



**REPORT TO THE PLANNING COMMISSION**

AGENDA ITEM NO. VIII-A COMMISSION MEETING 12-21-11
APPROVED BY
 DEPARTMENT DIRECTOR

December 21, 2011

FROM: MIKE SANCHEZ, Planning Manager  
Development Services Division 

BY: ISRAEL TREJO, Planner  
Development Services Division 

SUBJECT: CONSIDERATION OF AN APPEAL OF DIRECTOR ACTION APPROVING CONDITIONAL USE PERMIT APPLICATION NO. C-10-221 AND ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT NO. C-10-221 FOR PROPERTY LOCATED NEAR THE SOUTHEAST CORNER OF EAST KINGS CANYON ROAD AND SOUTH FOWLER AVENUE

**RECOMMENDATION**

Upon consideration of staff evaluation, it can be concluded that proposed Conditional Use Permit Application No. C-10-221 is appropriate for the project site. Therefore, staff recommends the Planning Commission take the following actions:

1. APPROVE the environmental finding of Environmental Assessment No. C-10-221 dated October 26, 2011, a determination that the proposed project is exempt from CEQA through a Class 1, Class 3 and Class 32 Categorical Exemption.
2. DENY the appeals and UPHOLD the action of the Development and Resource Management Department Director approving Conditional Use Permit Application No. C-10-221 subject to the following:
  - a. Development shall take place in accordance with the Conditions of Approval detailed in the approval letter for Conditional Use Permit Application No. C-10-221 dated November 4, 2011.

**EXECUTIVE SUMMARY**

Conditional Use Permit Application No. C-10-221, filed by Vikram Vohra, pertains to property located near the southeast corner of East Kings Canyon Road and South Fowler Avenue. The applicant requests authorization to establish a Type 21, State of California, Alcohol Beverage Control (ABC) license to sell beer, wine and distilled spirits for consumption off the premises where sold, within a proposed 2,031 square foot convenience store. The convenience store is proposed in tenant space within an existing building. The Development and Resource Management Department Director approved the subject conditional use permit application on November 4, 2011. In accordance with the Special Permit Procedure of the Fresno Municipal Code, a notice of granting of the conditional use permit application was mailed to property owners (and others) within 350 ft. of the subject site. In response to this notice, two appeal letters were received (Exhibits C & D).

**PROJECT INFORMATION**

PROJECT	Conditional Use Permit Application No. C-10-221 is a request to establish a Type 21, State of California, ABC license to sell beer, wine and distilled spirits for consumption off the premises where sold, within a proposed 2,031 square foot convenience store. The convenience store is proposed in tenant space within an existing building
APPLICANT	Vikram Vohra

LOCATION	Located near the southeast corner of East Kings Canyon Road and South Fowler Avenue
SITE SIZE	± 8.26 acres shopping center (parcel size is approximately 3.25 acres)
LAND USE	Existing - Neighborhood Commercial Proposed - No Change
ZONING	C-1 ( <i>Neighborhood Shopping Center District</i> )
PLAN DESIGNATION AND CONSISTENCY	The request to allow a Type 21, State of California, ABC license to sell beer, wine and distilled spirits for consumption off the premises where sold is consistent with the existing C-1 zone district and the Neighborhood Commercial planned land use designation of the 2025 General Plan and the Roosevelt Community Plan
ENVIRONMENTAL FINDING	Staff has determined that the proposed project is exempt from CEQA through a Class 1, Class 3 and Class 32 Categorical Exemption, dated October 26, 2011
PLAN COMMITTEE RECOMMENDATION	On June 13, 2011, the District 5 Plan Implementation Committee recommended denial of the project by a vote of 4 to 1 (1 abstention)
STAFF RECOMMENDATION	Staff recommends approval of Conditional Use Permit Application No. C-10-221 subject to the Conditions of Approval detailed in the approval letter dated November 4, 2011

**BORDERING PROPERTY INFORMATION**

	Planned Land Use	Existing Zoning	Existing Land Use
North	Medium Density Residential & Community Commercial	AE-5 ( <i>Exclusive Five Acre Agricultural District</i> )	Equipment Rental and Vacant
East	Medium Density Residential & Public Facility	R-1-AH ( <i>Single-Family Residential District - Horses</i> )	Church
South	Low Density Residential	R-1-AH [County] ( <i>Single-Family Residential District</i> )	Single-Family Residential
West	Low & Medium High Density Residential	R-1-AH & R-2-A [County] ( <i>Single-Family Residential District &amp; Low Density Multiple Family Residential District</i> )	Single-Family and Multi-Family Residential

**ENVIRONMENTAL FINDING**

The proposed project was determined to be exempt from the California Environmental Quality Act (CEQA) on October 26, 2011, under a Class 1, Class 3 and 32 Categorical Exemption. Section 15301/Class1 of CEQA consists of, in part, the operation, permitting, licensing, or minor alteration of existing private structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

Section 15303/Class 3 of CEQA consists of the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures.

Under the Section 15332/Class 32 exemption, in-fill development that meets the following conditions is exempt from CEQA a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations, b) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses, c) the project site has no value as habitat for endangered, rare or threatened species, d) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality, and e) the site can be adequately served by all required utilities and public services.

The proposed project consists of a request to authorize a Type 21, State of California, ABC license to sell beer, wine and distilled spirits for consumption off the premises where sold within a proposed 2,031 square foot convenience store (existing building). The property is zoned C-1 which is consistent with the 2025 Fresno General Plan and the Roosevelt Community Plan land use designation of neighborhood commercial. The proposed operation is allowed within the designated zone district. The site has no value as habitat for endangered, rare or threatened species. The project complies with the conditions of the Class 1, 3 and 32 Categorical Exemptions.

## **BACKGROUND / ANALYSIS**

Conditional Use Permit Application No. C-10-221 is a request to establish a Type 21, State of California, ABC license to sell beer, wine and distilled spirits for consumption off the premises where sold, within a proposed 2,031 square foot convenience store. The convenience store is proposed in tenant space within an existing building. The Development and Resource Management Department Director approved the subject conditional use permit application on November 4, 2011. In accordance with the Special Permit Procedure of the Fresno Municipal Code, a notice of granting of the conditional use permit application was mailed to property owners (and others) within 350 ft. of the subject site. In response to this notice, two appeal letters were received (Exhibits C & D).

