

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>
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This Finding (a) cannot be made. While the proposed off sale alcohol establishment (7-Eleven) service station and convenience store is allowed in the CMX zone district subject to an approved Conditional Use Permit, it does not comply with the location restriction requirements outlined in FMC Section 15-2706-F. The proposed establishment is located within 1,000 feet of three (3) existing off-sale establishments (ALDI, Rite Aid, EZ Mart). These establishments are described in **Exhibit J** of the staff report. In addition, the applicant does not propose to cancel or transfer any additional ABC licenses as required by the Fresno Municipal Code.

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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This Finding (b) cannot be made. The 7-Eleven convenience store/service station with alcohol sales is consistent with the current General Plan and Bullard Community Plan land use designation of Corridor Mixed-Use; however, the proposed use of a Type 20 alcohol license is inconsistent with the General Plan in that the use will not reduce 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. More specifically, the use is within a 1,000-foot radius of three other off-sale alcohol uses. Alcohol establishments possess certain characteristics that have the potential to cause deleterious effects and nuisances on surrounding neighborhoods and businesses, especially when such establishments are concentrated near one another.

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.

The proposed 7-Eleven service station and convenience store does not contradict a design or guideline in which the City has adopted.

Finding c:	<i>The proposed use will not be substantially adverse to the public health, safety, or general welfare of the community, and will not be detrimental to surrounding properties or improvements in that;</i>
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This Finding (c) cannot be made. As described in Finding (b) above, the proposed use will not reduce current substantially adverse impacts to the public health, safety, or general welfare of the community. While the project site is not located near sensitive uses or within high crime and high concentration areas, this location is near three (3) other existing establishments and will therefore 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 within close proximity to one another. Further, Fresno Unified School District does not support this application due to safety concerns of potentially dangerous interaction between students and the proposed location.

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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This Finding (d) cannot be made.

Location

The proposed 7 Eleven convenience store/service station (with alcohol sales) is predominately surrounded by other commercial uses. In addition, the store's location is within close proximity to three (3) other existing alcoholic establishments.

Operating characteristics

The operating characteristics of the proposed convenience store with alcohol sales, are incompatible with the surrounding vicinity and commercial land uses because the project is located within 1,000 feet of three existing off-sale establishments. The location of the proposed service station with alcohol sales is within a general commercial shopping center. Uses within the shopping center include an ALDI grocery store which holds a Type 20 license, two fast food restaurants, an anchor building for general retail, and a Starbucks coffee shop. The southwest corner of the West Shaw and North West Avenue intersection consists of a Rite Aid pharmacy which holds a Type 21 license. The overall shopping center in that area consists of more general retail uses. The southeast corner consists of a EZ Mart service station and convenience market which holds a Type 20 license. Further east along West Shaw Avenue, consists of office uses. The northeast corner consists of the existing 7-Eleven which is looking to relocate to the subject site, a drive-through coffee shop, and a few restaurant buildings. As stated previously, the proposed alcohol use has the potential to cause deleterious effects and nuisances on surrounding neighborhoods and businesses, especially when such establishments are concentrated near one another.

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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This Finding (e) cannot be made: Three access points are provided along West Shaw Avenue and three access points along North West Avenue, in addition there is reciprocal access within the existing shopping center for vehicular and pedestrian traffic. Sewer and Water mains are

located in North West Avenue. Additional water service is available in West Shaw Avenue. Flood control facilities are also located on North West and West Shaw Avenues and the grading plan associated with the proposed development will ensure storm water flows are directed to those existing facilities. Therefore, the type and intensity of the use proposed is suitable with respect to access, utilities, and services. However, the proposed 7-Eleven is located within close proximity to three (3) existing establishments and therefore has the potential to contribute to a variety of safety problems including drunken driving accidents and pedestrian injuries which result in increased calls for police and emergency services. Therefore, the project is not suitable based on the services required to address public safety concerns.

Finding f:	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.
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Finding (f) can be made. The proposed project is located within the area of influence under the Fresno County Airport Land Use Compatibility Plan (ALUCP). The project site is located within the Fresno Yosemite International Airport's (FYIA) Safety Zone 7 – Precision Approach Zone. Hazards to flight which include tall objects, visual, and electronic forms of interference with safety of aircraft operations are prohibited in traffic pattern zone 7. The proposed convenience store and service station with alcohol sales is not a listed prohibited use. Therefore the proposed project is compatible and in compliance with the Airport Land Use Compatibility Plan. Therefore, the City of Fresno Airports Department anticipates no adverse impacts on Fresno Yosemite International Airport as a result of the proposed project and the use is consistent with the Fresno County Airport Land Use Compatibility Plan.

If the City Council decides to grant approval of the proposed project, the Council must find that there is substantial evidence in the administrative record that the project can be excepted from the location restrictions pursuant to FMC Section 15-2706-E and make the required findings of FMC Section 15-5306.

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Finding to be made by Planning Commission

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 to be made by Planning Commission

Finding c:	<i>The proposed use will not be substantially adverse to the public health, safety, or general welfare of the community, and will not be detrimental to surrounding properties or improvements in that;</i>
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