

Exhibit L
Denial Letter



EXHIBIT L - DENIAL LETTER

Planning and Development Department

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Fresno, California 93721-3604
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Jennifer K. Clark, AICP, HDFP
Director

September 29, 2020

Please reply to:
Marisela Martínez
(559) 621-8038

Jenna Chilingirian
Precision Civil Engineering
jchilingirian@precisioneng.net
(Sent via email only)

**SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. P20-02558 FOR PROPERTY
LOCATED AT 10032 NORTH MAPLE AVENUE #101+ (APN: 578-040-15)**

On September 29, 2020, the Planning & Development Department Director denied Conditional Use Permit Application No. P20-02558, requesting authorization to establish a State of California Alcoholic Beverage Control (ABC) Type 21 alcohol license (*Package Store - sale of beer, wine and distilled spirits for consumption off the premises where sold*) at the property noted above. The property is zoned CC/UGM (*Commercial – Community/Urban Growth Management*). This denial action is based upon the project's noncompliance with the requirements of Fresno Municipal Code (FMC) Section 15-2706-E (Location Restrictions).

According to FMC Section 15-2706-E-5, a new establishment may be excepted from the location restrictions if the Review Authority determines any one 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.

The Director was unable to make 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 21 alcohol license 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.

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| 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> |
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Finding (a) cannot be made for the following reason: The proposed off-sale alcohol use will not comply with FMC Section 15-2706-E (Location Restrictions). The establishment is located within 500 feet of an existing off-sale establishment (Vallee Food Stores).

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| 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> |
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Finding (b) cannot be made for the following reasons: The proposed alcohol use will be inconsistent with Fresno General Plan goals to promote healthy communities and improve quality of life in established neighborhoods, and to protect and improve public health and safety.

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 affects 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 raised.

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.

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| 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> |
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Finding (c) cannot be made for the following reason: As described in Finding (b) above, the proposed alcohol use will be substantially adverse to the public health, safety, or general welfare of the community in that its location near other establishments 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.

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| 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> |
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Finding (d) cannot be made for the following reason: The proposed alcohol use is incompatible with the surrounding land uses given the project is located within 500 feet of an existing off-sale establishment. Furthermore, the proposed project, in close proximity to residential development, conflicts with the Fresno General Plan goals to promote healthy communities and improve quality of life in established neighborhoods, and to protect and improve public health and safety.

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| 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> |
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Finding (e) cannot be made as there is no proposed development at this time. Subsequent proposals will be subject to the applicable provisions of the FMC and will be physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required.

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| Finding f: | <i>The proposed use is consistent with the Fresno County Airport Land Use Compatibility Plan (as may be amended) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5.</i> |
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Finding (f) can be made: The proposed project is not located within the area of influence under the Fresno County Airport Land Use Compatibility Plan (ALUCP).

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, October 14, 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) 621-8038.

Sincerely,

Marisela Martínez

Marisela Martínez, Planner
Development Services Division