### **Proposed Use Allowed Pursuant to a Conditional Use Permit**

Pursuant to Fresno Municipal Code (FMC) 12-217.3.B.1, the retail sale of alcohol for off-site consumption is permitted in the C-1 (*Neighborhood Shopping Center District*) zone district subject to a conditional use permit. In addition to having beer, wine and distilled spirits, within the convenience store, the applicant is also proposing to sell deli meats, milk, non-prescription medicine, energy drinks, soda, chips, candy, eggs, etc.

### **Alcoholic Beverage Control Regulations**

In addition to obtaining a conditional use permit from the City of Fresno, the applicant is required to obtain a license from the Alcoholic Beverage Control in order to sell alcohol. The Alcoholic Beverage Control has not issued a license to the applicant allowing the sale of alcohol; the issuance is currently under review. The Alcoholic Beverage Control is awaiting the decision on the subject conditional use permit application prior to making its recommendation on the issuance of the ABC license. Pursuant to information received from the Alcoholic Beverage Control, the issuance of the ABC license is under protest. In a letter dated August 10, 2011, from ABC to the project applicant, ABC is recommending that conditions be placed on a potential license (if it is eventually issued), including: sales of alcoholic beverages shall only be permitted between 7:00 a.m. and 1:00 a.m., pornography is not allowed to be sold, the licensee shall keep the property adjacent to the licensed premises clear of newspaper racks, benches, telephones and other objects which may encourage loitering, and keeping the area free of

litter. The conditions were recommended due to the proximity of the subject location to residential and church property.

California Business and Professions Code 23789

California Business and Professions Code 23789(a) states: the department (ABC) is specifically authorized to refuse the issuance, other than renewal or ownership transfer, of any retail license for premises located within the immediate vicinity of churches and hospitals.

There are two churches located to the east of the project site. One church property shares the east property line of the subject property. The second church property is located further east and is at a distance of approximately 500' from the easterly property line of the subject property. The churches are located at the southwest and southeast corners of East Kings Canyon Road and South Burgan Avenue. Section 23789(a) of California Business and Professions Code *authorizes* ABC to refuse the issuance of a retail license, however, it does not *mandate* ABC to refuse the issuance of a retail license.

The nearest church, located at the southwest corner of East Kings Canyon Road and South Burgan Avenue, did not file an appeal letter in response to the Notice of Granting letter mailed to nearby property owners. The applicant and a church representative have entered into a private agreement. In an agreement letter dated March 2, 2011, the applicant agrees to close no later than 11 p.m. Sunday through Thursday and midnight on Friday and Saturday. The applicant will provide additional lighting on the church property. The applicant will monitor the church for trash. The applicant will repair vandalism that occurs on the church. It is noted that the agreement is a private agreement and is not enforceable by the City of Fresno.

The further church, located at the southeast corner of East Kings Canyon Road and South Burgan Avenue, has filed an appeal of the subject conditional use permit (see Exhibit D). This church property is located approximately 500' to the east of the subject site.

ABC Form 247 – Statement RE: Residences - 100 feet to residences

As part of the applicant's application process with ABC, the applicant may be required to prepare an ABC Form 247. Said form requires the applicant to list addresses of all residences within 100 feet of the proposed premises (subject building). Distances are measured by direct line from the closest edge of the residential structure to the closest edge of the proposed premises structure (subject building) or parking lot, whichever is closer. The "parking lot" includes any area that is maintained for the benefit of the project's patrons or operated in conjunction with the premises.

The subject property is developed with a shopping center (and parking lot). There are many parking spaces located in close proximity to the subject building which would serve the proposed use. There are no residences located within 100 feet of the subject building.

Noted within ABC Form 247, if an establishment or parking lot is located within 100 feet of a residence, a retail license with conditions may still be issued if the applicant establishes the operation of the business would not interfere with the quiet enjoyment of the property by residents.

**Research of Applicant's other ABC License Locations**

The Alcoholic Beverage Control was contacted in order to obtain a list of active ABC licenses that have been issued to the applicant in the city of Fresno (see below). None of the licensed locations have current or historical disciplinary action.

Vikram Vohra License No. 424864  
Fast N Esy No. 4 (902 East Shields Avenue)  
No current or historical disciplinary action found.  
ABC License Type 21 – Off-Sale General (allows the sale of beer, wine and distilled spirits)

Vikram Vohra License No. 442614  
Fast N Esy No. 4 (5191 East McKinley Avenue)  
No current or historical disciplinary action found.  
License Type 21 – Off-Sale General (allows the sale of beer, wine and distilled spirits)

Vikram Vohra License No. 454159  
Chevron Extra Mile (5270 West Shaw Avenue)  
No current or historical disciplinary action found.  
License Type 20 – Off-Sale Beer and Wine (allows the sale of beer and wine)

Vikram Vohra License No. 476969  
Chevron Extra Mile (6451 East Shields Avenue)  
No current or historical disciplinary action found.  
License Type 20 – Off-Sale Beer and Wine (allows the sale of beer and wine)

Vikram Vohra License No. 479798  
585 West Nees Avenue (no business license shown for this location)  
No current or historical disciplinary action found.  
License Type 21 – Off-Sale General (allows the sale of beer, wine and distilled spirits)

Vikram Vohra License No. 507183  
Arco (5687 East Kings Canyon Road)  
No current or historical disciplinary action found.  
License Type 20 – Off-Sale Beer and Wine (allows the sale of beer and wine)

### **Calls for Service**

The Fresno Police Department has provided the calls for police service for the subject property shopping center, the 7-11 convenience store at the southeast corner of East Kings Canyon Road and South Fowler Avenue and the two (church) properties located on the southeast and southwest corner of East Kings Canyon Road and South Burgan Avenue. Said locations are the only properties that are within the jurisdiction of the City of Fresno and within Police Zone 2768. The remainder of area in Police Zone 2768 is within the jurisdiction of the County of Fresno. Police Zone 2768 covers the area between Kings Canyon Road, Fowler Avenue, Butler Avenue, Armstrong Avenue. The calls for service that were provided are within the dates of January 1, 2010, to June 9, 2011.

The addresses that exist within the subject shopping center are 6061, 6105, 6127 and 6149 East Kings Canyon Road. The proposed business is not in operation, as such, there are no police calls for service for said location. Of the approximately 89 calls for service between January 1, 2010, to June 9, 2011, 35 were for the subject property shopping center (39%).

There is a 7-11 convenience store located on the southeast corner of East Kings Canyon Road and South Fowler Avenue. The address of the store is 6015 East Kings Canyon Road. Of the approximately 89 calls for service between January 1, 2010, to June 9, 2011, 33 were for the 7-11 convenience store (37%).

