEEDED FOR YOU TO COMPLETE YOUR REVIEW? (Be specific): No.

REVIEWED BY:	D. Serrano #1051/NW POP	559-621-6529	07-25-17
	Name and Title	Telephone Number	Date

Standard Fresno Police Department ABC CUP Conditions Of Approval

The following conditions shall be placed upon the issuance of this license:

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 Business).

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 **off-sale Type 20 ABC license**. We request the following conditions be included as Condition of Approval for Conditional Use Permit C-17-090. These conditions will help to insure and maintain an environment that is least likely to generate criminal activity, public complaints and police calls for service.

Requested Conditions of Approval:

State and Federal Law

1. The applicant shall comply with all applicable state and federal law, rules and regulations, including but not limited to the following California Business and Professional Code sections and ABC rules:
 - BP 24046** (Require 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 Drink)
 - ABC Act Rule 107** (No One Under 21 Allowed Signs Posted)
 - ABC Act Rule 139** (Interior Lighting Required for Identification of patrons)
2. **Applicant must acquire and maintain a valid Alcohol Conditional Use Permit issued by the City of Fresno.**

LOCATION: 2767 West Shaw Avenue, Suite 126

DATE: October 18, 2017

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ABC Education

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

- 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,
- Completed equivalent training acceptable to the ABC-Fresno District Office to ensure proper distribution of Alcoholic beverage and tobacco.

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

- 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
- 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.

4. Sale of Malt and Wine-Cooler Alcoholic Beverages

- No Single Sale Alcoholic Beverages to be sold
- Malt liquor or malt beverage products shall not be sold in less than six (6) pack quantities for sale. They must be sold in manufactured pre-packaged multi-unit quantities. This will include all sizes of containers.
- All wine cooler products shall not be sold in less than four (4) pack quantities for sale. They must be sold in manufacturer pre-packaged multi-unit quantities.

5. Wine Alcohol per Volume

- No wine shall be sold with an alcoholic content greater than 24% volume, except premium dessert wines priced at \$10.00 or more.

6. Non-refrigerated Alcoholic Beverages

- Non-refrigerated "hard" liquor or distilled spirits," shall be placed within the cashier's area or, shall be located either in a locked cabinet, or other locked shelving system, with access controlled with either manual, remote control locking devices or other appropriate and acceptable locking systems approved in writing by the Fresno Police Department. During the hours of 10:00 p.m. to 10:00 a.m., the cabinet or shelving system shall be locked and opened only after an authorized employee has verified that the customer seeking to purchase items within the cabinet or shelving system is of "legal age." Anti-theft security devices shall be utilized at ALL non-

LOCATION: 2767 West Shaw Avenue, Suite 126

DATE: October 18, 2017

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refrigerated "hard" liquor or "distilled spirits" (regardless of size) in lieu of being in a locked cabinet or other locked shelving system.

7. Sales and Service of alcohol

- Sales and Service of Alcohol may occur only between the hours of 10:00 a.m. and 10:00 p.m. each day of Business operation.

8. Applicant must install a fully functional color digital video camera system ("System") that meets the following requirements:

- 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.
- The System shall have the correct date and time stamped onto the images at all times.
- The camera storage capacity should be for at least 20 days (20 calendar days). Such cameras must be capable of producing a retrievable and identifiable image that can be made a permanent record and that can be enlarged through projection or other means.
- Digital video recorder must be capable of storing at least 20 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.

9. 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 (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.
- 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.

10. Uptown Market Security

- A Security Guard will be on site, seven days a week (Mon-Sun) from 10:00 a.m. to 10:00 p.m.

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

LOCATION: 2767 West Shaw Avenue, Suite 126

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Department may perform periodic inspections of the System to ensure compliance with these specifications. An inoperable System may be good cause for seeking revocation of the Conditional Use Permit.

11. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted over within hours of being applied.
12. The rear doors of the premises shall be equipped on the inside with an automatic locking device and shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation.
13. The petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.
14. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lot. Additionally, the position of such lighting shall not disturb the normal privacy and use of any neighboring residences.
15. No Person under the age of 21 shall sell or deliver alcoholic beverages.
16. No pay phone will be maintained on the interior or exterior of the premises.
17. Petitioner(s) shall police the area under their control in an effort to prevent the loitering of persons about the premises as depicted on ABC-253.
18. The possession of alcoholic beverages in open containers and the consumption of alcoholic beverages are prohibited on or around these premises as depicted on ABC-253.
19. No service of alcohol to obviously intoxicated people.
20. The licensee shall keep the property, adjacent to the licensed premises and under the control of the licensee(s) as depicted on ABC-253, clear of newspaper racks, benches, pay telephones, bicycle racks, and any other objects which may encourage loitering.

Posting Property

21. The applicant shall post the property with the appropriate Fresno Municipal Code signs advising the 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 applicant will maintain a professional quality sign facing the premises parking lot(s) that reads as follows:

LOCATION: 2767 West Shaw Avenue, Suite 126

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*NO LOITERING, NO LITTERING
NO DRINKING OF ALCOHOLIC BEVERAGES
VIOLATORS ARE SUBJECT TO ARREST.*

The sign shall be two feet square with two inch block lettering. The sign shall be in English and Spanish.

Consumption of Alcoholic Beverages and Loitering

- 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.
- 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.

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 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.

The purpose of these conditions is to meet the needs of public with minimal impact on public safety. The City of Fresno Police Department requests the approval of this license be made conditional upon acceptance of the above listed conditions.

City of Fresno Notes and Requirements for Entitlement Applications

(Note: Not all requirements will be applicable to all projects)

GENERAL

1. 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. *This special permit is granted, and the conditions imposed, based upon the Operation Statement provided by the applicant. The Operation Statement is material to the issuance of this special permit. Unless the conditions of approval specifically require operation inconsistent with the Operation Statement, a new or revised special permit is required if the operation of this establishment changes or becomes inconsistent with the Operation Statement.* Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the special permit or any other enforcement remedy available under the law. 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.
2. No land shall be used, and no structure shall be constructed, occupied, enlarged, altered, demolished, or moved in any zoning district, except in accordance with the provisions of this Code. Specific uses of land, buildings, and structures listed as prohibited in any zoning district are hereby declared to be detrimental to the public health, safety, and welfare.
3. Development shall take place in accordance with the Standards, Specifications, and Standard Drawings of the City of Fresno Public Works Department; <http://www.fresno.gov/Government/DepartmentDirectory/PublicWorks/DeveloperDoorway/Technical+Library/StandardSpecificationsandDrawings.htm>
4. Development shall take place in accordance with all city, county, state and federal laws and regulations.
5. Owners and persons having ownership interest in businesses operating in the City of Fresno (including leasing out any commercial or industrial property, or renting out four or more dwelling units) are required by the Fresno Municipal Code to obtain a Business Tax Certificate. Contact the City of Fresno Finance Department's Business Tax Division at (559) 621-6880 for more information. Information and an application form is available at the following website: <http://www.fresno.gov/Government/DepartmentDirectory/Finance/BusinessLicenseandTax/businessstaxapplication.htm>
6. All proposed building(s) or structure(s) constructed on the property must comply with the prevailing California Building Code Standards.

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7. Any building modifications and/or additions not included with this application are not approved with this special permit and would be subject to a new special permit.
8. A permit granted under this Code shall automatically expire if it is not exercised or extended within three years of its issuance. Refer to section 15-5013, Expiration of Planning Entitlements, for more information about the exercise of rights.

