



Legislation Details (With Text)

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**File created:** 7/19/2019    **In control:** Planning Commission  
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**Title:** Consideration of Conditional Use Permit Application No. P18-02804 pertaining to an existing restaurant at 608 E Weldon Avenue located between North Wishon and North Echo Avenues in the historic Fresno High neighborhood within the Tower District (Council District 1).

1. Adopt Environmental Assessment No. P18-02804 dated June 5, 2018, a determination that the proposed project is exempt from the California Environmental Quality Act (CEQA) through a Class 1 Categorical Exemption.
2. Approve Conditional Use Permit Application No. P18-02804 authorizing a State of California Alcoholic Beverage Control Type 41 alcohol license (Restaurant - sale of beer and wine for consumption on or off the premises where sold) for the existing restaurant.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit A - Land Use-Zoning Site Area Map.pdf, 2. Exhibit B - Site Location-Vicinity Map, 3. Exhibit C - PC Hearing Notice-Noticing Map, 4. Exhibit D - Operational Statements, 5. Exhibit E - Letters - FUSD & Concerned Residential Neighbor, 6. Exhibit F - FPD Comments-Conditions, 7. Exhibit G - Neighborhood Mtg Agenda-Presentation-Sign-in, 8. Exhibit H - 608 E Weldon Floor Plan, 9. Exhibit I - Section 15-2751 Provisions, 10. Exhibit J - Conditions of Approval, 11. Exhibit K - CUP Findings, 12. Exhibit L - Environmental Assessment

Date	Ver.	Action By	Action	Result
8/7/2019	1	Planning Commission	approved	Pass

**REPORT TO THE PLANNING COMMISSION**

**August 7, 2019**

**FROM:** JENNIFER K. CLARK, AICP, Director  
Planning & Development Department

**THROUGH:** MIKE SANCHEZ, AICP, Assistant Director  
Planning Division

**BY:** RALPH KACHADOURIAN, Supervising Planner  
Planning Division

**SUBJECT**

Consideration of Conditional Use Permit Application No. P18-02804 pertaining to an existing

restaurant at 608 E Weldon Avenue located between North Wishon and North Echo Avenues in the historic Fresno High neighborhood within the Tower District (Council District 1).

1. **Adopt** Environmental Assessment No. P18-02804 dated June 5, 2018, a determination that the proposed project is exempt from the California Environmental Quality Act (CEQA) through a Class 1 Categorical Exemption.
2. **Approve** Conditional Use Permit Application No. P18-02804 authorizing a State of California Alcoholic Beverage Control Type 41 alcohol license (Restaurant - sale of beer and wine for consumption on or off the premises where sold) for the existing restaurant.

## EXECUTIVE SUMMARY

James Clark, Operations Director and C.O.O with Quesadilla Gorilla, has filed Conditional Use Permit Application No. P18-02804 requesting authorization to establish a State of California Alcoholic Beverage Control Type 41 alcohol license (*Restaurant - beer and wine for consumption on or off the premises where sold*) for the existing restaurant. Staff is recommending approval of the Type 41 alcohol license request.

## BACKGROUND

Per FMC Chapter 15, Article 12 Commercial Districts, Section 15-1202, a restaurant with alcohol sales is a permitted use in the CMS (Commercial Main Street) zone district subject to an approved Conditional Use Permit. Restaurants with alcohol sales are subject to the use and operational provisions under Section 15-2751 "Restaurants with Alcohol Sales, Bars, Nightclubs, and Lounges" (Exhibit H) as well as applicable provisions pertaining to outdoor dining/patios for restaurants with alcohol sales pursuant to Section 15-2744. Since the restaurant does not have a patio, no alcohol will be served to its dining customers outside of the restaurant's interior. The restaurant has been in operation at this location since March 2017. A restaurant with alcohol sales is a use consistent with the current zoning of the subject property and is not considered a bar, nightclub or lounge type use. No changes to the current operations of the restaurant are being proposed. The current hours of the restaurant are from 11:00 A.M. to 10:00 P.M seven days per week. (Exhibit D)

### Tower District Design Review Committee

On April 9, 2019, the Committee reviewed the proposed application request and recommended its approval by a 5/0 vote (2 absent).

### Fresno Unified School District (FUSD) Review

Due to the close proximity of the restaurant to Fresno High School, the Fresno Unified School District, in its memo dated March, 21, 2019, (Exhibit E) indicated that they do not support the license request as the restaurant is located approximately 130 feet from the high school and has concerns that the sale of alcohol would have potentially dangerous interactions between the students of the high school and the restaurant. Their response also stated that the use is subject to ABC and Police Department's review and support of the request with regard to the concentration and use of alcohol related businesses in close proximity to school sites.