### **Off-street parking**

The subject property shopping center was approved on October 3, 2007, through Conditional Use Permit No. C-06-085. Pursuant to Section 12-217.5-I-1 of the FMC, there shall be at least two (2) square feet of off-street parking area for each one (1) square-foot of floor area.

The approved site plan for C-06-085, dated March 25, 2008, shows five retail shell buildings totaling 76,980 square feet and two building pads totaling 6,496 square feet designed for drive-through use (total amount of approved floor area is 83,476 square feet). The approved site plan shows 396 off-street parking spaces and 203,200 square feet of parking area on-site, thus the approved site plan meets the parking requirement.

The project site is being developed in phases. Buildings A, B, C and G have been constructed and total 69,080 square feet. As noted above, at least two (2) square feet of off-street parking area is required for each one (1) square-foot of floor area. Approximately 140,000 square feet of parking area has been constructed, thus the current development meets the minimum parking requirements.

### **Landscaping**

As noted within the conditions of approval for the entitlement that approved the subject property shopping center (C-06-085), a minimum of 10 feet of landscaping is required along East Kings Canyon Road and South Fowler Avenue. Along the frontage of the three building pads that have yet to be constructed (Bldgs. D, E and F), the landscaping along the major street has not been installed. The installation of the 10 feet of landscaping is a condition of approval for the subject application.

### **Sanger Unified School District**

The subject project was routed to the Sanger Unified School District for comment. The comment received was that an elementary school is located at 6350 East Lane Avenue. Said school is located over 2,000 feet from the proposed convenience store. Six hundred feet is the distance the ABC uses in which a license can be refused if a project is located within that distance from a school.

### **District 5 Plan Implementation Committee**

On June 13, 2011, the District 5 Plan Implementation Committee recommended denial of the project by a vote of 4 to 1 (1 abstention).

The Committee discussed the following topics regarding the project: shortage of parking in the project area, explained that the project may be better if it were located on the westerly end of the shopping center, proximity to the nearby churches and proximity to the child care facility located within the nearby George Brown's Fitness Center (GB3).

As noted previously, at least two (2) square feet of off-street parking area is required for each one (1) square-foot of floor area. Approximately 140,000 square feet of parking area has been constructed and approximately 69,080 square feet of building area has been constructed; thus, the subject property meets the parking requirement of the FMC. The GB3 is located on the eastern side of the project shopping center and, during busy hours, its patrons use up a majority of the parking on the easterly side. It is noted that the GB3 is a new fitness center located in southeast Fresno which doesn't have as many fitness centers as other parts of town. As the southeast area grows in commercial establishments, other fitness centers are expected to be built. There are two churches located to the east of the project site. One church property shares the east property line of the subject property. The second church property is located further east and is at a distance of approximately 500' from the easterly property line of the subject property shopping center. The churches are located at the southwest and southeast corners of East Kings Canyon Road and South Burgan Avenue.

The nearest church, located at the southwest corner of East Kings Canyon Road and South Burgan Avenue, did not file an appeal letter in response to the Notice of Granting letter mailed to nearby property owners. The applicant and said church representative have entered into a private agreement. In an agreement letter dated March 2, 2011, the applicant agrees to close no later than 11 p.m. Sunday through Thursday and midnight on Friday and Saturday. The applicant will provide additional lighting on the church property. The applicant will monitor the church for trash. The applicant will repair vandalism that occurs on the church. It is noted that the agreement is a private agreement and is not enforceable by the City of Fresno.

The further church, located at the southeast corner of East Kings Canyon Road and South Burgan Avenue, has filed an appeal of the subject conditional use permit (see Exhibit D). This church property is located approximately 500' to the east of the subject site.

There is a child care facility located within the nearby GB3. Patrons of the GB3 can check-in a child, between the ages of 6 months and 13 years, while they are using the fitness center. A checked-in child cannot leave the child care facility unless they leave with an adult.

### **ANALYSIS OF THE APPEAL LETTERS**

There were two appeal letters received in response to the Notice of Granting issued for the project. One appeal letter was received from the church (pastor) located at the southeast corner of East Kings Canyon Road and South Burgan Road (Exhibit D). Attached to the appeal letter were two pages containing 50 signatures in support of the appeal.

The second appeal letter was submitted by a member of the same church (Exhibit C).

Below is an analysis of the issues raised in the appeal letter dated November 17, 2011 (Exhibit C).

**Issue #1:** Numerous homeowners in the area have objected to the issuance of the ABC license. Protest letters on file with the Alcoholic Beverage Control.

**Response:**

An ABC license is obtained through the State Department of Alcoholic Beverage Control and a Conditional Use Permit is obtained through the City of Fresno. Pursuant to information received from the Alcoholic Beverage Control, the issuance of the ABC license is under protest. A copy of the protest letters submitted to the Alcoholic Beverage Control was provided to staff.

The subject conditional use permit has been appealed and is now before the Planning Commission for review.

**Issue #2:** Two churches in close proximity to the project site.

**Response:**

There is no Fresno Municipal Code section that requires a minimum distance between a church and a convenience store that sells alcohol. The conditions of approval for the subject project include requirements, including those required by the Police Department, which are intended to minimize the impact of the project on the neighborhood, including, the installation of cameras, the site be maintained free of litter and other debris and the disallowance of the sale of pornography. A six-foot high block wall and landscape planter, a requirement per the Fresno Municipal Code, is constructed along the property line (east) that is shared with the church. Research with the Alcoholic Beverage Control

shows that the applicant has six active ABC licenses in the City of Fresno. None of the licenses show current or historical disciplinary action at the locations.

Pursuant to Section 23789(a) of the California Business and Professions Code, the ABC is authorized to refuse the issuance, other than renewal or ownership transfer, of any retail license for premises located within the immediate vicinity of churches and hospitals. It is noted that said Section *authorizes* ABC to refuse the issuance of a retail license, however, it does not *mandate* ABC to refuse the issuance of a retail license.

Nearby residents have the ability to protest the issuance of an ABC license through an appeal to the Alcoholic Beverage Control. Pursuant to information received from the Alcoholic Beverage Control, the issuance of the ABC license is under protest.

**Issue #3:** The other locations owned by the applicant sell single shot bottles of liquor which encourages drinking on the spot, i.e. mixing the alcohol with soda or coffee.