FENCES/WALLS, LANDSCAPING, PARKING

9. Nothing in this Development Code shall be deemed to prohibit the erection of temporary fencing around construction sites in compliance with the Building Code and other applicable provisions of the Fresno Municipal Code.
10. Future fences shall be reviewed and approved by the Development and Resource Management Department prior to installation.
11. Trees shall be maintained by property owners to be free from physical damage or injuring arising from lack of water, chemical damage, accidents, vandalism, insects, and disease. Any tree showing such damage shall be replaced with another tree.
12. No tree for which a Tree Removal Permit is required shall be removed until all conditions of the permit have been satisfied and the decision has become final. In addition, tree(s) approved for removal in conjunction with a development application shall not be removed before the issuance of a Building Permit or unless all of the conditions of approval of the development applications are satisfied.
13. The review authority shall issue a Tree Removal Permit if any of the following general criteria is met: **a)** The tree(s) is irreparably diseased or presents a danger of falling that cannot be controlled or remedied through reasonable preservation and/or preventative procedures and practices so that the public health or safety requires its removal. **b)** The tree(s) can potentially cause substantial damage to existing or proposed main structure(s) (e.g. dwellings, other main structures, or public infrastructure) or interfere with utility services and cannot be controlled or remedied through reasonable relocation or modification of the structure or utility services. **c)** The retention of the tree(s) restricts the economic enjoyment of the property or creates an unusual hardship for the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly zoned and situated properties, and the applicant has demonstrated to the satisfaction of the Review Authority that there are no reasonable alternatives to preserve the tree(s).
14. Landscaping must be in place before issuance of the certificate of occupancy. A Hold on Occupancy shall be placed on the proposed development until such time that landscaping has been approved and verified for proper installation by the Development Services Division. **(Include this note on the site and landscape plans.)**

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15. New landscaping shall have an automatic irrigation system designed to provide adequate and efficient coverage of all plant material. Irrigation systems shall comply with the requirements of the California Green Building Standards Code and/or the California Model Water Efficient Landscape Ordinance and/or the California Plumbing Code as may be amended.
16. Future tenant improvements shall be reviewed and approved by the Development and Resource Management Department to ensure that adequate off-street parking is provided.
17. Trees required for parking lots are in addition to trees required elsewhere on the site as prescribed in other sections of this Code.
18. A minimum number of accessible parking stalls are required for the proposed project per State of California Building Code, "Development Requirements for Handicapped Accessibility."
19. All accessible stalls shall be marked with the international symbol of spaces and a warning that vehicles in violation of Section 10-1017 of the Municipal Code shall be towed away. The international symbol and tow-away warning shall be posted conspicuously on seven-foot poles. **(Include this note on the site plan.)**
20. Applicants are encouraged to provide shared vehicle and pedestrian access between adjacent properties for convenience, safety, and efficient circulation. A joint access covenant shall be required. **(Include this note on the site plan.)**
21. All general standards of Section 15-2015 of the FMC shall apply when lighting is provided to illuminate parking, sales or display areas. **Depict all proposed lights on the site plan.**
22. Bicycle parking spaces shall be supplied according to Table 15-2429-D: Required On-Site Bicycle Parking Spaces of the Fresno Municipal Code (FMC). Each bicycle parking space shall be a minimum of 30 inches in width and eight feet in length and shall be accessible without moving another bicycle. At least 30 inches of clearance shall be provided between bicycle parking spaces and adjacent walls, poles, landscaping, street furniture, drive aisles, and pedestrian ways and at least five feet from vehicle parking spaces to allow for the maneuvering of bikes. Overhead clearance shall be a minimum of seven feet. A minimum five foot aisle between each row of bicycle parking shall be provided for bicycle maneuvering beside or between each row, when multiple rows are proposed. Bicycle parking spaces shall not encroach into pedestrian ways, landscaped areas, or other required open spaces, and shall be located proximal to structures.
23. All general provisions of Section 15-2403 of the FMC shall apply to all parking areas.

