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November 3, 2017

HAND DELIVERED:

City of Fresno
Development and Resource Management Department
Jennifer K. Clark, Director
2600 Fresno Street, Third Floor
Fresno, CA 93721-3604

RECEIVED

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DARM - DEVELOPMENT SERVICES
CITY OF FRESNO

Re: Appeal of Conditional Use Permit Application No. C-16-097

**Subject Property: 4435 W. Clinton Avenue
Fresno, CA 93722**

**Appellant: Muskan Food & Fuel Inc.
4385 W. Clinton Avenue
Fresno CA 93722**

Dear Ms. Clark:

My law firm and I represent Muskan Food & Fuel Inc., which owns and currently operates a Johnny Quik Franchise convenience store and gas station within 500 feet of the subject property. Enclosed herewith is our check in the amount of \$30 for the appeal hearing fee.

My client protests and appeals the Director's decision to approve Conditional Use Permit Application No. C-16-097 (the "CUP") for the following reasons:

1. The subject establishment will be located within 500 feet of an existing establishment (Johnny Quik), and will lead to a grouping of more than four establishments within a 1,000 foot radius in violation of **Fresno Municipal Code Section 15-2706 E.2**. In addition to the Johnny Quik, the following four (4) Type 21 Full Liquor and one (1) Type 20 Beer & Wine establishments are in close proximity to the subject property:
 - Save Mart, 4043 W. Clinton Ave, Fresno CA 93722;
 - CVS, 4077 W. Clinton Ave, Fresno CA 93722;
 - Liquor King, 2450 N. Brawley Ave, Fresno CA 93722;
 - Shop and Gas, 4386 W. Shields Ave, Fresno CA 93722; and
 - Walgreens, 2424 N Brawley Ave, Fresno CA 93722.



2. The subject establishment will add to an already high concentration of establishments that sell alcoholic beverages for off-site consumption in the area and potentially cause deleterious effects and nuisances on surrounding neighborhoods and businesses in direct conflict with the stated purposes of **Fresno Municipal Code Section 15-2706 B**. In addition to the Johnny Quik and five (5) establishments listed under point 1, the following four (4) Type 21 Full Liquor establishments are located within one (1) mile of the subject property:
 - Rite Aid, 3795 W. Shields Ave, Fresno CA 93722;
 - Buy Rite Liquor, 3706 W. Shields Ave, Fresno, CA 93722;
 - Central Liquor, 5014 W. Shields Ave, Fresno CA 93722; and
 - Liquor Bank, 4008 W. McKinley Ave, Fresno CA 93722.
3. The subject establishment will be located in close proximity to El Capitan Middle School and McKinley Elementary School in violation of **Fresno Municipal Code Section 15-2706 E.1.b**.
4. The applicant submitted insufficient information to establish that any “Exception” found in **Fresno Municipal Code Section 15-2706 E.5.**, would be applicable and, in particular, there is no public convenience or necessity for the subject establishment in the area and the community is not underserved.
5. The finding that an “Exception” found in **Fresno Municipal Code Section 15-2706 E.5.**, is applicable constitutes an abuse of discretion and/or an error in judgment given the lack of supporting information submitted by the applicant and the high concentration of establishments near the subject property.
6. The applicant submitted an application and plans for a typical convenience store and gas station, which are insufficient to establish that the subject property would be developed into a neighborhood grocery store or specialty food store as defined in **Fresno Municipal Code Section 15-15-6704**.
7. The addition of the subject establishment to an already high concentration of establishments in the vicinity will lead to other existing establishments being closed and involuntarily taken by the City of Fresno after the City enacts the proposed “ABC CUP” ordinance and requires establishments to renew their “ABC CUP” every two (2) years.
8. There is no public subject establishment 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

Jennifer K. Clark
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commercial area without presenting a significant adverse impact on public health or safety.

Please contact me if you have any questions.

Very truly yours,

QUALL CARDOT LLP

A handwritten signature in blue ink, appearing to read 'John M. Cardot', written over the printed name and company name.

John M. Cardot

JMC/ap
Enclosures
cc: client