



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

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

September 16, 2020

Please reply to:
Jose Valenzuela
(559) 621-8070

Ken Vang
VICE, Inc.
kenvang@vice-engr.com
(Sent via email only)

**SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. P19-04594 LOCATED AT
6940 WEST BARSTOW AVENUE (APN: 505-281-18)**

Dear Mr. Vang:

The City of Fresno Planning Commission, on September 16, 2020, approved Conditional Use Permit Application No. P19-04594, pertaining to ± 1.27 acres of vacant property. The approval was granted for the authorization to establish a California Alcoholic Beverage Control (ABC) Type 20 alcohol license which authorizes the sale of beer and wine for consumption off the premises where sold for an approved $\pm 2,682$ square-foot convenience store with a drive-through.

The proposed project was determined to be exempt from the California Environmental Quality Act (CEQA) by the Planning and Development Department on August 5, 2020 through a Class 32 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 issuance of building permits or certificate of occupancy:

Planner to check when completed		
<input type="checkbox"/>	1.	Development shall take place in accordance with Exhibits, A-1, A-2, E-1, F-1 and L-1 dated November 7, 2019. Transfer all red line notes, comments, conditions, etc. to the corrected exhibit(s) and submit to planner at least 15 days prior to sign off of the site plan.
<input type="checkbox"/>	2.	Comply with the Fresno Police Department requirements listed in the attached memo dated November 25, 2019, prior to the issuance of occupancy.

<input type="checkbox"/>	3.	Prior to issuance of building permits , the applicants will be required to 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.
<input type="checkbox"/>	4.	Add applicable notes to the site plan from the attached "Notes and Requirements for Entitlement Applications" document.

PART B – OTHER REQUIREMENTS

1) Planning/Zoning/Environmental Compliance Requirements

- a) Development and operation shall take place in accordance with the attached "Notes and Requirements for Entitlement Applications" as applicable.
- b) Development shall take place in accordance with the policies of the Fresno General Plan, West Area Community Plan, and with the Community Commercial planned land use designation.
- c) Development shall take place in accordance with the CC/UGM/cz (*Community Commercial/Urban Growth Management/conditions of zoning*) zone district, and all other applicable sections of the Fresno Municipal Code.
- d) Development shall comply with FMC 15-2728, Drive-In and Drive-Through Facilities.
- e) Comply with the operational statement submitted for the proposed project dated November 7, 2019.

2) City and Other Services

Development shall take place in accordance with the attached memoranda and letters from the following City of Fresno Departments and partner agencies:

- Fresno Police Department/Northwest Division dated November 25, 2019;
- County of Fresno Department of Public Health dated January 8, 2020.

3) Miscellaneous Requirements

- a) Building plans and permits are required.
- b) 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.
- c) Approval of this site plan 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 Development Permit process or for additions or alterations to construction plans not specifically submitted and reviewed and approved pursuant to this site plan or subsequent amendments or revisions.

BACKCHECK PROCESS

Please Note: To complete the back-check process for building permits relative to planning and zoning issues, submit three copies of this corrected, final site plan, together with two copies of the elevations, landscape, and irrigation plans, any fees and title reports for required covenants, and any required studies or analyses to Jose Valenzuela in the Development Services Division for final review and approval, at least 15 days before scheduling appointment for sign off of site plan.

It may be necessary to resubmit these “corrected exhibits” a second time if not all the conditions have been complied with or are not shown on the exhibits. Once the “corrected exhibits” are approved by the Development Services Division, please place these exhibits in the plan check set and contact the Development Services Division to set up an appointment to sign off and stamp these exhibits. Please bring one additional copy of the site plan exhibit(s) to this appointment so that the Development Services Division has a final signed-off copy of the site plan.

Copies of the final approved site plan, elevations, landscaping, and irrigation plans stamped by the Development Services Division must be substituted for unstamped copies of the same in each of the sets of construction plans submitted for plan check prior to the issuance of building permits.

EXPIRATION

The exercise of rights granted by these special permits must be commenced by **September 16, 2023**, (three years from the date of approval). 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.

If you have any questions regarding this letter, feel free to give me a call at the number listed above.

Sincerely,

Jose Valenzuela, Planner
Development Services Division

Enclosures: A-1, A-2, E-1, E-2, F-1 and L-1 dated November 7, 2019
Comments from Partner Agencies & Departments
Notes and Requirements for Entitlement Applications

Job Address File: 6940 West Barstow Avenue



November 25, 2019

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

Attn. Alondra Williams, Planning Division

Re: SPECIAL PERMIT NO. 19-04594
Johnny Quik
6940 W. Barstow Ave
Fresno, CA 93722
A.P.N. 505-281-18

Dear Ms. Williams,

Pursuant to your Department's request, the Fresno Police Department has reviewed the special permit application for property located at **6940 W. Barstow Ave.** The property has been zoned CC (Community-Commercial). The applicant proposes to establish a Type 20 ABC license (Package Store-authorizes the sale of beer and wine for consumption off the premises where sold). The Fresno Police Department's primary concern with the application is the propensity of the operations on the premises to generate calls for police service, and therefore, be detrimental to the public welfare.

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, 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 15-2705 of the Fresno Municipal Code (Regulating Adult Businesses).

The conditions are established to ensure public safety, and to minimize any impact to the surrounding area. We request the following conditions be included as Conditions of Approval for Conditional Use Permit Application No. 19-04594. These conditions will help to insure maintain an environment that is least likely to generate criminal activity, public complaints and police calls for service.