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SIGNAGE

24. All future signs shall be architecturally compatible with the proposed building(s). Provide a set of drawings, with descriptive information, including, materials, design and colors to allow for a preliminary assessment of the future signage. It is recommended that you provide a copy of the signage early in the project process to allow for staff comment.
25. Signs, *other than directional signs, if applicable*, are not approved for installation as part of this special permit. **(Include this note on the site plan.)**
26. All proposed signs shall conform to the current sign ordinance. Applications for a sign permit and requirements for submittal are available at the Development and Resource Management Department's Public Front Counter or online at <http://www.fresno.gov/Government/DepartmentDirectory/DARM/DevelopmentServices/StandardsGuidelines/SignsandBanners.htm>
27. Window signs limited to the hours of operation, address, occupancy, and emergency information, subject to the following standards: **a)** Operational windows signs shall not be mounted or placed on windows higher than the second story. **b)** The maximum area of exempt window signage shall not exceed three square feet in area.
28. Banners, streamers, moving signs, and inflatables (including air dancers, balloons, and similar objects) are allowed subject to Temporary Use Permit approval for establishments within Non-Residential Districts. Signs of this type do not count toward total maximum sign area. No sign per this section shall be displayed for more than 30 days, and a period of 30 must lapse before displaying another sign. Signs shall not be displayed for more than 60 total days during a calendar year.

MISCELLANEOUS

29. Noise levels shall not exceed the decibel levels described in Section 15-2506 of the FMC at anytime, measured at the nearest subject property line. http://library.municode.com/HTML/14478/level3/MUCOFR_CH10REREPUNUREPRCOUS_ART1NORE.html#MUCOFR_CH10REREPUNUREPRCOUS_ART1NORE_S10-102DE
30. The address listed in the conditions of approval is the 'Official Address' given to the building. If you would like separate suite or unit numbers for a building, provide a floor plan and contact the City of Fresno Development and Resource Management Department for 'Official Addresses'. **Only those addresses assigned by the City of Fresno will be recognized as 'Official Addresses'**. The United States Post Office will only recognize addresses assigned by the City of Fresno. If a non-official address is given to a building and or/separate suites, the City of Fresno has the authority to charge a fee and have those addresses corrected. In addition, the United States Post Office will cease mail delivery to those addresses that are not 'Official Addresses'.

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31. All projects, including projects that involve less than one acre of property, are required to comply with the City of Fresno's Urban Storm Water Quality Management and Discharge Control Ordinance, FMC Chapter 6, Article 7 (FMC Sections 6-701 *et seq.*)

When a project involves one acre or more of construction activity (including, but not limited to, grading) the developer is required to obtain a stormwater discharge permit for construction, with a Notice of Intent (NOI) filed **prior to** commencement of any grading construction activity. Contact the Fresno office of the California Regional Water Quality Control Board at 559-445-6281 regarding the required NOI and stormwater discharge permit. Additional information on California's construction stormwater regulation may be obtained from the Water Board via the internet:

www.waterboards.ca.gov/water_issues/programs/stormwater/construction.shtml.

Helpful information for preparing and implementing stormwater pollution prevention plans may also be obtained from the California Stormwater Quality Association via its website, www.casqa.org

When a project involves specified nonresidential activities (certain commercial and industrial activities), an ongoing industrial stormwater discharge permit is also required. Contact the Fresno office of the California Regional Water Quality Control Board at 559-445-6281 to find out whether your project/business requires an industrial stormwater discharge permit, and to obtain details on securing this permit. Additional information on industrial stormwater regulations may be obtained from the following website: www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.shtml,

The California Stormwater Quality Association has additional information on preparing stormwater pollution prevention plans for industrial activities (www.casqa.org).

