



REPORT TO THE CITY COUNCIL

AGENDA ITEM NO. 2:30 p.m.
COUNCIL MEETING: 1-27-09

January 27, 2009

FROM: KEITH BERGTHOLD, Interim Director
Planning and Development Department

APPROVED BY

DEPARTMENT DIRECTOR

THROUGH: KEVIN E. FABINO, Planning Manager
Planning Division

CITY MANAGER

BY: MIKEAL CHICO, Management Analyst II
Fresno Police Department

SUBJECT: CONSIDERATION OF APPEAL OF THE DIRECTOR'S ACTION REGARDING
CONDITIONAL USE PERMIT APPLICATION NO. C-08-076 AND RELATED
ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT NO. C-08-076

KEY RESULT AREA

One Fresno

RECOMMENDATION

Staff recommends the City Council take the following action:

1. APPROVE the environmental finding of Environmental Assessment No. C-08-076 determination of a Categorical Exemption from the requirements of the California Environmental Quality Act, dated August 13, 2008.
2. DENY the appeals and UPHOLD the actions of the Planning and Development Director approving Conditional Use Permit Application No. C-08-076 to up-grade of a State of California Alcohol Beverage Control license for the sale of beer, wine and distilled spirits (Type 21).

EXECUTIVE SUMMARY

Conditional Use Permit (CUP) Application No. C-08-076 has been filed by Gurmeet Singh (El Campasino Meat Market) requesting authorization to up-grade a State of California, Alcohol Beverage Control license from a Type 20 (beer and wine) to a Type 21 which permits the sale of beer, wine and distilled spirits within an existing food market for off-site consumption. The Planning and Development Director approved Conditional Use Permit Application No. C-08-076 on August 20, 2008, which commenced a 15 day appeal period. The public notice was mailed to all property owners within 350 feet of the subject property and various parties that request such notices. In response to the public notice, the Planning and Development Department received two appeals; one from the Council District 3, councilmember and a second appeal from Nador Ali representing the King of Kings Housing Development Corporation.

The appellants requested that the Planning Commission overturn the Director's action and deny approval of the Conditional Use Permit Application. The Fresno City Planning Commission considered the application at a noticed public hearing on November 19, 2008 and recommended to uphold the Director's approval of Conditional Use Permit Application No. C-08-076 and deny the appeal.

The decision of the Director was appealed on September 9, 2008, pursuant to Fresno Municipal Code, Section 12-406-J. The Director's decision may be appealed to the Council by the Councilmember of the district in which the project is located (Council District #3). Based upon consultation with the City Attorney's Office regarding the appeal, both the Finding of Categorical Exemption under Section 15332

of the California Environmental Quality Act Guidelines and the approval of Conditional Use Permit Application No. C-08-076 was scheduled for the City Council's consideration.

If approved, the pending Conditional Use Permit Application No. C-08-076 would be consistent with the Edison Community Plan, and Fresno/Chandler Specific Plan.

KEY OBJECTIVE BALANCE

Council action regarding this proposed land use application optimizes the three Key Objectives of Customer Satisfaction, Employee Satisfaction, and Financial Management. Affirmative action by the Council will result in timely deliverance of the review and processing of the application as is reasonably expected by the applicant/customer. Prudent financial management is demonstrated by the expeditious completion of this land use application inasmuch as the applicant/customer has paid to the city a fee for the processing of this application and that fee is, in turn, funding the operations of the Planning and Development Department. Employee satisfaction is derived from the fact that the professional and technical staff, who have reviewed and made a recommendation on this land use application, have done so in a thorough and professional manner, thereby enhancing the sense of accomplishment in the completion of the application process.

District 3 Plan Implementation Committee

The District 3 Plan Implementation Committee recommended denial of Conditional Use Permit C-08-076 at their April 7, 2008 regularly scheduled meeting. The committee provided no basis or explanation of their determination.

Fresno City Planning Commission

Conditional Use Permit Application No. C-08-076 was considered by the Fresno City Planning Commission at its regular meeting held on November 19, 2008. At the hearing the Commission reviewed the staff report and related environmental documents and called for speakers in support and in opposition to the appeal of the pending conditional use permit. No testimony for the appeal of the conditional use permit was presented at the hearing. After a full and complete hearing, the Fresno City Planning Commission took action to recommend to the City Council approval of the environmental assessment and conditional use permit, as recommended by staff.

The Planning Commission voted to recommend denial of the appeal and uphold the Director's approval of the conditional use permit application and environmental assessment by a 6-0 vote.

CONCLUSION / RECOMMENDATION

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Edison Community Plan, Fresno/Chandler Specific Plan and the 2025 Fresno General Plan; its compatibility with surrounding existing or proposed uses; and, its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon consideration of this evaluation, it can be concluded that the proposed Conditional Use Permit Application No. C-08-076 is an appropriate planned land use and zone district designation for this project site.

REPORT TO THE CITY COUNCIL
Conditional Use Permit No. C-08-076
January 27, 2009
Page 3

Attachments: Letter of Appeal from Council Member Sterling, District 3, Dated September 9, 2008
Report to the Planning Commission, dated November 19, 2008
Noticing Map (500 feet radius) C-08-076
Planning Commission Resolution No. 12900(Conditional Use Permit)
City Council Resolution

K:\Master Files - 2008\ C-08-076-City Council Report .doc



CYNTHIA A. STERLING
COUNCILMEMBER

September 9, 2008

Keith Bergthold
Interim Director of Planning and Development
City of Fresno
City Hall
2600 Fresno Street, Third Floor
Fresno, California 93721

Dear Mr. Bergthold:

Pursuant to the Fresno Municipal Code 12-406 (J), I am hereby appealing the decision of the Planning Director to approve CUP C-~~06-114~~ at 245 East Whitesbridge Avenue. ⁰⁸⁻⁰⁷⁶

I ask that you schedule this matter for an additional hearing before the Fresno City Council at your earliest convenience.

I am concerned that there may be an oversaturation of ABC licenses in the area, general police calls for service in the area and the impact that this additional level of alcohol may have on the area.

If you should have any questions, please contact Gregory Barfield, of my staff at 621-7834.

Sincerely

CYNTHIA A. STERLING
Member of the Fresno City Council, District Three

cc: Mikeal Chico, Planning and Development Department

CUP08-076-090908.ltr



REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. VII-A
COMMISSION MEETING 11-19-08

[Signature]
Department Director

November 19, 2008

FROM: ARNOLDO RODRIGUEZ, Planning Manager *AR*
Planning and Development Department

BY: MIKEAL CHICO, Management Analyst II *mjc*
Fresno Police Department

SUBJECT: CONSIDERATION OF APPEAL OF THE DIRECTOR'S ACTION REGARDING
CONDITIONAL USE PERMIT APPLICATION NO. C-08-076 AND ENVIRONMENTAL
FINDING FOR ENVIRONMENTAL ASSESSMENT NO.C-08-076 (Continued from
October 15, 2008)

EXECUTIVE SUMMARY

Conditional Use Permit (CUP) Application No. C-08-076 has been filed by Gurmeet Singh (El Campasino Meat Market) requesting authorization to up-grade a State of California, Alcohol Beverage Control license from a Type 20 (beer and wine) to a Type 21 which permits the sale of beer, wine and distilled spirits within an existing food market for off-site consumption. The applicant is not proposing any modifications to the existing facility, rather they are simply seeking authorization to amend their alcohol sales permit. As part of the Conditional User Permit Application process, the Planning and Development Director approved the applicant's request on August 20, 2008, which commenced a 15 day appeal period. The public notice was mailed to all property owner's within 350 feet of the subject property and various parties that request such notices. In response to the public notice, the Planning and Development Department received two appeals; one from the Council District 3, councilmember and a second appeal from Nador Ali representing the King of Kings Housing Development Corporation.

The appellants are requesting that the Planning Commission overturn the Director's action and deny approval of the Conditional Use Permit Application. The appellant's primary concern is that the granting of the CUP will lead to an over-saturation of off-sale ABC licenses in the immediate area and the potential for increased calls for Police service in the area. Furthermore, the appellant's contend that the proposal is incompatible with the surrounding land uses and would be detrimental to the short and long term interests of both the neighborhood and proposed residential development.

Staff has reviewed and considered the appellants' issues and recommends that the Commission deny the appeals and uphold the action of the Planning and Development Director approving Conditional Use Permit Application No.C-08-076.

