



RESOLUTION NO. 2009-50

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA,
DENYING CONDITIONAL USE PERMIT APPLICATION 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, filed on August 13, 2008; 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,

Adopted _____
Approved 2/24/09
Effature _____

2009-50



Resolution No. 2009-50
Conditional Use Permit Application No. C-08-076
February 24, 2009
Page 2

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; and,

WHEREAS, pursuant to Fresno Municipal Code, section 12-406-J, Councilmember Sterling requested that a hearing be set before the City Council to consider Conditional Use Permit Application C-08-076 which set aside the action of the Planning Commission; and,

WHEREAS, on January 27, 2009, the Fresno City Council held a duly noticed public hearing to consider Conditional Use Permit Application No. C-08-076 and Environmental Assessment No C-08-076, and received oral testimony and written information presented at the hearing regarding Conditional Use Permit Application No. C-08-076; and,

WHEREAS, based upon the oral and written testimony presented at the hearing on Conditional Use Permit Application No. C-08-076, the City Council was not able to make the necessary findings in accordance with Section 12-405-A-2 of the Fresno Municipal Code to approve CUP Application No. C-08-076. Specifically, the Council based its determination upon the following substantial evidence:

1. The Subject Property is located in Census Tract 2, which according to ABC records has 9 off-sale licenses, while a total of 3 are permitted. As such, there is an over concentration of liquor licenses in this tract.

2. Testimony from Captain Al Maroney, District Commander for the Southwest Policing District of the Fresno Police Department that the census tract and area surrounding census tract is an area of high crime and abnormally high police calls for service.



Resolution No. 2009-50
Conditional Use Permit Application No. C-08-076
February 24, 2009
Page 3

3. Testimony from Captain Maroney that, based upon his background knowledge and experience in evaluating criminal activity, increasing the availability of distilled spirits [hard liquor] increases the potential for criminal activity.

4. Testimony from members of the community regarding the subject property's proximity to a playground and a proposed rehabilitation facility.

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

1. Based upon the substantial evidence contained in the Staff Report to Council and the testimony presented at the hearing on the Conditional Use Permit application, the City Council finds that the approval of this Conditional Use Permit application would be detrimental to the public welfare and injurious to property or improvements in the area in which the property is located.
2. Conditional Use Permit Application No. C-08-076 is hereby denied.



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 24th day of February, 2009, by the following vote:

Ayes: Borgeas, Brand, Dages, Perea, Sterling
Noes: Caprioglio, Xiong
Absent: None
Abstained: None

REBECCA E. KLISCH
City Clerk

By: Rebecca E. Klisch

APPROVED AS TO FORM:

JAMES C. SANCHEZ
City Attorney

By: John W. Fox
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