32. Screen all roof-mounted equipment from the view of public rights-of-way. **Depict all mechanical equipment on site plan and elevations.**
33. If archaeological and/or animal fossil material is encountered during project surveying, grading, excavating, or construction, work shall stop immediately. **(Include this note on the site plan.)**
34. If there are suspected human remains, the Fresno County Coroner shall be immediately contacted. If the remains or other archaeological material is possibly Native American in origin, the Native American Heritage Commission (Phone: (916) 653-4082) shall be immediately contacted, and the California Archaeological Inventory/Southern San Joaquin Valley Information Center (Phone: (805) 644-2289) shall be contacted to obtain a referral list of recognized archaeologists. An archeological assessment shall be conducted for the project, the site shall be formally recorded, and recommendations made to the City as to any further site investigation or site avoidance/preservation. **(Include this note on the site plan.)**
35. If animal fossils are uncovered, the Museum of Paleontology, U.C. Berkeley shall be contacted to obtain a referral list of recognized paleontologists. An assessment shall

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be conducted by a paleontologist and, if the paleontologist determines the material to be significant, it shall be preserved. **(Include this note on the site plan.)**

36. Connection to a municipal water system is required unless approved measures are included in the project conditions of approval for an alternative water supply.
37. Connection to a municipal City of Fresno sewer system is required unless approved measures are included in the project conditions for alternative wastewater treatment facilities.
38. City of Fresno water and sewer connection charge obligations applicable to this project will be computed during the building construction plan check process and shall be payable at time of issuance of building permit unless other arrangements have been approved to defer such payments to a later date. For information relating to water and sewer service requirements and connection charges, contact Frank Saburit at (559) 621-8277.
39. Open street cuts are not permitted; all utility connections must be bored.
40. CROSS-CONNECTION CONTROL. A backflow prevention device may be required on the water service. Contact the Department of Public Utilities, Water Division (559) 621-5300 for requirements relating to approved devices, locations, testing and acceptance. This requirement must be satisfied prior to final occupancy.
41. This project was reviewed by the Fire Department only for requirements related to water supply, fire hydrants, and fire apparatus access to the building(s) 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 the Development and Resource Management 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.
42. Open storage (outside an enclosed building) shall be limited to vehicles, boats, recreational vehicles, and trailers. Outdoor storage areas shall be screened from public view by building façades or solid fences. At the discretion of the Review Authority, the treatment of the ground surface of the open storage area may be gravel or other materials as prescribed by the San Joaquin Valley Air Pollution Control District, the Public Works Department, the Fire Department, and the Fresno Metropolitan Flood Control District. All open storage must be depicted on the site plan and described in operation. If it is not, it is not allowed on the site.
43. If video surveillance cameras are required or installed, provide signs under the surveillance cameras which notify the public that the subject property is monitored by video surveillance.

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FEES

(Not all fees will be applicable to all projects)

44. NOTICE TO PROJECT APPLICANT: In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project. This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.
45. CITYWIDE DEVELOPMENT IMPACT FEES
- a) Traffic Signal Charge (FMC Section 12-4.1101 to 12-4.1103) This project shall pay its Traffic Signal Mitigation Impact Fee at the time of building permit based on the trip generation rate(s) as set forth in the latest edition of the ITE Generation Manual. Refer to the adopted Master Fee Schedule for fee rate. This fee shall be paid at time of building permit.
 - b) Fire Facilities Fee (FMC Section 12-4.901 to 12-4.906) (based on building square footage, or residential units)
 - c) Police Facilities Fee (FMC Section 12-4.801 to 12-4.806) (based on building square footage, or residential units)
 - d) Parks Facilities Fee (FMC Section 12-4.701 to 12-4.706) (based on the number of residential units)
46. CITYWIDE REGIONAL AND NEW GROWTH MAJOR STREET IMPACT FEES (FMC Section 12-4.1006)
- a) Street Impact Fees shall be due and payable at the time of building permit issuance unless otherwise required by State law.
 - b) Street Impact Fees will be a condition on all development entitlements granted.
 - c) New construction on vacant parcels shall be calculated on a net acreage (adjusted acre basis) of the entire property subject to the development entitlement based upon planned land use. Notwithstanding, fees shall be based upon actual land use for developments in the C-M zone district and for development projects developed inconsistent with the plan land use.
 - d) New construction on property that is partially developed, Street Impact Fees will be applied to the incremental increase proportionate to the respective floor to area ratios (25% for commercial and 40% for industrial). In no case shall anyone pay more than the amount of the total net acreage of the parcel multiplied by the applicable fee rate.