PROJECT INFORMATION

- PROJECT Conditional Use Permit Application No.C-08-076, requests authorization to upgrade an existing State of California ABC Type license to sell beer, wine, and distilled spirits for off-site consumption
- APPLICANT Gurmeet Singh (El Campasino Meat Market)
- LOCATION 245 East Whites Bridge Avenue, northwest corner of South Trinity and East Whites Bridge Avenues
(Council District 3, Councilmember Sterling)

SITE SIZE	.6 acre
LAND USE	Existing - <i>Residential/Medium High Density</i> Proposed - <i>No change is proposed</i>
ZONING	Existing - <i>C-6: Heavy Commercial District (no change is proposed as part of this project)</i>
PLAN DESIGNATION AND CONSISTENCY	The subject property is planned for medium high density residential land uses by the 2025 Fresno General Plan, Edison Community Plan, and Fresno Chandler Specific Plan, however, the site is zoned C-6 (<i>General Heavy Commercial</i>)
ENVIRONMENTAL FINDING	Environmental Assessment No. C-08-076, determination of a Categorical Exemption from the requirements of the California Environmental Quality Act, dated August 13, 2008, was filed with the City Clerk
PLAN COMMITTEE RECOMMENDATION	Council District 3 Plan Implementation Committee recommended denial of Conditional Use Permit Application No. C-08-076 on April 7, 2008 without comments
STAFF RECOMMENDATION	Deny the appeal and uphold the Director's action; thus, approving Conditional Use Permit Application No. C-08-076

BORDERING PROPERTY INFORMATION

	Planned Land Use	Existing Zoning	Existing Land Use
North	Residential/medium high density	R-2 A <i>Low Density Multiple Family Residential District, One Story</i>	Residential
South	Residential/medium high density	C-6 <i>Heavy Commercial District</i>	Commercial Building
East	Open space/recreation park	O <i>Open Conservation District</i>	Fink-Smith Playground
West	Residential/medium high density	C-6 <i>Heavy Commercial District</i>	Vacant Parcel

ENVIRONMENTAL FINDING

Conditional Use Permit Application No.C-08-076 requests authorization to allow the up-grade of an ABC License to sell beer, wine and distilled spirits for off-premises consumption where sold (ABC license Type 21) within an existing neighborhood food market. This request is not expected to have an adverse impact on the environment and is categorically exempt pursuant to California Environmental Quality Act, Section 15301/Class 1. The Categorical Exemption Environmental Assessment No. C-08-076 was filed with the city clerk on August 13, 2008.

BACKGROUND / ANALYSIS/ APPEALS

Gurmeet Singh (El Campasino Meat Market) has filed Conditional Use Permit Application No. C-08-076 requesting authorization to up-grade an ABC license from a Type 20 (beer and wine) to a Type 21 to sell beer, wine, and distilled spirits for off-site consumption where sold (ABC Type 21). The subject site is located within a C-6 (*Heavy Commercial*) zone district on a 0.6 acre parcel at the northwest corner of South Trinity and East Whites Bridge Avenues.

Director's Action

On August 21, 2008 the Director of the Planning and Development Department approved Conditional Use Permit Application No. C-08-076, which commenced a 15 day public appeal period. During the appeal period, staff received two letters appealing the Director's action.

Proposed and Existing Land Uses

It is noted that the subject site is designated for medium-high density residential land uses by the 2025 Fresno General Plan and the Edison Community Plan, however it is zoned C-6 which is not a consistent zone district with the planned land use designation per Table 2 of the 2025 Fresno General Plan. However, Section 12-607 of the Fresno Municipal Code permits CUP applications to be granted in zone districts that are inconsistent with the planned land use designation if the zone district was established prior to August 1987. The zone district for the subject site was established prior to said date.

In short, the proposed alcohol license upgrade meets the goals of the Edison Community Plan to plan for the appropriate location, size, and intensity of office and commercial developments necessary to meet metropolitan, community and neighborhood needs in a manner consistent with the plan's concept of urban form and function with the objectives of efficiently managing public facilities and resources.

Council District 3 Plan Implementation Committee

The District 3 Plan Implementation Committee considered and recommended denial of Conditional Use Permit Application No. C-08-076 at its meeting on April 7, 2008. The Council District 3 staff liaison for the committee e-mailed planning staff of their decision on July 22, 2008.

Appeal(s) and Analysis of the Appeals

As noted above, staff received two letters appealing the Director's action. One of the letters, dated September 9, 2008 was received during the 15 day Notice of Granting period (August 25, 2008 to September 9, 2008) while the second letter was received on October 14, 2008, one day prior to the first scheduled Planning Commission Hearing on October 15, 2008.

The appeals stressed the following issues:

- 1) Strong concerns with the over-concentration of ABC licenses in the area, general police calls for service and the potential impact that the additional level of alcohol may have on the area.

Staff Response:

- A) On April 3, 2008, the applicant agreed to the conditions as set by the Fresno Police Department which are intended to serve in the best interest of public safety and for the least possibility of impact on the surrounding community.
- B) The subject site is located in Census Tract 2, which according to ABC records, has 9 off-sale licenses while a total of 3 are permitted in this Census Tract. However, an analysis of these statistics reveals that 1 of the 9 is the applicant's pending, while a second is surrendered or in-active. Therefore, there are 7 active off-sale ABC licenses in the Census Tract area 2. Furthermore, if the applicant was granted the up-grade, his current ABC license (beer and wine) would be surrendered. Therefore, no additional active licenses would be added to the area.
- C) Staff consulted with the Southwest Policing District for information on calls for service. Their original search for calls for service at the El Campasino Meat Market street address recorded 37 calls for service between January 1, 2006 and April 8, 2008. However, none of the calls were alcohol related, and a majority of the calls were generated from the pay phone outside the store.

A second wider search of calls for service was conducted on four police geographical sectors (2653, 2654, 2752, and 2754) to determine if alcohol was having an overwhelming impact on the surrounding neighborhood. During the period, October 1, 2007 to September 31, 2008, the Police Department recorded a total of 588 calls for service in the combined four sectors, of which 181 were alcohol related. Of the 46 intoxicated adults in Police sector 2754, all 46 were along Fresno and Tuolumne Streets between A and C Streets. The wider search of police calls for service did reveal an overwhelming high number of alcohol related calls, but the calls are skewed south of the subject site along Fresno Street, more than three-quarters of a mile from the El Campasino Meat Market.

- D) In the Police Conditions, signed by the applicant, they have agreed not to sell single containers of low grade wine or malt liquor beer and limit store operating hours (8:00 a.m. to 9:00 p.m., seven days per week). In the Planning and Development Department Conditions of Approval, dated August 13, 2008, the applicant has agreed to limit the profile of the distilled spirits display case to five feet high and eight feet wide.
- 2) The appellant referenced that subject site's land use designation, *Residential/Medium High Density* and alcohol sales in the area would be in conflict with short and long term interest of the area and therefore, the sale of alcohol would be detrimental to the development of the residential neighborhood.

Staff Response:

- A) The planned land use designation for the subject site is Medium High Density Residential however the subject site is located in a C-6 (*Heavy Commercial*) zone district and the site is currently developed with an 8,000 square foot retail grocery/meat market. To determine if the proposed use will be detrimental to a neighborhood, staff evaluated the project based on three findings. The third finding (Findings per Fresno Municipal Code Section 12-405-A-2.Finding.C) specifically addresses the impact the proposed land use will have on the

public welfare or injurious to property or improvements in the area where the property is located. The three findings are further discussed below. In addition, these findings are primarily to ensure that there is not an over-concentration of licenses in the area, the crime rate in the area, and police calls for service.