**Response:**

The Fresno Police Department, in their conditions dated October 6, 2011, requires employees that sell alcoholic beverages to complete the "Leadership and Education in Alcohol and Drugs (LEAD)" training as administered by Department of Alcoholic Beverage Control or complete equivalent training acceptable to ABC. The Police Department conditions also require that the establishment not allow alcoholic beverages to be consumed outside the building premises. If alcoholic beverages are consumed on the exterior portion of adjacent property, the applicant shall immediately report such consumption to the Fresno Police Department.

**Issue #4:** Pornography will end up being sold at the subject location.

**Response:**

Pursuant to the operational statement dated November 3, 2011 (Exhibit G), the applicant will not sell or maintain pornographic material.

The Alcoholic Beverage Control has not issued a license allowing the sale of alcohol; the issuance of the license is currently under review. Pursuant to information received from the Alcoholic Beverage Control, the issuance of the license is under protest. In a letter dated August 10, 2011, from the Alcoholic Beverage Control to the project applicant, ABC is recommending that conditions be placed on a potential license, including disallowing the sale of pornography.

**Issue #5:** There are numerous places to purchase liquor within one mile of the subject property.

**Response:**

There are four active existing off-sale ABC licenses in an area where five such outlets are authorized to operate per Alcoholic Beverage Control standards. Thus, this project will not create an over-concentration of off-sale alcoholic beverage sales outlets in the project vicinity.

Below is an analysis of the issues raised in the appeal letter dated November 16, 2011 (Exhibit D).

**Issue #1:** The proposed convenience store is too close to an existing church.

**Response:**

See response to issue No. 2 above.

**Issue #2:** The proposed use will create litter in the area, intoxicated people napping/casing on the property and panhandling.

**Response:**

The project has been conditioned by the Development and Resource Management Department and the Police Department. The conditions of approval for the subject project include requirements which are intended to minimize the impact of the project on the neighborhood, including, the installation of cameras and to maintain the site free of litter and other debris. The applicant is also required to post the property with signage disallowing the consumption of alcoholic beverages, trespassing and loitering.

**Issue #3:** The proposed use will not be operating under guidelines designed to preserve a community friendly reputation of a large corporation, i.e. the CVS store recently approved in the area.

**Response:**

The Alcoholic Beverage Control was contacted in order to obtain a list of active ABC licenses that have been issued to the applicant in the city of Fresno. None of the six licensed locations have current or historical disciplinary action.

The project has been conditioned by the Development and Resource Management Department and the Police Department. The conditions of approval for the subject project include requirements which are intended to minimize the impact of the project on the neighborhood, including the installation of cameras and to maintain the site free of litter and other debris. The applicant is also required to post the property with signage disallowing the consumption of alcoholic beverages, trespassing and loitering.

**Issue #4:** A neighborhood store that sells cheap liquor will become a hang-out for drug users.

**Response:**

See response to preceding issue.

**Request for Meeting from the Project Applicant**

In response to the two appeal letters received for the project, the project applicant requested for staff to contact the appellants to try to set up a meeting to discuss the project. On November 23, 2011, staff contacted the appellants to inform them that the applicant requested an opportunity to meet with them to discuss the project. Neither appellant responded to the request for a meeting.

On December 1, 2011, staff again contacted the appellants to inform them that the applicant requested an opportunity to meet with them to discuss the project. Neither appellant responded to the request for a meeting.

**NOTICE OF PLANNING COMMISSION MEETING**

The Development and Resource Management Department mailed notices of this Planning Commission hearing to surrounding property owners (and others) within 350 feet of the subject property (Exhibit D).

**CONDITIONAL USE PERMIT APPLICATION REVIEW 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 this conditional use permit application as follows:

<b>Findings per Fresno Municipal Code Section 12-405-A-2</b>	
<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>The subject property shopping center was approved on October 3, 2007, under Conditional Use Permit No. C-06-085. The project is being developed in phases and does not yet have all the parking and landscaping approved pursuant to the conditions of approval. An adequate amount of parking has been provided for the amount of floor area that has been constructed. There are three locations along the major streets that do not have landscaping. The landscaping is required to be installed as part of the conditions of approval. The applicant has filed Tentative Parcel Map No. 2007-32 in order to subdivide the subject property shopping center. The parcel map would remove property lines that are currently straddled by buildings. A final recorded parcel map is required as part of the conditions of approval. The existing walls, recycling areas, and other required features, comply with applicable codes.</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 subject site is bordered by two arterial streets (East Kings Road and South Fowler Avenue). Adjacent streets have been previously assessed to ensure that permitted uses would not have significant impacts on traffic. The proposed project is consistent with uses allowed within the Neighborhood Commercial Plan Designation and the C-1 zone district.</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>	

