



## Legislation Details (With Text)

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**Title:** HEARING to consider Amendments to Conditional Use Permit No. C-16-033, located on the southwest corner of East Belmont and North Van Ness Avenues. (Council District 3)  
1. AMEND Conditional Use Permit No. C-16-033 to establish a Type 20 alcohol license (Package Store - sale of beer and wine for consumption off the premises where sold) to temporarily allow a net increase of one liquor license in Census Tract 6, the area in which the project is located, for no more than nine months, conditioned upon the operator purchasing another liquor license from within that Census Tract to transfer it outside of the City within that nine months.

**Sponsors:** Planning and Development Department

**Indexes:**

**Code sections:**

**Attachments:** 1. Exhibit\_A\_Aerial photograph, 2. Exhibit\_B\_Conditions of Approval, 3. Exhibit\_C\_Proposed\_Amendment\_to\_Conditions of Approval, 4. Exhibit\_D\_City Council Notice, 5. Exhibit\_E\_Fresno Municipal Code\_Findings

Date	Ver.	Action By	Action	Result
6/20/2019	1	City Council	approved	Pass

## REPORT TO THE CITY COUNCIL

**June 20, 2019**

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**THROUGH:** MIKE SANCHEZ, Assistant Director  
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Development Services Division

**BY:** PHILLIP SIEGRIST, Planner III  
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## SUBJECT

HEARING to consider Amendments to Conditional Use Permit No. C-16-033, located on the southwest corner of East Belmont and North Van Ness Avenues. (Council District 3)

1. AMEND Conditional Use Permit No. C-16-033 to establish a Type 20 alcohol license (Package Store - sale of beer and wine for consumption off the premises where sold) to temporarily allow a net increase of one liquor license in Census Tract 6, the area in which the project is

located, for no more than nine months, conditioned upon the operator purchasing another liquor license from within that Census Tract to transfer it outside of the City within that nine months.

## RECOMMENDATIONS

Staff recommends that the City Council take the following actions:

1. **AMEND** Conditional Use Permit No. C-16-033 to establish a Type 20 alcohol license (Package Store - sale of beer and wine for consumption off the premises where sold) to temporarily allow a net increase of one liquor license in Census Tract 6, the area in which the project is located, for no more than nine months, conditioned upon the operator purchasing another liquor license from within that Census Tract to transfer it outside of the City within that nine months.

## EXECUTIVE SUMMARY

George Beal of Beal Developments filed Conditional Use Permit Application No. C-16-033 pertaining to approximately 0.55 acres of property located at 940 East Belmont Avenue, on the southwest corner of East Belmont and North Van Ness Avenues (Exhibit A).

Conditional Use Permit Application No. C-16-033 was considered by the Fresno City Council at its meeting on March 1, 2018 on appeal by Councilmember Oliver Baines. After a complete hearing, the City Council voted to adopt the Class 3 Categorical Exemption prepared for Environmental Assessment No. C-16-033 and approve Conditional Use Permit Application No. C-16-033 subject to compliance with the Conditions of Approval dated March 1, 2018 (Exhibit B). City Council approval authorized the construction of an approximately 3,453 square-foot Johnny Quik convenience store, an 849 square-foot quick serve restaurant with indoor seating, restrooms, and 8-station Chevron fueling facility with a 2,160 square-foot canopy. In addition, the approval authorized the applicant to acquire a Type 20 alcohol license (Package Store - sale of beer and wine for consumption off the premises where sold) for the convenience store with the condition that there be no net new liquor licenses in the area.

The subject application is being reconsidered by the City Council at the request of the applicant for purposes of amending the Conditions of Approval, dated March 1, 2018, by adding two new conditions (Exhibit C). Per FMC sections 15-5310 and 15-5015, temporarily amending a condition of approval requiring no net increase in liquor licenses in the area for nine months must be approved by Council since Council originally approved the CUP for this project.

## BACKGROUND

The project is considered a Service Station and Convenience Retail with alcohol sales. Pursuant to Table 15-1202 (Land Use Regulation - Commercial District) of the FMC, Convenience Retail is a by-right use and Service Stations and Alcohol Sales are conditionally permitted uses in the CG zone district. Therefore the project is permitted subject to an approved Conditional Use Permit and additional regulations for special uses pursuant to FMC Sections 15-2706, Alcohol Sales, and 15-2755, Service Stations.

The Fresno City Planning Commission approved Conditional Use Permit Application No. C-16-033, on December 20, 2017, and denied the request for a Type 20 alcohol license.

The City Council considered and approved Conditional Use Permit Application No. C-16-033 at its meeting on March 1, 2018.

The subject application is being reconsidered by the City Council at the request of the applicant for purposes of amending the Conditions of Approval, dated March 1, 2018, by adding two new conditions as follows:

1. Temporarily allow a net increase of one liquor license in Census Tract 6, the area in which the project is located, for no more than nine months from the opening of operations at the location (measured as 270 days from the date a Certificate of Occupancy is given to the operator).
  - a. If a net increase of liquor licenses remains after nine months, the alcohol sales portion of the CUP will terminate, and the operator must immediately stop liquor sales. The operator would be responsible for the attorney's fees and costs to enforce the cessation of liquor sales.
2. The operator must purchase another liquor license from within Census Tract 6, the area in which the project is located, and transfer it outside of the City of Fresno within nine months from the opening of operations at the location (measured as 270 days from the date a Certificate of Occupancy is given to the operator).
  - a. If another liquor license is not purchased and transferred outside of the City of Fresno within nine months, the alcohol sales portion of the CUP will terminate, and the operator must immediately stop liquor sales. The operator would be responsible for the attorney's fees and costs to enforce the cessation of liquor sales.

### Notice of City Council Hearing

In accordance with Section 15-5007 of the FMC, a notice of public hearing was mailed to surrounding property owners within 1,000 feet of the subject site on June 7, 2019 (Exhibit D).

### **FRESNO MUNICIPAL CODE FINDINGS**

The Conditional Use Permit required findings under Section 15-5306 of the FMC are as follows:

- a. 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; and,
- b. The proposed use is consistent with the General Plan and any other applicable plan and design guideline the City has adopted; and,
- c. The proposed use will not be substantially adverse to the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements; and,
- d. 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,

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

Based upon analysis of the application, staff concludes that the required findings of Section 15-5306, of the FMC can be made. These findings are attached as Exhibit E.

## **ENVIRONMENTAL FINDINGS**

Staff has performed a preliminary environmental assessment of this amendment to the Conditions of Approval and, pursuant to CEQA Guidelines, section 15061(b)(3), has determined with certainty that there is no possibility that this project may have a significant effect on the environment. This is because this approval only includes the temporary ability to allow a net increase in alcohol sales for nine months in the project area while a liquor license from within Census Tract 6 is acquired and transferred outside the City of Fresno. Therefore, this project is covered by the common sense exemption set forth in CEQA Guidelines section 15061(b)(3).

## **LOCAL PREFERENCE**

Local preference was not considered because this does not include a bid or award of a construction or service contract.

## **FISCAL IMPACT**

N/A

Attachment: Exhibit A - Aerial Photograph  
Exhibit B - Conditions of Approval, dated March 1, 2017  
Exhibit C - Proposed Amendment to Conditions of Approval  
Exhibit D - City Council Public Hearing Notice  
Exhibit E - FMC Findings