FINDINGS

No special permit may be issued unless it is found that the privilege exercised under the permit, as it may be conditioned, conforms to the findings of Section 12-405-A-2 of the Fresno Municipal Code. Based upon analysis of the conditional use permit application, staff concludes that all of the required findings can be made for conditional use permit No. C-08-076, which are as follows:

Findings per Fresno Municipal Code Section 12-405-A-2	
<p>a. <i>All applicable provisions of this Code are complied with and the site of the proposed use is adequate in size and shape to accommodate said use, and accommodate all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,</i></p>	
<p>Finding a:</p>	<p>Conditional Use Permit Application No. C-08-076 will comply with all applicable codes, including parking, landscaping, walls, etc., given that the site plan was previously approved by City Departments under C-99-058. The proposed project is simply a request to allow the upgrade of an existing ABC license from a Type 20 to a Type 21 for the sale of beer, wine and distilled spirits for off-premises consumption where sold and no new development is proposed as part of this request.</p>
<p>b. <i>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,</i></p>	
<p>Finding b:</p>	<p>The project site is located on East Whites Bridge Avenue, a designated arterial roadway in the 2025 Fresno General Plan, which provides more than adequate access to the site. Furthermore, the site has access a second major road, South Trinity Avenue, thereby ensuring that traffic generated by the existing use does not travel through local roads potentially disturbing local residences. Even more so, Conditional Use Permit Application No.C-08-076 is not anticipated to generate more traffic than is currently generated by the existing food market and auto-body shop.</p>
<p>c. <i>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. The third finding shall not apply to uses which are subject to the provision of Section 12-306-N-30 of the FMC.</i></p>	

Finding c:	<p>The proposed use, authorization to up-grade the current Conditional Use Permit (C-99-058) to allow the sale of beer, wine and distilled spirits, will not have a negative impact on either the subject site or neighbourhood properties if Conditional Use Permit Application No. C-08-076 is granted.</p> <p>Staff is recommending approval of C-08-076 based on the findings: the number of off-sale Alcohol Beverage Control active licenses will not increase, a majority of the alcohol related problems occurs south of the subject site, the early closing hours of the applicant's market and low profile of distilled spirits will have a minimum impact on the community</p> <p>In addition, the applicant signed an agreement with the Fresno Police Department, which is a condition of approval that will stipulate certain requirements that must be met by the applicant. The conditions require the applicant to follow Fresno Municipal, Business and Profession Codes as they apply to the business and provide employee training to ensure the safety of the market patrons. The mutual agreement between the Fresno Police Department and the applicant is intended to help protect the public health, safety and welfare of patrons and neighbors, alike.</p>
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CONCLUSION / RECOMMENDATION

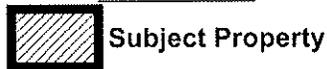
Based upon staff's review and analysis of these requests, it has been determined that Conditional Use Permit Application No. C-08-076 can be found consistent with the Fresno Municipal Code, planned land uses designated for the project site. Therefore, staff recommends to the Commission:

1. APPROVE the environmental finding of the Environmental Assessment No.C-08-076 determination of a Categorical Exemption from the requirements of the California Environmental Quality Act, dated August 13, 2008.
2. DENY the appeals and UPHOLD the action of the Planning and Development Director approving Conditional Use Permit Application No.C-08-076 to up-grade of a State of California Alcohol Beverage Control license for the sale of beer, wine and distilled spirits (Type 21).

Attachments: Vicinity Map
2008 Aerial Photograph of site
Exhibits A, B, E, and O dated March 26, 2008
Environmental Assessment No. C-08-076 dated August 13, 2008
Special Permit Conditions of Approval dated August 13, 2008
Initial Letter of Approval Dated August 26, 2008
Police Department, Conditions of Approval April 2, 2008
Council District 3 Plan Implementation Committee Report dated July 22, 2008
Letter of Appeal from Councilmember Cynthia Sterling dated September 9, 2008
Letter of Appeal from Nadar Ali dated October 8, 2008



LEGEND



VICINITY MAP

CONDITIONAL USE PERMIT NO. C-08-076

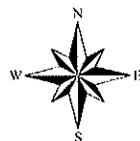
245 E. WHITES BRIDGE AVE.

PLANNING & DEVELOPMENT DEPARTMENT

A.P.N.: 465-183-27

ZONE MAP: 2449

BY/DATE: D.N. / 4-28-08



NOT TO SCALE



Subject Site

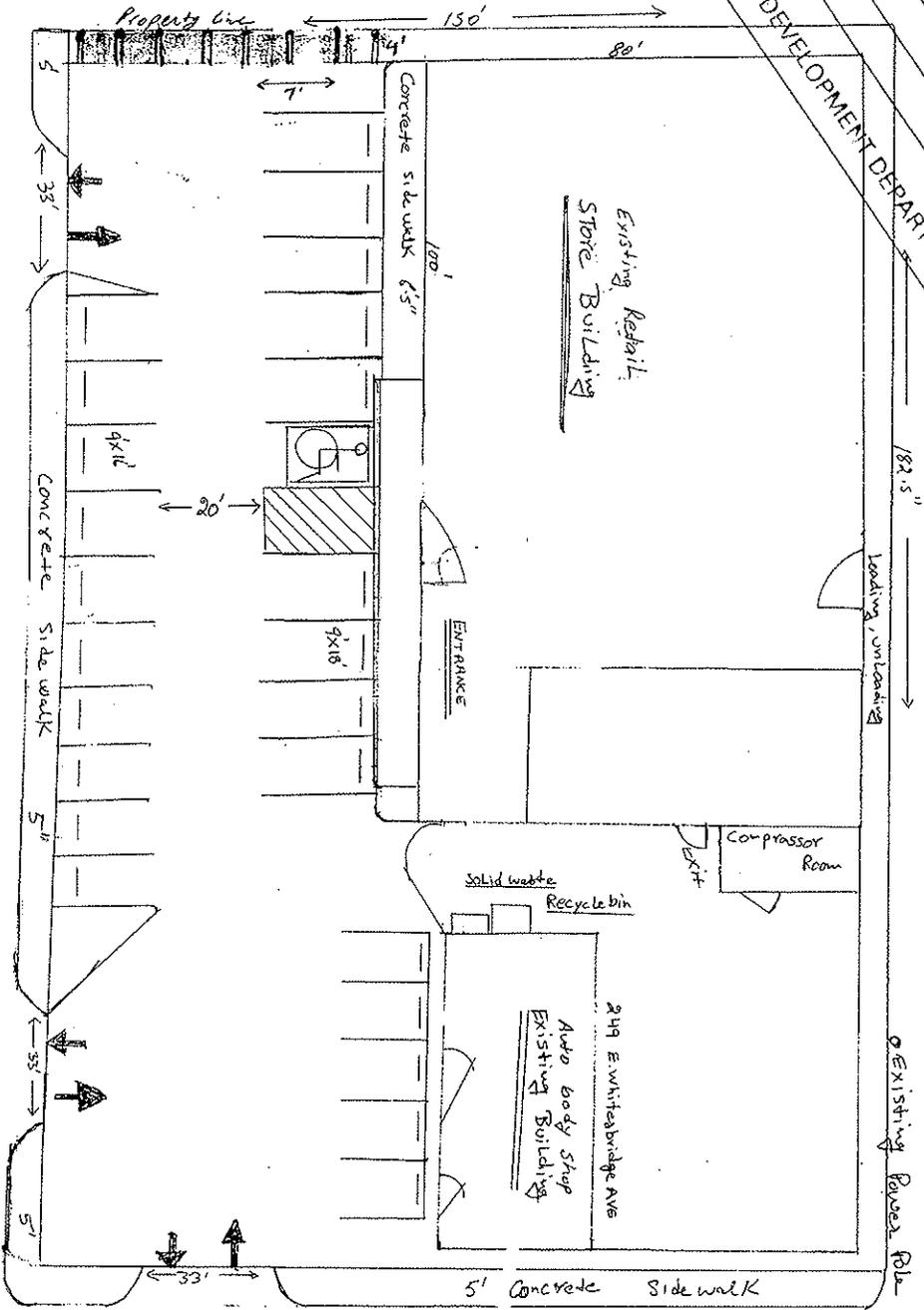
Trinity

Amador

Whites Bridge

N

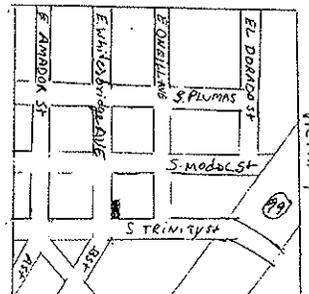
APPL. NO. CS-026 EXHIBIT A DATE March 24, 2005
 PROJ. ENG. _____ DATE _____
 TRAFFIC ENG. _____ DATE _____
 COND. APPROVED BY _____ DATE _____
 CITY OF FRESNO DEVELOPMENT DEPARTMENT