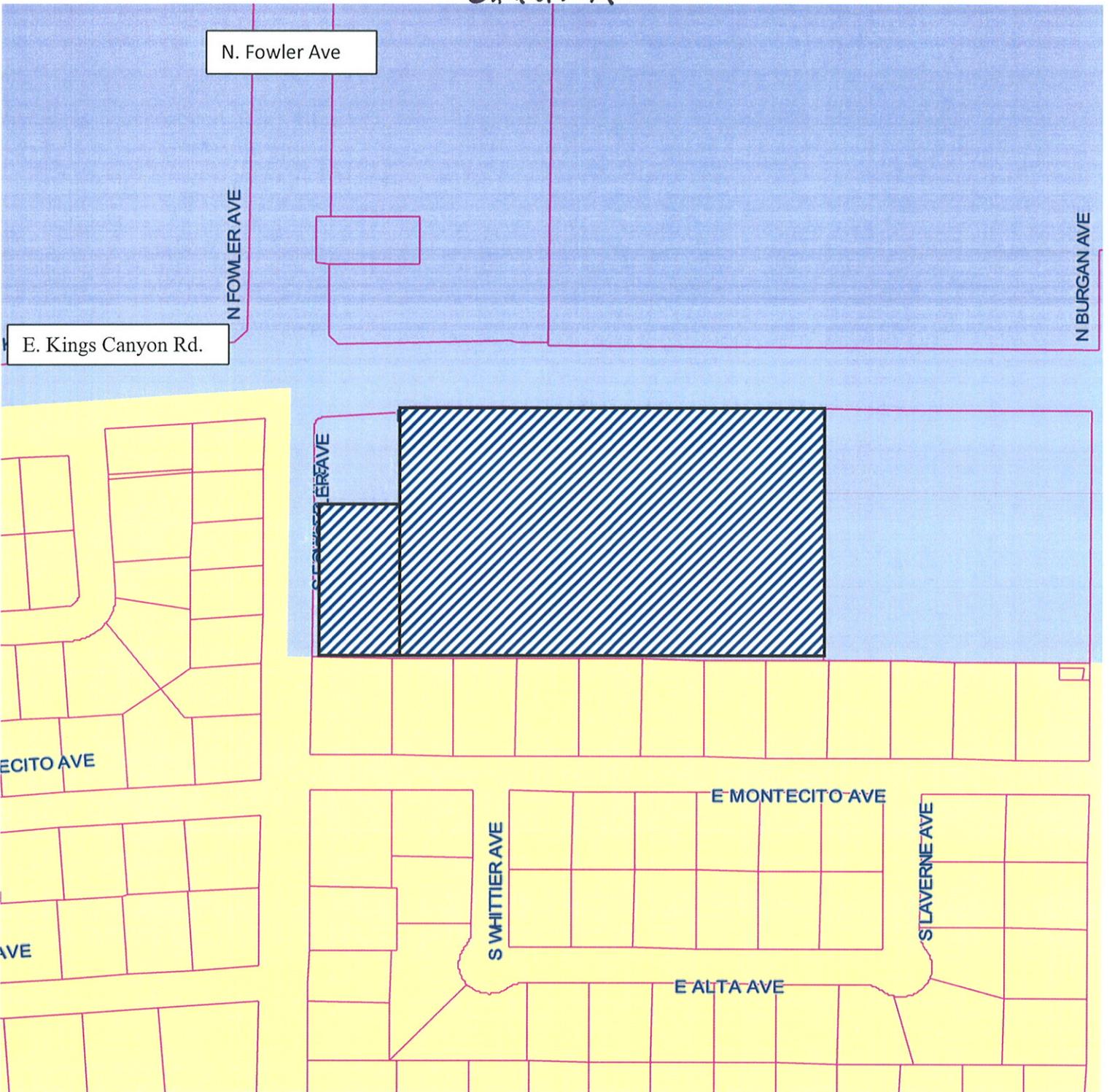
Finding c:	There is no substantial evidence to indicate that the proposed project will be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. The project site is not located in area with an over concentration of ABC licenses. The proposed project tenant space is not occupied, therefore there was no historical data relative to police calls for service available for the project tenant space. Research with the ABC shows that the applicant has six active ABC licenses in the City of Fresno. None of the active licenses show current or historical disciplinary action at the locations. The proposed project has been conditioned, said conditions are intended to help protect the public health, safety and welfare of patrons and surrounding properties. In addition, the applicant will be required to comply with the conditions of approval as required by the Police Department which will stipulate certain requirements that must be met by the applicant. These conditions are intended to help protect the public health, safety and welfare of patrons and neighbours, alike.
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**Conclusion**

In conclusion, given that all mandated conditional use permit findings required pursuant to Section 12-405-A-2 of the Fresno Municipal Code can be made for Conditional Use Permit Application No. C-10-221 and given that the project meets all requirements of a Class 1, Class 3 and Class 32 Categorical Exemption and is thus exempt from CEQA, staff recommends that the Planning Commission deny the appeals and uphold the action of the Director as previously described in this staff report.

- Attachments:
- Exhibit A: Vicinity Map
  - Exhibit B: 2010 Aerial Photograph of site
  - Exhibit C: Appeal Letter dated November 17, 2011
  - Exhibit D: Appeal Letter dated November 16, 2011
  - Exhibit E: Noticing Map (350-foot radius)
  - Exhibit F: Approval Letter/Conditions of Approval dated November 4, 2011
  - Exhibit G: Operation Statement (Exhibit O within conditions of approval)
  - Exhibit H: Site Plan (Exhibit A within conditions of approval)
  - Exhibit I: Floor Plan & Elevations (Exhibit EF within conditions of approval)
  - Exhibit J: Comments from Responsible Agencies
  - Exhibit K: Environmental Assessment No. C-10-221, dated October 26, 2011

Exhibit A



**LEGEND**

 Subject Property

**VICINITY MAP**

CONDITIONAL USE PERMIT NO. **C-10-221**

PROPERTY ADDRESS

**6127 East King Canyon Rd  
#105**



Not To Scale

**A.P.N.: 313-210-23**

**ZONE DIST.: C-1**

**BY/DATE:**

Exhibit B



2010 Aerial

East King Canyon Rd.

South Fowler Ave.

Subject Property

Google

Eye alt 437 m

© 2011 Google  
Data SIO, NOAA, U.S. Navy, NGA, GEBCO  
E Alta Ave

36°44'09.61" N 119°40'48.08" W

Apr 26, 2011

RECEIVED

NOV 17 2011

ENVIRONMENT DEPARTMENT  
CITY OF FRESNO

City of Fresno

Development and Resource Management Dept.

Notice of granting of special permit for Application C-10-221:

Attention Israel Trejo City Planner.

November 17, 2011

I Lawrence McKenry do hereby **protest** this special permit to engage in a type 21 off-sale Liquor Store at the address 6127 E. Kings Canyon #105, Fresno, CA 93727. Recently a Walgreen store has already been approved across the street which sells hard Liquor Type 21 License. So there was no need for that license to be approved let alone another one. I attend the church located across the street from the designated site. Sunnyside Baptist at 6269 East Kings Canyon Road. The objection, as I again redefine my letter of protest sent to Planning Dept. December 3, 2010.

1. Numerous homeowners in the area within 200 feet have already objected check with ABC protest letters. 100's on file. Check with STATE of Calif. ABC DEPT.
2. Two churches close to the site
3. The other stores by this owner involve single shot bottles of liquor which encourages drinking on the spot. Mixed with soda or coffee on the spot.
4. Pornography will end up being sold once you OK Liquor, (once started you can't stop free speech issue) by this owner, or a future subsequent owner once he sells the store By OK of this you are opening the can of worms for a deteriorating of the area.
5. We do not need additional vice in this area similar to Kings Canyon and Chestnut to Cedar area
6. There is already numerous places to purchase Liquor within 1 mile of this area. I do not object to a Walgreen's or a large Supermarket in this area they will have provisions in their Company policy not allowing Pornography or single shot bottles the same is true of the 7-11 already in the area.

