



2600 Fresno Street, Room 3065
Fresno, California 93721-3604
(559) 621-8003
www.fresno.gov

Jennifer K. Clark, AICP, HDFP
Director

February 21, 2020

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

Ken Vang
Vang Incorporated Consulting Engineers
2491 Alluvial Avenue, Suite #15
Clovis, CA 93619
bealdevelopments@aol.com
(Sent via email only)

SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. P19-05984 FOR PROPERTY LOCATED AT 7995 NORTH CEDAR AVENUE (APN: 404-200-02)

On February 21, 2020, the Planning & Development Department Director denied Conditional Use Permit Application No. P19-05984, requesting authorization to upgrade from an existing State of California Alcoholic Beverage Control Type 20 alcoholic license (Package Store – sale of beer and wine for consumption on off the premises where sold) to a Type 21 alcohol license (Package Store – sale of beer, wine, and distilled spirits for consumption off the premises where sold) for the existing Johnny Quik Food Store and Gas Station at the above location. The property is zoned CC (Commercial- Community).

This denial action was based on the projects compliance with the requirements of Fresno Municipal Code (FMC) Section 15-2706-E (Location Restrictions). The subject establishments is located approximately 118 feet from an existing preschool/daycare (Nancy Fuller Children’s University), which is less than the 500-foot minimum requirement. In addition it is located within 500 feet of two existing off-sale establishments (Rite Aid and Chevron).

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 upgrade your requested off-sale alcohol license from a Type 20 to a Type 21, is denied based on the following:

Findings per Fresno Municipal Code Chapter 15, Article 53, Section 15-5306	
A Conditional Use Permit shall only be granted if the decision-maker determines that the project as submitted or as modified conforms to all of the following criteria. If the decision-maker determines that it is not possible to make all of the required findings, the application shall be denied.	
Finding a:	<i>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;</i>

The existing Johnny Quik Food Store and Gas Station with an alcohol sales permit, as approved under Conditional Use Permit No. C-94-86 (ABCUP) allowed by Ordinance No. 94-42 and revised under Conditional Use Permit No. C-97-62 (authorizing the transfer of alcohol licenses), does not comply with FMC Section 15-2706-E (Location Restrictions). The establishment is located within 500 feet of an existing preschool/daycare and two existing off-sale establishments. Therefore, the establishment with alcohol sales is considered a legal nonconforming use. Pursuant to FMC Section 15-404, the proposed alcohol license upgrade will not comply with development code provisions for legal non-conforming uses nor will the requested upgrade comply with the specific uses and activities provisions applicable for off-sale alcohol license (Sec. 15-2706-E).

Finding b:	<i>The proposed use is consistent with the General Plan and any other applicable plan and design guideline the City has adopted;</i>
------------	--

The existing legal non-conforming use (Johnny Quik Food Store and Gas Station w/ alcohol sales) is consistent with the current General Plan land use designation of Commercial – Community; however, the requested change to the legal non-conforming use (proposed alcohol license upgrade) 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.

Finding c:	<i>The proposed use will be substantially adverse to the public health, safety, or general welfare of the community, and will be detrimental to surrounding properties or improvements in that;</i>
------------	---

The proposed use will be substantially adverse to the public health, safety, or general welfare of the community in that its proximity to an existing preschool/daycare and two existing off-sale establishments will be detrimental to surrounding properties or improvements.

Finding d:	<i>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>
------------	--

The location and operating characteristics of the existing Johnny Quik Food Store and Gas Station with alcohol sales as well as the requested upgrade and are incompatible with the surrounding vicinity and land uses which include an existing preschool/daycare and two existing off-sale establishments.

Finding e:	<i>The site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required.</i>
------------	--

The type and intensity of the use proposed is not suitable for the site based on proximity to an existing preschool/daycare and two existing off-sale establishments and the services required to address public safety concerns.

APPEALS

The Directors decision may be appealed to the Planning Commission by filing a written appeal with the Director within 15 days of the date the action was taken. Appeals may be filed by any person aggrieved by the decision. 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. The appeal shall be signed by the person making the appeal and accompanied by the required fee.

In the event you wish to appeal the Director's decision, you may do so by filing a written appeal with the planner identified in this letter. The written request must be received at the Planning & Development Department by the close of business on Wednesday, March 9, 2020. The written request should be addressed to Jennifer K. Clark, AICP, Director, and include the application number referenced above.

If you have any questions regarding this letter, feel free to contact me at (559) 621-8061.

Sincerely,

Phillip Siegrist

Phillip Siegrist, Planner
Development Services Division

CC: George Beal, Owner

bealdevelopments@aol.com