WHITESBRIDGE AVE
 249 E Whitesbridge Ave
 FRESNO CA 95706

SITE PLAN

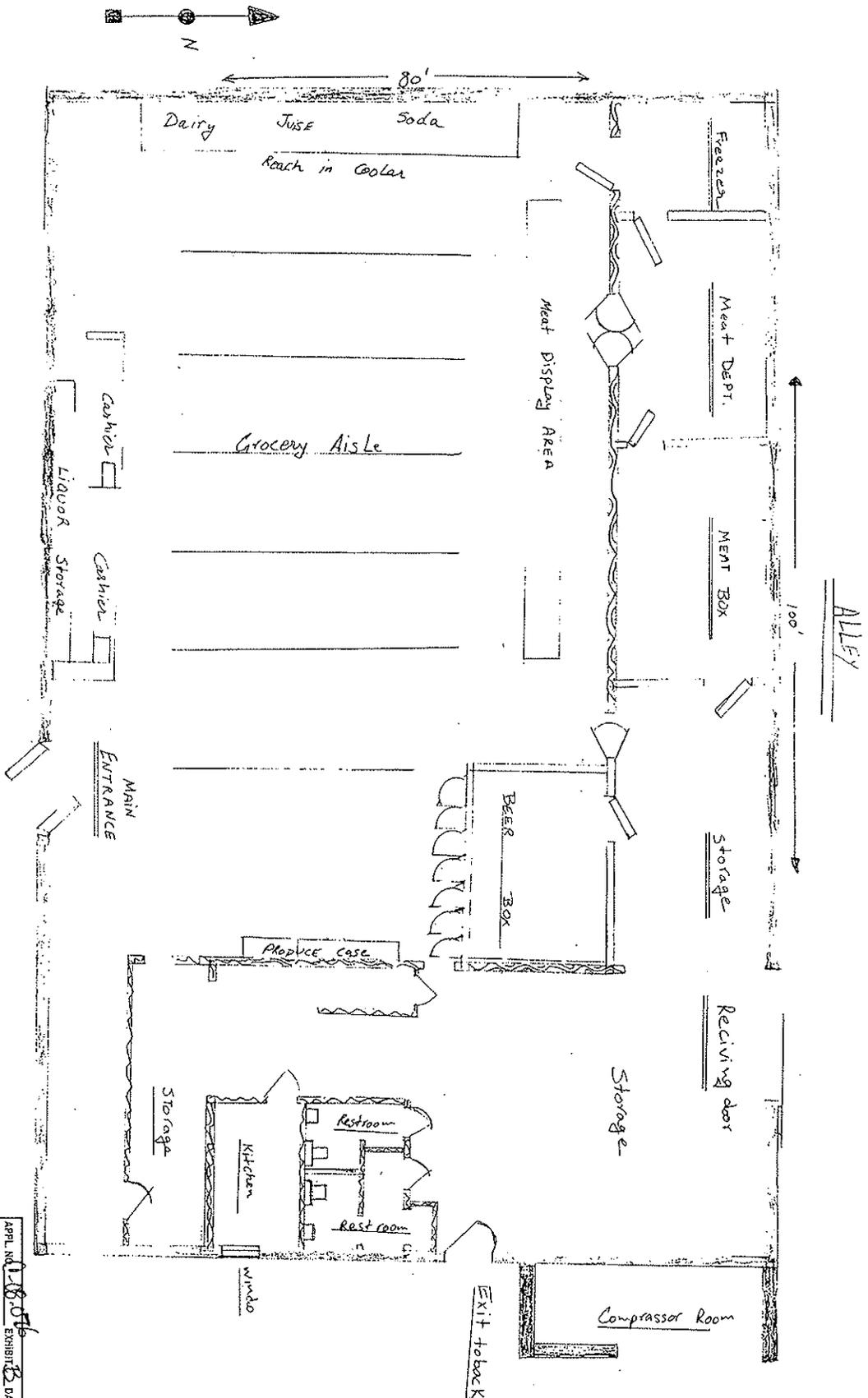
ONE WAY ST



TRINITY ST.

VICINITY MAP

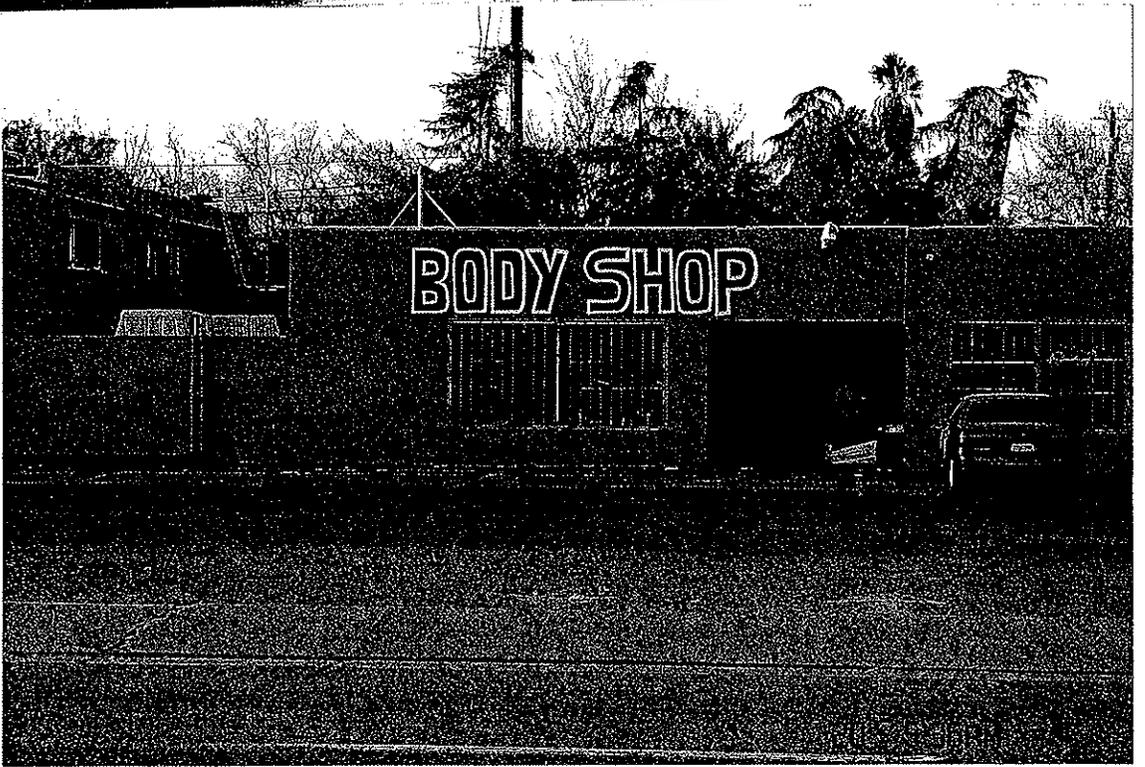
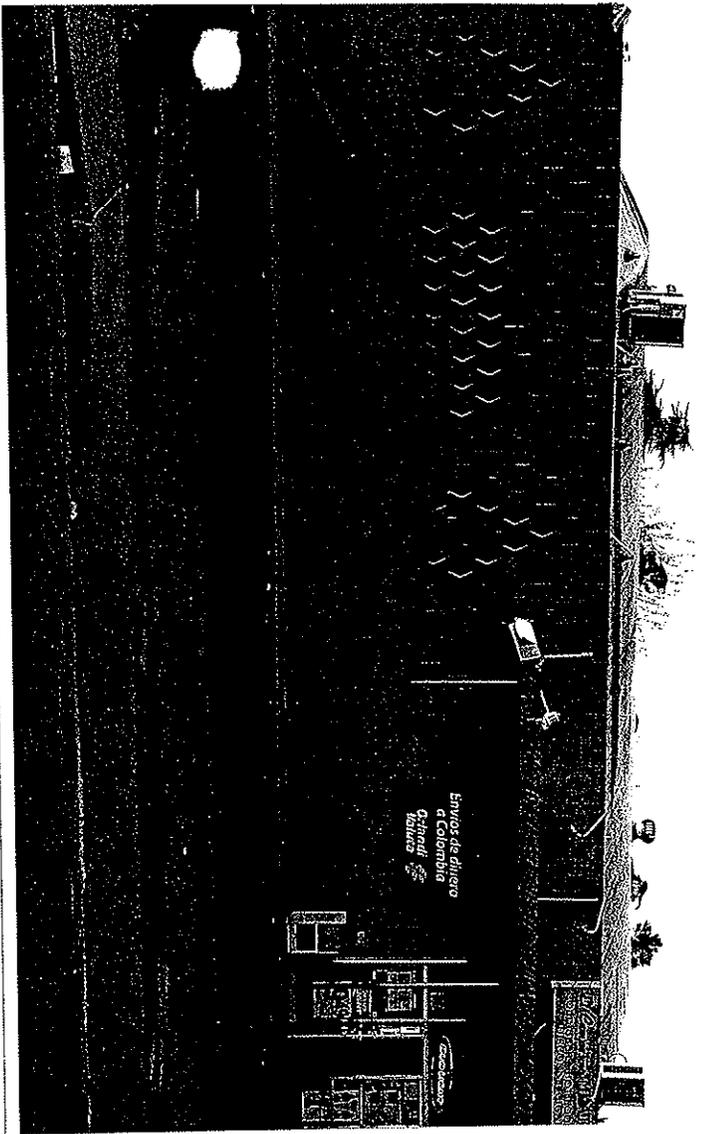