Respectfully,

Larry McKenry  
Sunnyside Baptist Church

Exhibit D

**From:** Rdavidpow@aol.com  
**Sent:** Wednesday, November 16, 2011 3:55 PM  
**To:** Israel Trejo  
**Subject:** Sunnyside Baptist Re. C-10221 V.Vohra APN:31321018  
**Attachments:** 7 11 objection pg 2.jpg; 7 11 objection.jpg

RECEIVED

NOV 16 2011

DEVELOPMENT DEPARTMENT  
CITY OF FRESNO

Dear Mr. Trejo.

I am resending my letter with a copy of the attached petition signed by my congregants.

In a message dated 11/16/2011 3:27:41 P.M. Pacific Standard Time, [Rdavidpow@aol.com](mailto:Rdavidpow@aol.com) writes:

Mr. Trejo,

I'm writing once again to expressed my church's objection to the establishment of a store selling hard liquor at 6127 E. Kings Cyn. Rd. Fresno, CA. Our objection is it not based only on the proximity of the proposed store to our location and the negative impact that consumers of alcohol have on our property in terms of bottles strewn about and drunks napping on the grounds or casing the premises and panhandling. These problems extend to my own residence at 6309 Kings Cyn. Rd. as well.

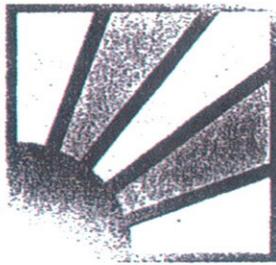
We realize that alcohol is a legal substance and understand that the new CVS/Pharmacy under construction kitty corner to the Vikram's convenience store will also be selling liquor. But we feel substantially less uncomfortable about this because we know that, unlike Vikram's store, CVS is a large franchise operating under guidelines designed to preserve the community friendly reputation of a large corporation.

Additionally, and I speak from experience here as the parent of a trouble teenager, I can see a neighborhood store that sells cut-rate liquor quickly becoming a favorite hang-out and rendezvous location for drug and pot users and other illegal activities that fascinate young people and attract gang activity. We want to make finding that kind of activity less convenient, not more convenient for young people.

The city needs revenue. The businessman seeks to turn a profit. But those of us who live here are concerned about the well-fare of our community and especially of its young people. Please reconsider this decision.

Sincerely,

Pastor David Powell



# Sunnyside Baptist Church

6269 East Kings Canyon Road, Fresno, CA 93727  
Phone: (559) 255-5673 Fax: (559) 255-6013  
www.sunnysidebaptist.com

September 12, 2010

To Whom It May Concern:

We the undersigned, as congregants of Sunnyside Baptist Church located at 6269 E. Kings Canyon Road, hereby protest and object to the issuance of a license under the Alcoholic Beverage Control Act to Vohra Vikram to sell liquor at 6127 E. Kings Canyon Road on the grounds that this location is within half a block of our church and within 500 yards of two schools attended by children from our church, Fancher Creek Elementary and John Wash Elementary.

We, the undersigned, declare under penalty of perjury: (1) that we are the protestants herein; (2) That we have read the above protest and know the contents thereof; and (3) That the same is true of our own knowledge except as to those matters which are therein stated on information and belief, and as to those matter we believe to be true.

Signatures:

- 1 *Jess Corona*
- 2 *??*
- 3 *GEORGE A. GONZALEZ*
- 4 *Dora J. Lopez*
- 5 *David Lopez*
- 6 *Juanita*
- 7 *[Signature]*
- 8 *[Signature]*
- 9 *Virgil C. McDonald*
- 10 *Hector Tybulla*
- 11 *[Signature]*
- 12 *David A. Powell*      David A. Powell
- 13 *[Signature]*
- 14 *Lori Shaffer*      Lori Shaffer
- 15 *Clyde Shaffer*      Clyde Shaffer
- 16 *Catherine Easterly*      Catherine Easterly
- 17 *Thomas L. Easterly*      THOMAS L. EASTERLY
- 18 *Samantha Shaffer*      Samantha Shaffer
- 19 *Clyde W. Shaffer IV*      CLYDE W. SHAFER IV
- 20 *Lawrence McKinney*      Lawrence McKinney 246-2796
- 21
- 22
- 23

... Kings Canyon Road, hereby protest and object to the issuance of a license under the Alcoholic Beverage Control Act to Vohra Vikram to sell liquor at 6127 E Kings Canyon Road on the grounds that this location is within half a block of our church and within 500 yards of two schools attended by children from our church, Fancher Creek Elementary and John Wash Elementary.

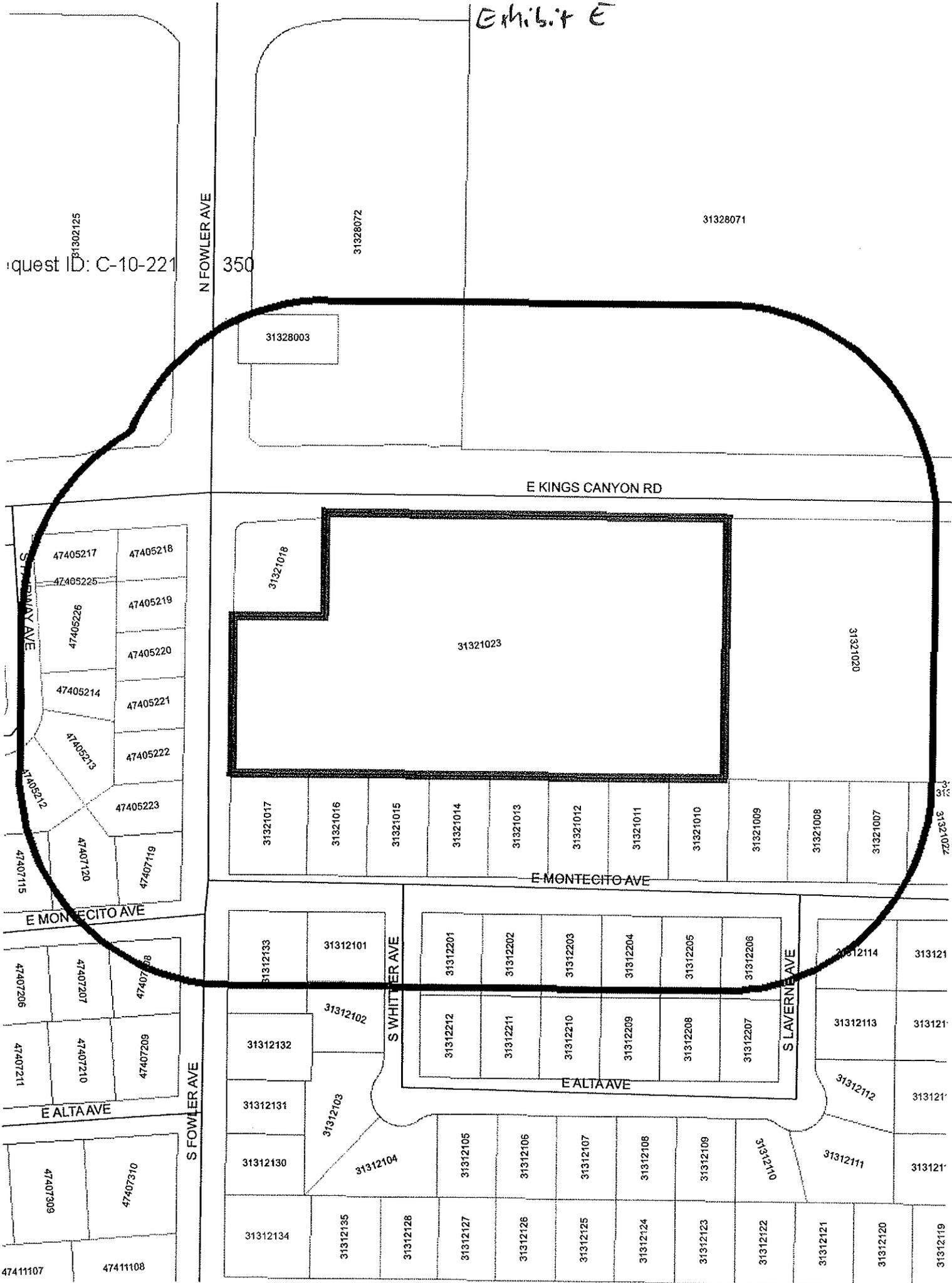
We, the undersigned, declare under penalty of perjury: (1) that we are the protestants herein; (2) That we have read the above protest and know the contents thereof; and (3) That the same is true of our own knowledge except as to those matters which are therein stated on information and belief, and as to those matter we believe to be true.