The Fresno Police Department is not in opposition of this Conditional Use Permit, providing the applicant agrees to the listed conditions. If the following conditions are not included as conditions of approval of CUP No. 19-04594, 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 Serrano #1051 with notice of the Director's decision regarding this Conditional Use Permit as well as a complete copy of the conditions of approval, if the Director approves 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 of Billiard Hall)
FMC 9-1804 (Restriction on Attendance of Minors in Billiard Rooms)
FMC 9-1805 (Minors allowed: Family Billiard Rooms)
FMC 9-1905 (Public Dancing - Permit Required)
FMC 10-105 (Noise Ordinance)
FMC 10-708 (Unlawful Nuisances - High Calls for Police Service)
FMC 15-2705 (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. 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 and federal law, rules and regulations, including but not limited to the following California Business and Professions Code sections and ABC 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 25631 (No sale of alcoholic beverages between 2:00 a.m. and 6:00 a.m.)
- 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. Video Camera

Prior to exercising any privileges granted by CUP No. 19-04594 the applicant must install a fully functional color digital video camera system ("System") that meets the following requirements:

- 3.1 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.
- 3.2 The System shall have the correct date and time stamped onto the image at all times.
- 3.3 The camera storage capacity should be for at least one week (seven 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.
- 3.4 Digital video recorder must be capable of storing at least seven days of real-time activities.
- 3.5 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**.
- 3.6 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 should be at least one camera focused on the entrance and the camera view should clearly show an image of the color coded height tape installed on the inside of the door jamb.

3.7 There shall be 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.

3.8 All interior cameras shall record in color.

3.9 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.

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 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 this Conditional Use Permit.

4. ABC Education

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

- 4.1 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,
- 4.2 Completed equivalent training acceptable to the ABC-- Fresno District Office to ensure proper distribution of beer, wine, distilled spirits, tobacco, and inhalants to adults of legal age.

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

- 4.3 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
- 4.4 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.

5. Sale of Malt and Wine-Cooler Alcoholic Beverages

5.1 Malt liquor or malt beverage products shall not be sold in less than six (6) pack quantities for sale. They must be sold in manufacturer pre-packaged multi-unit quantities. This will include all sizes of containers.

5.2 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.

5.3 Single Sales of any other beer product, of any size, is permitted.

6. 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.

7. 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 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.

8. Consumption of Alcoholic Beverages and Loitering.

8.1 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.

8.2 The establishment shall not allow any loitering on building premises or any adjacent property under its ownership or control.

8.3 The establishment shall not allow any gambling on building premises or any adjacent property under its control.

9. 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 section 10-708(g) may result in an FPD recommendation to the Director of Planning and 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.


“Frequent” means response by the Fresno Police Department is occurring more than 1.5 times the average number of such responses (3 calls for every 2) for property of a similar size and character within the same policing district.

10. **The establishment shall ensure that all employees involved, either directly or indirectly, in the sale of alcoholic beverages 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: 11-25-19
Captain Burke Farrah
Northwest District Commander

 Date: 11/25/19
Sergeant Brian Pierce
Northwest District Supervisor

 #1031 Date: 11-25-19
Detective Dawnielle Serrano
Northwest District POP

Agency Comments for Conditional Use Permit Application No. P19-04594

Fresno County Environmental Health dated January 8, 2020

Prior to issuance of building permits, the applicants will be required to 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 operation, the applicants shall apply for and obtain permits to operate a food facility from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 600-3357 for more information.

Prior to alcohol sales, the applicant shall first obtain their license to sell alcoholic beverages. Contact the California Alcoholic Beverage Control Department at (559) 225-6334 for more information.

Facilities that use and/or store hazardous materials and/or hazardous wastes shall meet the Requirements set forth in the California Health and Safety Code (HSC), Division 20, Chapter 6.95, and the California Code of Regulations (CCR), Title 22, Division 4.5. Your proposed business will handle hazardous materials and/or hazardous waste and will be required to submit a Hazardous Materials Business Plan pursuant to the HSC, Division 20, Chapter 6.95 (<http://cers.calepa.ca.gov/>). Contact the Fresno County Hazmat Compliance Program at (559) 600-3271 for more information.

Prior to the issuance of building permits, the applicant shall submit three (3) sets of complete plans and specifications regarding the installation of any underground storage tanks to the Fresno County Department of Public Health, Environmental Health Division. Contact the Certified Unified Program Agency (CUPA), at (559) 600-3271 for more information.

Prior to operations, the fuel facility applicant shall apply for and secure a Permit to Operate an Underground Storage Tank System from the Fresno County Department of Public Health, Environmental Health Division. Contact the Certified Unified Program Agency at (559) 600-3271 for more information.

The proposed facility construction and project have the potential to expose nearby residents to elevated noise levels. Due to the proximity of existing residential uses, consideration should be given to conformance with the Noise Element of the City of Fresno General Plan. A noise study should be conducted in order to identify the potential noise impacts and offer mitigation alternatives.

As a measure to protect ground water, all water wells and/or septic systems that exist or have been abandoned within the project area should be properly destroyed by an appropriately licensed contractor.

Should any underground storage tank(s) be found during the project, the applicant shall apply for and secure an Underground Storage Tank Removal Permit from the Fresno County Department of Public Health, Environmental Health Division. Contact the Certified Unified Program Agency at (559) 600-3271 for more information.