FLOOR PLAN
 245 E Whitebridge Ave
 Fresno CA 93705

FILE COPY

APPL. NO.	118-076	EXHIBIT	B	DATE	3/25/88
PROJ. ENG.		DATE			
TRAFFIC ENG.		DATE			
COND. APPROVED BY		DATE			
CITY OF FRESNO PLANNING & DEVELOPMENT DEPT.					



APPL. NO. 101-02 EXHIBIT E DATE March 29, 2007
 PROJ. ENG. _____ DATE _____
 TRAFFIC ENG. _____ DATE _____
 COND. APPROVED BY _____ DATE _____
 CITY OF FRESNO DEVELOPMENT DEPARTMENT

FILE COPY

To: City of Fresno

Re: Operational Statement

El Campesino Meat Market Located at 245 E. Whitesbridge Ave, Fresno CA 93706, has been doing business at this location past many years. We are an existing food market, requesting to up-grade our current ABC License, To sell bear, wine and distilled spirits (type 21). Our business hours are 8 am – 9 pm 7 days a week. We have total five employees. I have contacted ABC to sign up for LEAD Training program for all of us. At our business we sell Meat, fresh produce, dairy products, soda, Juices, bear wine, cigarettes and general household items.


Gurmeet Singh
(Owner partner)

APPL. NO. <u>C-07-06</u> EXHIBIT <u>0</u> DATE <u>March 28, 2018</u>
PROJ. ENG. _____ DATE _____
TRAFFIC ENG. _____ DATE _____
COND. APPROVED BY _____ DATE _____
CITY OF FRESNO DEVELOPMENT DEPARTMENT

**CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. C-08-076**

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES.

APPLICANT: Gurmeet Singh
245 East Whites Bridge Avenue
Fresno, CA 93706

PROJECT LOCATION: 245 East Whites Bridge Avenue
(APN: 465-183-16)

PROJECT DESCRIPTION: Conditional Use Permit Application No.C-08-076 requests authorization to upgrade a State of California, Alcohol Beverage Control license to sell beer, wine and distilled spirits for off-premises consumption where sold (ABC Type 21). The subject site (Campasino Meat Market) is an existing grocery store. No new development is proposed as part of this request.

This project is exempt under Section 15301/Class 1 of the California Environmental Quality Act (CEQA) Guidelines.

EXPLANATION:

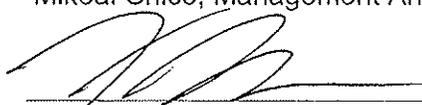
Section 15301/Class 1 states that the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination, are exempt from California Environmental Quality Act (CEQA). The project proposes to sell alcoholic beverages in accordance with the Alcoholic Beverage Control (Type 21) licensed for the sale of beer, wine and distilled spirits for off premises consumption where sold, complies with the Section 15301/Class 1 exemption criteria as noted above.

In summary, the project is consistent with the 2025 Fresno General Plan, Edison Community Plan, Fresno/Chandler Specific Plan, planned land use and zone district designations. The project meets all conditions of exemption specified under the CEQA, categorical exemptions referenced above. No adverse environmental impacts will occur as a result of the proposed project.

Date: August 12, 2008

Prepared By: Mikeal Chico, Management Analyst II

Submitted By:


Franklin Spees, Manager
Development Partnership Center
Planning & Development Department
(559) 621-8181

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RECEIVED
2008 AUG 13 PM 4:16
CITY CLERK, FRESNO CA

**CITY OF FRESNO
PLANNING AND DEVELOPMENT DEPARTMENT**

CONDITIONS OF APPROVAL

AUGUST 13, 2008

CONDITIONAL USE PERMIT APPLICATION No.C-08-076

PART A - PROJECT INFORMATION

1. Assessor's Parcel No: 465-183-16
2. Zone Map No: 2449
3. Job Address: 245 East Whites Bridge Avenue
4. Street Location: Located at the intersection of South Trinity Street and East Whites Bridge Avenue.
5. Existing Zoning C-6 (*Heavy Commercial District*)
6. Planned Land Use: *Residential/medium high density*
7. Plan Areas: Edison Community Plan and Fresno-Chandler Specific Plan
8. Project Description: Alcohol Beverage Conditional Use Permit No. C-08-076 requests authorizing the upgrade of an existing ABC license (Type 20) to a proposed ABC license (Type 21) to sell beer, wine, and distilled spirits for off-premises consumption where sold. No new development is proposed as part of this request.

PART B - GENERAL CONDITIONS AND REQUIREMENTS

The Planning and Development Director on August 21, 2008, approved the special permit application subject to the enclosed list of conditions and Exhibits A, B, E, and O dated March 26, 2008.

This project is exempt under Section 15301/Class 1 of the California Environmental Quality Act (CEQA) Guidelines. A Class 1 categorical exemption was filed on August 13, 2008, with the City Clerks office. No further environmental assessment will be needed at this time.

IMPORTANT: PLEASE READ CAREFULLY

Please note that this project may be subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through site plan review and environmental assessment essential to mitigate adverse effects on the environment including the health, safety, and welfare of the community, and recommended conditions for development that are not essential to health, safety, and welfare, but would on the whole enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval are listed in the last section of this list of conditions under the heading "Part E" - Miscellaneous" and may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings pursuant to Fresno Municipal Code (FMC) Section 12-405.A can be made.

In the event you wish to appeal the Director's decision or discretionary conditions of approval, you may do so by filing a written appeal with the Director. The appeal shall include a statement of your interest in or relationship to the subject property, the decision or action appealed and specific reasons why you believe the decision or action appealed should not be upheld. Your appeal must be filed by September 9, 2008.

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:

1. 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;
2. All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property;
3. Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.

Approval of this special permit 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 Planning and Development Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plan not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or revisions.

No uses of land, buildings, or structures other than those specifically approved pursuant to this site plan shall be permitted.

Transfer all red line notes, etc., shown on all original site plan exhibits (March 26, 2008) to the final site plan. CORRECTIONS SHALL INCLUDE ALL THOSE LISTED IN THIS DOCUMENT AND THOSE LISTED IN THE CORRECTION LIST PROVIDED BY THE PLAN CHECK PROCESS.

The exercise of rights granted by this special permit must be commenced by August 21, 2012 (four years from the date of Director approval). There is no exception.

To complete the back-check process for building permit relative to planning and zoning issues, submit eight copies of this corrected, final site plan, together with six copies of the

i)	The hours of operation shall be consistent with the Police Department agreement dated April 2, 2008, Condition No.23 Business Hours of Operation; Monday through Sunday 8 a.m. to 9 p.m.
ii)	No malt liquor or malt beverage products shall be sold in less than six (6) pack quantities for sale.
iii)	Malt liquor an containers of 40 oz. or less shall not be sold in units of less than a six pack.
iv)	The display of distilled spirits shall be limited to a shelving unit 5 feet high by 8 feet wide located behind the cashier counter against the south wall of the building.

- d) The exercise of rights granted by this special permit must be commenced by August 14, 2012 (four years from the date of approval). There is no extension.

All discretionary conditions of approval will ultimately be deemed mandatory unless appealed in writing to the Planning and Development Department Director within 15 days.

PART D - CITY AND OTHER SERVICES

1. POLICE DEPARTMENT

- a) The City of Fresno, Police Department is responsible for providing police service to the site.
- b) Development shall comply with the Conditions of Approval issued by the Fresno Police Department, dated April 2, 2008.