Signatures:

- 1 *Uuki Powell*
- 2 *Kimberly A. Deutingen*
- 3 *Dorethy C. Moore*
- 4 *Opal Mandarich*
- 5 *Rina Smith*
- 6 *Maria K. Jiggs*
- 7 *Ellen R. Johnson*
- 8 *Thomas E. Johnson*
- 9 *Ann Adams*
- 10 *Janet T. Lane*
- 11 *Renee Delpier Cox*
- 12 *Jan Bourber*
- 13 *D.*
- 14 *Dr. J. Burton*
- 15 *Donna K. Dawson*
- 16 *Linda Phillips - Bly*
- 17 *Sanjay Patteson*
- 18 *Sheila*
- 19 *Angela*
- 20 *Sammy Baber*
- 21 *Luz Bily*
- 22 *Wilson Brumhall*
- 23 *Glenn Galack*
- 24 *Shirley Pierson*
- 25 *Will Thompson*
- 26 *Beau Stellers*
- 27 *Egiz Braden*
- 28 *Yamora M. Flores*
- 29 *Judith A. White*
- 30 *Mark R. White*

Exhibit E

request ID: C-10-221





Development and Resource Management Department

2600 Fresno Street, Third Floor  
Fresno, California 93721-3604  
(559) 621-8277 FAX (559) 498-1012

Mark Scott, Interim Director

November 4, 2011

Please Reply To:  
Israel Trejo  
(559) 621-8044

Vikram Vohra  
6127 East Kings Canyon Road #105  
Fresno, CA 93727

**SUBJECT: CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT APPLICATION NO. C-10-221 FOR PROPERTY LOCATED AT 6127 KINGS CANYON ROAD #105 (APN: 313-210-23)**

Dear Sir:

The Development and Resource Management Department has approved Conditional Use Permit Application No. C-10-221 to authorize a Type 21, State of California, Alcohol Beverage Control (ABC) license to sell beer, wine and distilled spirits for consumption off the premises where sold, within a proposed 2,031 square foot convenience store. The convenience store is proposed in tenant space within an existing building.

Notice of approval was mailed to surrounding property owners on November 4, 2011. **Approval will not become effective until the mandatory 15-day appeal period** has passed with no appeals received in response to the mailed notice. The 15-day appeal period will end on **November 19, 2011**.

If an appeal is received on or prior to **November 19, 2011**, the project will be scheduled for a hearing before the Fresno City 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-10-221 is approved subject to the following conditions:

1. Comply with Exhibits A and EF dated November 18, 2010, and Exhibit O dated November 3, 2011.
2. The approved hours of operation are from 7 a.m. to 11 p.m., Sunday through Thursday, and 7 a.m. to midnight on Friday and Saturday.
3. Comply with the letter from the County of Fresno, Department of Public Health, dated November 29, 2010.
4. Comply with the letter from the Police Department dated October 6, 2011.
5. Comply with the letter from the Public Utilities Department (sewer requirements) dated November 24, 2010.
6. Obtain the required building permits from the Development & Resource Management Department relative to the interior improvements to the building.

7. Obtain a final recorded map relative to Tentative Parcel Map No. 2007-32.
8. Completely install the landscaping along East Kings Canyon Road and South Fowler Avenue (as required by Conditional Use Permit Application No. C-06-085).
9. The subject parcel (parcel C of Parcel Map No. 2007-32), and immediate vicinity adjacent to the subject parcel, shall be maintained daily to keep the site free of litter and other debris.
10. There shall be no pornography sold at the subject location.
11. Obtain appropriate licensing from the State Department of Alcoholic Beverage Control.
12. Advertising signs are not approved for installation as part of this special permit. Proposed signs must be approved with the benefit of a sign permit and comply with the requirements of the Fresno Municipal Code.

Please be advised that this project may be subject to a variety of discretionary conditions of approval. These conditions are 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 recommended conditions for development that would on the whole enhance the project and its relationship to the neighborhood and environment.

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. This special permit is granted, and the conditions imposed, based upon the Operation Statement provided by the applicant. The Operation Statement is material to the issuance of this special permit. Unless the conditions of approval specifically require operation inconsistent with the Operation Statement, a new or revised special permit is required if the operation of this establishment changes or becomes inconsistent with the Operation Statement. Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the special permit or any other enforcement remedy available under the law.

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.