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- e) Reuse being more intensive than the original use, the developer shall be required to pay the difference between the current amount of the Street Impact Fee obligation for the old use and the current amount of the Street impact Fee obligation for the new use.

47. FRESNO COUNTY FACILITY IMPACT FEE

Fresno County adopted a Facilities Impact Fee, but the requirement to pay this fee was subsequently suspended by Fresno County. If the fee has been reinstated at the time of issuance of building permits for this project, or an alternative fee system has been adopted by Fresno County, proof of payment or payment of this fee will be required for issuance of building permits.

48. REGIONAL TRANSPORTATION MITIGATION FEE (RTMF)

Pay the RTMF fee to the Joint Powers Agency located at 2035 Tulare Street, Suite 201, Fresno, CA 93721; (559) 233-4148, ext. 200; www.fresnocog.org. Provide proof of payment or exemption prior to issuance of building permits.

49. SCHOOL FEES

School fees must be paid, if required, prior to the issuance of building permits. Contact Central Unified School District. Provide proof of payment (or no fee required) prior to the issuance of building permits.

50. FRESNO METROPOLITAN FLOOD CONTROL DISTRICT (FMFCD) FEES

- a) A FMFCD Development Fee is required for review of proposed development projects, including applications for plan amendments, rezones, special permits, subdivisions, and grading plans. This fee is based on project acreage and must be paid directly to FMFCD in order for that agency to review projects and provide a Notice of Requirements. For more information, contact Fresno Metropolitan Flood Control District at (559) 456-3292.
- b) FMFCD drainage fees are due, if required, prior to issuance of building permits and are payable at the rate in place at the time of building permit issuance. Unpaid drainage fee obligations that were unpaid for a prior project at the site of a new project must be satisfied by the developer of the new project. Drainage fees may be paid at the Development and Resource Management Department prior to, or at the time of building permit issuance. They may also be paid directly to FMFCD, and proof of payment provided to the City, in order to obtain construction permits.

51. SEWER CONNECTION CHARGES (FMC Section 6-304(a)). The following sewer connection charges may be required and will be payable at the fee rate listed in the Master Fee Schedule at the time payment is due. New sewer connection charges adopted by the Council prior to the issuance of building permits may also be applied.

- a) Lateral Sewer Charge (based on property frontage to a depth of 100')

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- b) Oversize Sewer Charge (based on property frontage to a depth of 100')

Effective January 9, 1999, Ordinance No. 98-97 also amended certain sewer connection charges. Fresno Municipal Code Article 15, Section 12 provides property owners the incentives and deletes certain sewer connection charges pursuant to the Simple Tiered Equity Program (STEP) and the Employment Development Program (EDP). For additional information on the STEP and EDP, contact the Department of Public Utilities, Administration Division at (559) 621-8600.

- 52. WATER CONNECTION CHARGES: (FMC Sections 6-507 to 6-513). The following water connection charges may be required and will be payable at the fee rate listed in the Master Fee Schedule at the time payment is due. New water connection charges adopted by the Council **prior to** issuance of building permits may also be applied.

- a) Frontage Charge (based on property frontage)
- b) Transmission Grid Main Charge (based on acreage)
- c) Transmission Grid Main Bond Debt Services Charge (based on acreage)
- d) UGM Water Supply Fee (based on living units, living unit equivalents or acreage)
- e) Wellhead Treatment Fee (based on living units or living unit equivalents)
- f) Recharge Fee (based on living units or living unit equivalents)
- g) 1994 Bond Debt Service Charge (based on living units or living unit equivalents)
- h) Service Charges (based on service size required by applicant)
- i) Meter Charges (based on service need)

- 53. Deferment of the payment of Citywide development impact fees for Fire, Police, Parks, Streets, and Traffic Signals is available for projects located within the Downtown Priority Areas in accordance with the provisions of City of Fresno Resolutions Nos. 2009-265 and 2010-19.