2. PUBLIC WORKS DEPARTMENT, ENGINEERING SERVICES

- a) Development shall be in accordance with attached memorandum from the Public Works, Engineering Services dated April 25, 2008.

3. FRESNO REDEVELOPMENT AGENCY

- a) Development shall be in accordance with attached memorandum from the Fresno Redevelopment Agency dated April 10, 2008.

PART E - MISCELLANEOUS

Approval of this conditional use permit is contingent upon the submittal of corrected site plans showing all existing/proposed on-site conditions as reflected on all exhibits (March 26, 2008) and the following:

1. If archaeological and/or animal fossil material is encountered during project surveying, grading, excavating, or construction, work shall stop immediately.

elevations, landscape, and irrigation plans, and any required covenants and/or studies or analyses to the Planning Division, Current Planning Section, for final review and approval, ten days before applying for building permits.

Copies of this final approved site plan, elevations, landscape, and irrigation plans stamped by the Planning Division **must be substituted** for unstamped copies of same in each of the four sets of construction plans submitted for plan check prior to issuance of building permits. The final approved site plan must also include all corrections identified in the plan check process.

Be advised that on-site inspections will not be authorized unless the final stamped approved site plan, elevations, landscape, and irrigation plans are included in the plan check file copy.

Please call for an appointment for final sign-off for building permits following your receipt and substitution of the four copies of the stamped, corrected, approved exhibits in the plan check sets. Contact Mikeal Chico at (559) 621-8171 or via e-mail at Mikeal.Chico@fresno.gov to schedule an appointment.

NOTICE TO PROJECT APPLICANT

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees, dedications, reservation or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

PART C - PLANNING/ZONING REQUIREMENTS

1) PLANNING

- a) Development is subject to the following plans and policies:
 - i) 2025 Fresno General Plan
 - ii) Edison Community Plan
 - iii) Fresno-Chandler Specific Plan
 - iv) C-6, Neighborhood Shopping Center District (*Section 12-222.1*).

2) ZONING

- a) Development is proposed in accordance with the existing C-6 (*Heavy Commercial*) zone district.
- b) Development shall comply with Exhibits A, B, E and O dated March 26, 2008.
- c) The following operational conditions shall be complied with for the conduct of the store during business hours open to the public.

2. If there are suspected human remains, the Fresno County Coroner shall be immediately contacted (business hours: 559-268-0109; after hours the contact phone number is 559-488-3111 for the Fresno County Sheriff's Department). If remains or other archaeological material is possibly Native American in origin, the Native American Heritage Commission (phone number 916-653-4082) shall be immediately contacted, and the California Archaeological Inventory/Southern San Joaquin Valley Information Center (phone number 805-644-2289) shall be contacted to obtain a referral list of recognized archaeologists.
3. If animal fossils are uncovered, the Museum of Paleontology at U.C. Berkeley shall be contacted to obtain a referral list of recognized paleontologists. An assessment shall be conducted by a paleontologist; if the paleontologist determines the material to be significant, a recommendation shall be made to the City as to any further site investigation or preservation measures.
4. If there are suspected human remains, the Fresno County Coroner shall be immediately contacted. If the remains or other archaeological material is possibly Native American in origin, the Native American Heritage Commission (Phone: 916/653-4082) shall be immediately contacted, and the California Archaeological Inventory/Southern San Joaquin Valley Information Center (Phone: 805/644-2289) shall be contacted to obtain a referral list of recognized archaeologists. An archaeological assessment shall be conducted for the project, the site shall be formally recorded, and recommendations made to the City as to any further site investigation or site avoidance/preservation.

All discretionary conditions of approval will ultimately be deemed mandatory upon final approval of this conditional use permit.

FILE COPY



Planning and Development Department

2600 Fresno Street Third Floor
Fresno, California 93721-3604
(559) 621-8277 FAX (559) 498-1026

Nick P. Yovino, Director

August 26, 2008

Please reply to:
Mikeal Chico
559-621-8171

Gurmeet Singh
245 East Whites Bridge Avenue
Fresno, California 93706

SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. C-08-076, PROPERTY LOCATED AT 245 EAST WHITES BRIDGE AVENUE (APN: 465-183-16).

Dear Mr. Singh:

The Planning and Development Department has approved Conditional Use Permit No. C-08-076, requesting authorization to upgrade a State of California, Alcohol Beverage Control license from a Type 20 to a Type 21 to sell beer, wine and distilled spirits for off-premises consumption where sold. Notice of approval was mailed to surrounding property owners on August 25, 2008.

Approval will not become effective until the mandatory 15-day appeal period has passed with no appeals received in response to the mailed notice. If an appeal is received prior to September 9, 2008, at 5pm the project will be scheduled to be heard by the Planning Commission. No building permits will be granted until the 15-day appeal period has elapsed or until the Planning Commission has acted on the appeal.

CONDITIONS OF APPROVAL

Conditional Use Permit Application No.C-08-076 is approved subject to the following conditions:

1. Development shall comply with Exhibits A, B, E and O, dated March 26, 2008.
2. Development shall comply with the Conditions of Approval issued by the Fresno Police Department, Southwest Policing District, dated April 2, 2008.
3. Development shall comply with the requirements of Fresno Redevelopment Agency in a memorandum dated April 10, 2008.
4. Development shall comply with the requirements of the Public Works Department, Engineering Services in a memorandum dated April 25, 2008.
5. Development shall comply with the Planning Department's Conditions of Approval dated August 13, 2008.

Please be advised that this project may be subject to a variety of discretionary conditions of approval. These conditions based on adopted City plans and policies, those determined through site plan review and environmental assessment essential to mitigate adverse effects on the health, safety and welfare of the community, and recommend conditions for development that would on the whole enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings pursuant to Section 12-405 can be made.

Discretionary conditions of approval will ultimately be deemed mandatory unless appealed in writing to the Director within 15 days.

In the event you wish to appeal the Director's decision, you may do so by filing a written appeal with the Director. 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.

If you wish to appeal the decision, a written request must be received at the Development Department by September 9, 2008. The written request should be addressed to Nick Yovino, Director and include the application number referenced above.

Please Note: To complete the backcheck process for building permits relative to planning and zoning issues, submit eight copies of the corrected site plan and six copies of elevations, landscaping and irrigation plans, together with required covenants (or preparation fees) and studies or analysis to the Planning Division for final review and approval, ten days before applying for building permits.

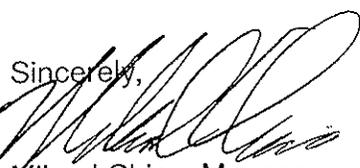
Copies of the final approved site plan, elevations, landscaping and irrigation plans stamped by the Planning Division must be submitted for unstamped copies of the same in each of the four sets of construction plans submitted for plan check prior to the issuance of building permits.

On-site inspections will not be authorized unless the final stamped approved site plan, elevations, landscaping and irrigation plans are included in the plan check field copy.

EXPIRATION DATES

The exercise of rights granted by this special permit must be commenced by August 21, 2012 (four years from the date of approval). There is no extension.

If you have any questions regarding this matter, please do not hesitate to contact me at the number above.

Sincerely,


Mikeal Chico, Management Analyst II
Planning Division

Enclosures: Exhibits A, B, E and O, dated March 26, 2008.
Requirements of Fresno Redevelopment Agency in a memorandum dated April 10, 2008.
Requirements of the Public Works Department, Engineering Services in a memorandum dated April 25, 2008.
Planning Department's Conditions of Approval dated August 13, 2008.

JAF: 245 East Whites Bridge Avenue



RECEIVED

April 2, 2008

Planning & Development Department
2600 Fresno Street, 3rd Floor
Fresno, California, 93721

11/15/07
Planning Division
Planning & Development Dept
CITY OF FRESNO

Attn. **Mike Chico**

Re: **El Campesino Meat Market**
245 E. Whitesbridge
Fresno, Ca. 93706

Mr. Chico,

The City of Fresno has requested that the Fresno Police Department review the application of real property development at **245 E. Whitesbridge**. The property has been zoned **C-6** for commercial development. The primary concern of the Fresno Police Department with the application at this location is the propensity of the premises to generate calls for police service.

We have met with the applicant Gurmeet Singh. All parties have discussed the conditions for development of the property from both agencies. We established these conditions in the best interest of the public safety and with the least possibility of impact for the surrounding proximity. The City of Fresno and related agencies must review any changes. This CUP allows for an **off-sale upgrade ABC license type 20 to a 21**.