### Fresno Police Department Review

The Fresno Police Department has provided conditions dated March 26, 2019 (Exhibit F) addressing; restaurant hours of operation and that alcohol beverage service will not occur until after 4:30 P.M. on days when school is in regular session. The Police Department conditions also address additional requirements such as compliance with Local, State and Federal Laws; video camera system installation; ABC training; security plan; and other related responsibilities.

### Opposition and Neighborhood Meeting

A letter of opposition dated May 30, 2019 was received from the residents at 630 East Weldon Ave (Exhibit E). The letter stated that the restaurant has had a negative impact on the neighborhood (i.e. restaurant delivery trucks damaging pavement, trash/litter, customer and employee vehicles blocking driveways) which have not been adequately addressed by the restaurant or the City, and that alcohol sales and consumption off-premises would encourage disruptive behavior in the neighborhood.

Council District 1 had also received public concerns from residents regarding the restaurants request for alcohol sales from social media and phone calls and due to the concerns raised, the council district reached out to the restaurant. To help the applicant address neighborhood concerns, the council district offered to organize a community meeting. Per Section 15-2751-G, a restaurant with alcohol sales does not require a neighborhood meeting, however, if the establishment decides to remain open to serve alcohol after 12:A.M, the use would be considered a Bar or Nightclub and would be subject to a neighborhood meeting.

The applicant agreed and a community meeting was held on July 10, 2019 (Exhibit G), which allowed the applicant to present the alcohol use permit request and to address any/all concerns raised. The presentation was attended by some 30+ residents from the surrounding area including a Fresno Unified School District (FUSD) trustee. The applicant addressed several potential issues of concern which included the recommendations/conditions by the Fresno Police Department. The FUSD trustee requested that the serving time for alcohol be moved to 5:00pm when school is in regular session. According to the Council District, the concerns raised by the residents were adequately addressed by the applicant.

### Notice of Planning Commission Hearing

The Planning & Development Department mailed notices of this Planning Commission hearing to surrounding property owners within 1,000 feet of the subject property on July 26, 2019 (Exhibit C).

### **Land Use Plans and Policies**

The Fresno General Plan goals and objectives related to the Commercial Main Street land use designation encourage a traditional Main Street character with active storefronts, outdoor seating and pedestrian-oriented design. This designation promotes primarily one to two story retail uses. It also preserves small-scale, fine-grain character in neighborhoods where single-family residential and townhomes are predominant.

The project will not conflict with any applicable land use plan, policy or regulation of the City of Fresno. Furthermore, the project remains consistent with the goals, objectives and policies of the Fresno High-Roeding Community Plan and the Tower District Specific Plan.

## **ENVIRONMENTAL FINDINGS**

A determination of a Categorical Exemption, Section 153301/Class 1 of the California Environmental Quality Act (CEQA) Guidelines was made on July 22, 2019. (Exhibit L)

Section 15301 of the CEQA Guidelines addresses projects involving existing facilities. Projects that fall within Class 1 consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The key consideration is whether the project involves negligible or no expansion of an existing use.

The project is consistent with the exemption because the request is to obtain a State of California Alcoholic Beverage Control Type 41 alcohol license to allow the on-premise sale of beer and wine for customers within the existing restaurant, which is a permitted use in the existing CMS (Commercial Main Street) zone district by conditional use permit and is consistent with the Commercial Main Street general plan land use designation applicable to the site.

The proposed project is subject to authorization by special permit (Conditional Use Permit) and no adverse environmental impacts will occur as a result of the proposed project. The site has no value as habitat for endangered, rare, or threatened species and complies with the Class 1 Categorical Exemption. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project.

## **FRESNO MUNICIPAL CODE FINDINGS**

Based upon analysis of the application, staff concludes that the required findings under Article 53, Section 15-5306 of the Fresno Municipal Code can be made. These findings are attached to this report as Exhibit K.

## **CONCLUSION**

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Fresno General Plan, the Fresno High-Roeding Community Plan, the Tower District Specific Plan and the Citywide Development Code; and its compatibility with surrounding uses established. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon consideration of this evaluation, it can be concluded that Conditional Use Permit Application No. P18-02804 and the Conditions of Approval for the Type 41 alcohol sales permit will be appropriate for the established restaurant use (Exhibit J).

## **Attachments:**

- Exhibit A - Location/Vicinity Map
- Exhibit B - Land Use/Zoning Map
- Exhibit C - Public Hearing Notice & Noticing Map
- Exhibit D - Operational Statements

- Exhibit E - Letters from FUSD / Concerned Residential Neighbor
- Exhibit F - Fresno Police Department Memo / Conditions
- Exhibit G - Neighborhood Meeting Agenda/Presentation/Sign-In Sheets
- Exhibit H - Restaurant Floor Plan
- Exhibit I - Section 15-2751 Provisions
- Exhibit J - Conditions of Approval, dated 7/22/19
- Exhibit K - Fresno Municipal Code Findings
- Exhibit L - Environmental Assessment