We request the following conditions be attached to this location. This will maintain an environment that is least likely to generate public complaints and 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 applicant does not agree to the listed conditions the Fresno Police Department is in opposition of this conditional use permit, and wishes to protest this Conditional Use Permit.

1. **Fresno Municipal Codes**

The applicant will not violate Fresno Municipal Codes, specifically, but not limited to:

- FMC 9-502 (Amusement Devices - Permit Required)
- FMC 9-1803 (Hours of Operation Billiard Hall)
- FMC 9-1805 (Minors in Billiard Hall)
- FMC 7-204.1 (Minors accompanied by parent or guardian in Billiard Hall)
- FMC 9-1905 (Public Dancing - Permit Required)
- FMC 10-105(a) (Noise Ordinance)
- FMC 10-708 (Unlawful Nuisances - High Calls for Police Service)

2. **ABC Education**

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

- (1) taken training from the State of California Department of Alcoholic Beverage Control--Fresno District Office-administered "Leadership and Education in Alcohol and Drugs" (LEAD) Program in the form of an ABC-issued certificate; or,
- (2) taken an accepted equivalent by the ABC-- Fresno District Office to ensure proper distribution of beer, wine, distilled spirits, tobacco, and inhalants 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,
- (3) the ABC-licensed proprietors shall have confirmed with the Development Department within 15 days of the Director's decision, or by final project approval, that a date certain has been scheduled with the local ABC Office to take the LEAD Program course.

Within 30 days of taking said course the employee(s) or responsible employer shall deliver each required LEAD Program Certificate showing completion of said course.

3. **Parking**

The petitioner shall provide adequate off street parking spaces for use by patrons of the premises.

4. **Video Camera**

The purpose of these requirements is to maximize the safety of both the employees and customers and to serve as a deterrent to criminal activity.

Each business must have:

A functional color digital video camera system that continuously records, stores and is capable of playing back images. 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.

There shall be four (4) 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.

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 that can be made a permanent record and that can be enlarged through projection or other means.

It is recommended that the owner 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 system shall be capable of producing a CD or digital playback feature and may be provided to an authorized representative of the Fresno PD within 24 hours of the initial request relating to a criminal investigation.

Video Security Equipment Specifications Sheet

- All interior cameras shall record in color.
- 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.
- Digital video recorder must be capable of storing at least seven days of real-time activities. Cameras may be "alarmed" to switch to full-frame rates on motion detection.
- The system shall have the correct date and time stamped onto the image at all times.
- The system must be working and functional at all times.
- Periodic inspections by the Fresno Police Department may be done to ensure compliance with these specifications.
- The security equipment must be maintained in a secured location inside of the business.
- An inoperable video security system may be cause to revoke or suspend this CUP.

5. **Illegal Drugs**

The establishment will not allow illegal drugs to be sold, ingested, injected, or inhaled in the building premises or on any adjacent property under its control.

6. **No Iced Alcoholic Beverages**

No alcoholic beverages shall be displayed "on ice", such as in an ice chest, in an ice barrel, or similar containers, outside of the "cold box."

7. **Single Sales**

No malt beverage products shall be sold in less than six pack quantities for sale.

8. **Wine Alcohol Per Volume**

No wine shall be sold with an alcoholic content greater than 15% volume.

9. **Container Size**

Malt liquor in containers of 40 oz. or less shall not be sold in units of less than a six pack.

10. **Non-refrigerated Alcoholic Beverages**

The newly stocked, non-refrigerated "hard" liquor or "distilled spirits", and other non-refrigerated alcoholic beverages shall be placed either behind or within the cashier's area; or, at a location which is the farthest away as possible from the front entrance to the store. Convenience markets newly stocked, non-refrigerated "hard@ liquor or "distilled spirits," shall be located either in a locked cabinet, or other locked shelving system, operated either by manual or remote control locking device(s); only to be opened upon the clerk's verification of "legal age" customer verification from 12:00 p.m. (midnight) thru 02:00 a.m. No sales of alcoholic beverages from 02:00 a.m. thru 06:00 a.m. in compliance with B&P Section 25631, Retail Hours of Sale, these areas shall remain locked during this time period.

11. **Business and Professions Codes**

The applicant will not violate any Business and Professions Codes, specifically, but not limited to:

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 25655 (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)

12. Display Conditions

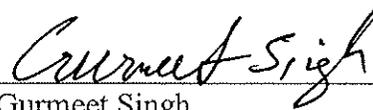
The applicant will maintain a copy of these conditions and all applicable licenses and permits issued by the city, county, state, and federal government at the premises. The applicant must present these conditions immediately upon request of peace officer.

By signing below the applicant acknowledges that he or she has read the above listed conditions and agrees to comply with the above listed conditions and obey all laws. The applicant acknowledges that violating the above conditions will cause a review, which may lead to modification or revocation of this Conditional Use Permit.

FRESNO POLICE DEPARTMENT

 4-3-08
Captain Al Maroney Date:
Southwest District Commander

RESPONSIBLE PARTIES FOR El Campesino Market

 4-3-08
Gurmeet Singh Date:

From: Gregory Barfield
To: Chico, Mikeal
CC: Sophia Pagoulatos
Date: 7/22/2008 12:12 PM
Subject: District Three Reports

Mikeal:

Here is are the reports from District Three on the outstanding CUP's.
Thanks for your patience. By the way what is your new extension??
gb

C-08-076 245 East Whites Bridge Avenue (El Compasino)

Motion by Jackson and Seconded by Reisz to deny this applicant for a Type 21 ABC license. Passes by voice vote at the April 7, 2008 meeting.

C-08-081 2321 Kern Street (Sushi Hanna)

-going to committee on August 4, 2008

C-08-114 ABC 820 Van Ness Avenue (Hero's)

Robert Williams and Conrad Jimenez presented project and shared vision of this sports theme restaurant.

Questions and comments focused on parking, service of alcohol, location of alcoholic advertisements, percent of bar over dining, and building condition, which was built in the mid-1930's.

Motion by Keeling and Second by Balch to approve the application.
Passes.

June 2, 2008 meeting

C-08-124 ABC 2406 Capitol Street (Salas)

Applicant Jessie Mendoza presented the project. Questions and concerns about the project were addressed, including other locations (Old town Clovis and Palm at Herndon) and violations of ABC licenses. Mr. Mendoza said there were two, each stayed by ABC and the employee involved was terminated.

Motion by Balch to approve project C-08-124 ABC. Did not receive a second.

Discussion continued regarding the need for a fence or barrier along the N Street and

*Ann
Mike Chico*

King of Kings Housing Development Corporation



c/o P.O. Box 9929
Fresno, CA 93794-0929
559/243-1000
Fax: 559/243-2177

RECEIVED

October 8, 2008

OCT 14 2008

Planning Division
Planning & Development Dept
CITY OF FRESNO

Keith Berthhold, Secretary
Fresno City Planning Commission
Planning and Development Department
Planning Division
2600 Fresno Street
Fresno, CA 93721-3604

**SUBJECT: CUP Application No. C-08-076
Letter of Objection**

REF: Notice of Public Hearing Dated 10/3/08

Dear Members of the Planning Commission:

Our corporation is presently in the process of developing an affordable housing community for seniors and developmentally-challenged persons at 532 So. Trinity Avenue. We note that the CUP is to authorize the sale of beer, wine and distilled spirits for off-premises consumption. We also note that the property is designated for "Residential/Medium High Density" planned land use by the 2025 Fresno General Plan and the Edison Community Plan.

As owners and developers of the property nearby, we feel the proposed CUP is in conflict with the long-term planning use for the neighborhood. In addition, we believe the proposed use in selling alcoholic beverages for off-site, off-premises consumption would be detrimental to the short- and long-term interests of both the neighborhood and our proposed residential development. We are, therefore, opposed to the granting of approval for the CUP Application No. C-08-076.

Thank you.

Sincerely,

Nadar Ali
Board Chair

NA:lno

10/14/08 10:00 AM
10/14/08 10:00 AM
10/14/08 10:00 AM

**FRESNO CITY PLANNING COMMISSION
RESOLUTION NO. 12900**

The Fresno City Planning Commission, at its regular meeting on November 19, 2008, adopted the following resolution relating to the denial of the appeal and upheld the action of the Planning and Development Director approving Conditional Use Permit Application No. C-08-076.

CONDITIONAL USE REQUESTED: Conditional Use Permit (CUP) Application No. C-08-076 has been filed by Gurmeet Singh (El Campasino Meat Market) requesting authorization to up-grade a State of California, Alcohol Beverage Control license from a Type 20 (beer and wine) to a Type 21 which permits the sale of beer, wine and distilled spirits within an existing food market for off-site consumption.

PROPERTY LOCATION: 465-183-16

PROPERTY DESCRIPTION: 245 East Whites Bridge Avenue, located on the northwest corner of South Trinity and East Whites Bridge Avenues.

EXISTING/PROPOSED ZONING: C-6 (*Heavy Commercial District*) zone district

WHEREAS, the District 3 Implementation Committee reviewed Conditional Use Permit Application No. C-08-076 on April 7, 2008.

WHEREAS, the District 3 Implementation Committee denied the project and provided no basis or explanation for their determination; and,

WHEREAS, the environmental assessment prepared for the project resulted in the issuance of a Finding of Categorical Exemption under Section 15301 of the California Environmental Quality Act Guidelines as an Existing Facility Development Project, filed on August 13, 2008; and,

WHEREAS, the Planning and Development Department staff recommended to the Director approval of the proposed project subject to all conditions of approval contained in the staff report dated August 25, 2008; and,

WHEREAS, the Planning and Development Department issued a Notice of Granting and received an appeal of the project; and,

WHEREAS, November 19, 2008, the Fresno Planning Commission held a duly noticed public hearing to consider Conditional Use Permit Application No. C-08-076 and received oral testimony from the applicant and a written staff report and presentation; and,

WHEREAS, no member of the public spoke in favor of, or in opposition to the project; and,

WHEREAS, The Fresno Planning Commission considered with its own independent judgment all information presented at the public hearing on November 19, 2008 and unanimously voted to uphold the Director's approval of Conditional Use Permit No.C-08-076 and deny the appeal.

NOW, THEREFORE, BE IT RESOLVED that the Fresno City Planning Commission hereby finds and determines that there is no substantial evidence in the record to indicate that Conditional Use Permit No. C-08-076 may have a significant effect on the environment as identified by the Finding of Categorical Exemption, dated August 13, 2008.

Planning Commission Resolution No. 12900
Conditional Use Permit No. C-08-076
November 19, 2008

BE IT FURTHER RESOLVED, that the Fresno City Planning Commission, as a result of its inspections, investigations and studies made by itself and in its behalf, and of testimonies offered at said hearing, has established that approval of the special permit would be in accordance with applicable provisions of the Fresno Municipal Code, including the determination that all findings have been made relative to the issuance of a conditional use permit for the proposed project.

1. That the Planning Commission finds that, in accordance with its own independent judgment, there is no substantial evidence in the record that Conditional Use Permit Application No. C-08-076 may have a significant adverse effect on the environment, and hereby adopts the Finding of Categorical Exemption under Section 15301 of the California Environmental Quality Act Guidelines as an Existing Facilities Development Project, prepared for the project.
2. That, after receiving the staff report and testimony, the Planning Commission has determined that the findings necessary to grant this conditional use permit, have been met, in accordance with Section 12-405-A-2 of the Fresno Municipal Code and as noted in the accompanying Report to the Planning Commission dated November 19, 2008; and the Planning Commission denies the appeal and hereby upholds the Director's approval of Conditional Use Permit No. C-08-076, and hereby approves Conditional Use Permit Application No. C-08-076, subject to the following conditions;
 - a. Development shall comply with Exhibit A, B, E and O, dated March 26, 2008.
 - b. Development shall comply with the Conditions of Approval issued by the Fresno Police Department, Northeast Policing District, dated April 2, 2008.
 - c. Development shall comply with the requirements of Fresno Redevelopment Agency in a memorandum dated April 10, 2008.
 - d. Development shall comply with the requirements of the Public Works Department, Engineering Services in a memorandum dated April 25, 2008.

The foregoing Resolution was adopted by the Fresno City Planning Commission upon a motion by Commissioner Dibuduo, seconded by Commissioner Holt.

VOTING: Ayes - Cherry, Dibuduo, Holt, Torossian, Vasquez and Chair Kissler
 Noes - None
 Not Voting - None
 Absent - Vang

DATED: November 19, 2008


KEITH BERGTHOLD, Secretary
Fresno City Planning Commission

Resolution No. 12900
Conditional Use Permit Application No. C-08-076
Filed by Gurmeet Singh
Action: Recommend Approval

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA,
DENYING THE APPEAL AND APPROVING
CONDITIONAL USE PERMIT APPLICATION NO. C-08-076 AND
ENVIRONMENTAL ASSESSMENT NO. C-08-076

WHEREAS, the Planning and Development Department received Conditional Use Permit Application No. C-08-076 from Gurmeet Singh, on behalf of El Campasino Meat Market, requesting authorization to up-grade a State of California, Alcohol Beverage Control license from a Type 20 (beer and wine) to a Type 21 which permits the sale of beer, wine and distilled spirits within an existing food market for off-site consumption; and,

WHEREAS, the subject site is approximately ± 0.6-acre of property at 245 East Whites Bridge Avenue (APN: 465-183-16) located on the northwest corner of South Trinity and East Whites Bridge Avenues, and is currently developed with a commercial use; and,

WHEREAS, the subject site is classified by the C-6 (*Heavy Commercial District*) zone district; and

WHEREAS, the subject site is designated for medium high residential planned land use designation which is not consistent with the 2025 Fresno General Plan, Edison Community Plan and Fresno Chandler Specific Plan; and,

WHEREAS, the C-6 (*Heavy Commercial District*) zone district designation occurred prior to August 7, 1987, therefore, the conditional use permit application does not have to conform to the applicable plans, according to Fresno Municipal Code Section, 12-607.A.1; and

WHEREAS, the environmental assessment prepared for the project resulted in the issuance of a Finding of Categorical Exemption under Section 15301 of the California Environmental Quality Act Guidelines as an Existing Facilities Development Project, dated August 13, 2008; and,

WHEREAS, on November 19, 2008, the Fresno Planning Commission held a duly noticed public hearing to consider Conditional Use Permit Application No. C-08-076 and received oral testimony from the applicant and a written staff report and presentation; and,

WHEREAS, no member of the public spoke in favor of, or in opposition to the project; and

WHEREAS, The Fresno Planning Commission considered with its own independent judgment all information presented at the public hearing on November 19, 2008 and unanimously voted to uphold the Director's approval of Conditional Use Permit No.C-08-076 and deny the appeal.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. That the Council finds that, in accordance with its own independent judgment, there is no substantial evidence in the record that Conditional Use Permit Application No. C-08-076 may have a significant adverse effect on the environment, and hereby adopts the Finding of Categorical Exemption under Section 15301 of the California Environmental Quality Act Guidelines as an Existing Facilities Development Project, prepared for the project.
2. That, after receiving the staff report and testimony, the Council has determined that the findings necessary to grant this conditional use permit, have been met, in accordance with Section 12-405-A-2 of the Fresno Municipal Code and as noted in the accompanying Report to the City Council dated January 27, 2009; and the Council denies the appeal and hereby upholds the Director's approval of Conditional Use Permit No. C-08-076, and hereby approves Conditional Use Permit Application No. C-08-076, subject to the following conditions;
 - a. Development shall take place in accordance with Conditions of Approval, dated August 13, 2008.
 - b. Development shall comply with the Conditions of Approval issued by the Fresno Police Department, Southwest Policing District, dated April 2, 2008.
 - c. Development shall comply with the requirements of Fresno Redevelopment Agency in a memorandum dated April 10, 2008.

CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, California, at a regular meeting held on the 27th day of January, 2009, by the following vote:

Ayes:

Noes:

Absent:

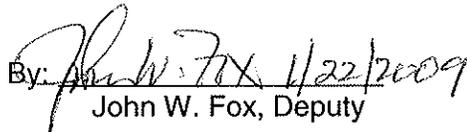
Abstained:

REBECCA E. KLISCH
City Clerk

By: _____

APPROVED AS TO FORM:

JAMES C. SANCHEZ
City Attorney

By:  1/22/2009
John W. Fox, Deputy

Denial of the appeal of Conditional Use
Permit Application C-08-076
Filed by Gurmeet Singh
Assessor's Parcel No. 465-183-16