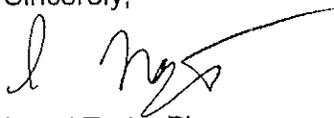
In the event you wish to appeal the Director's decision, you may do so by filing a written appeal with the Director. The appeal shall include the appellant's interest in or relationship to the subject property, the decision or action appealed and specific reasons why the applicant believes the decision or action appealed should not be upheld. If you wish to appeal the decision, a written request must be received at the Development and Resource Management Department by **November 19, 2011**. The written request must be addressed to Mark Scott, Interim Director, and include the application number referenced above.

Transfer all red line notes, etc., shown on all original site plan exhibits to the final site plan. Please Note: To complete the backcheck process relative to planning and zoning issues, submit two copies of the corrected site plan and two copies of elevations, landscaping and irrigation plans (if applicable), together with required covenants (or preparation fees) and studies or analysis to the Planning Division for final review and approval.

Conditional Use Permit Application No. C-10-221  
November 4, 2011  
Page 3

If you have any questions regarding this letter, please call me at the number listed above.

Sincerely,

A handwritten signature in black ink, appearing to read 'Israel Trejo', with a long, sweeping horizontal line extending to the right.

Israel Trejo, Planner  
Planning Division

Attachments: Exhibits A and EF dated November 18, 2011, and Exhibit O dated November 4, 2011  
Comments from responsible Agencies

Exhibit G

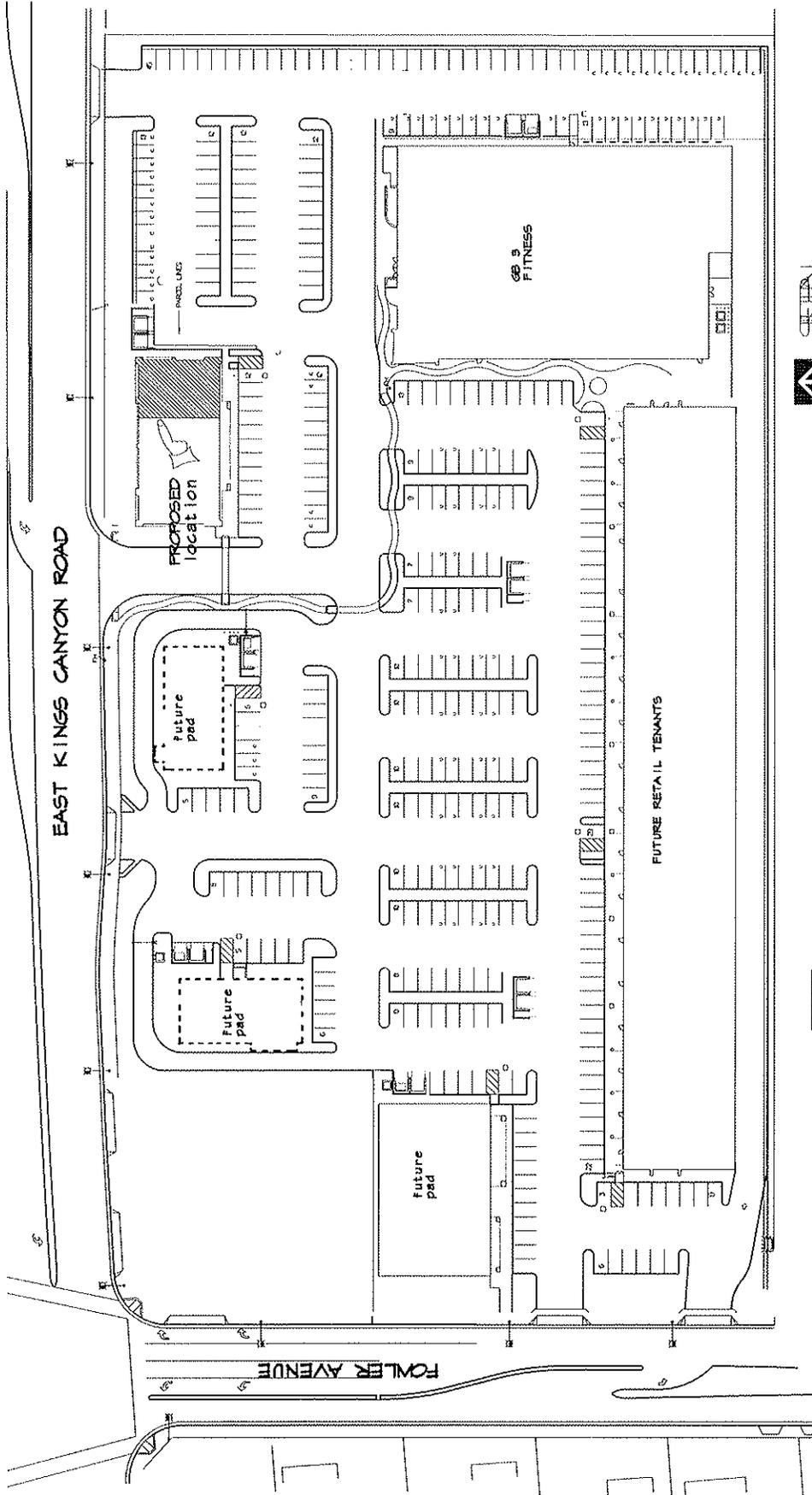
I, Vikram Vohra, am proposing to operate an approximately 2,000 square foot convenience store within the tenant space at 6127 East Kings Canyon Road #105. I am proposing to obtain a Type 21 Alcoholic Beverage Control license to allow for the sale of beer, wine and distilled spirits for off-premises consumption.

My hours of operation will be from 7 am to 11 pm, Sunday through Thursday, and 7 am to midnight, on Friday and Saturday. Due to a church located nearby (and consistent with my other establishments), I will not sell or maintain any pornographic material nor will I sell or maintain any (tobacco) smoking pipes.

  
\_\_\_\_\_  
Vikram Vohra

11/3/11  
Date

APPL. NO. C-10-221 EXHIBIT 0 DATE 11-3-11  
PROJ. ENG. \_\_\_\_\_ DATE \_\_\_\_\_  
TRAFFIC ENG. \_\_\_\_\_ DATE \_\_\_\_\_  
COND. APPROVED BY \_\_\_\_\_ DATE \_\_\_\_\_  
CITY OF FRESNO PLANNING & DEVELOPMENT DEPT



PROPERTY OWNER:  
 SUNNYSIDE MARKETPLACE LLC  
 4125 E. KINGS CANYON  
 PRENSO CA 95366-3512

DESIGNER:  
 KELLY BRAY  
 4125 E. KINGS CANYON  
 PRENSO CA 95366-3512  
 959-440-1800

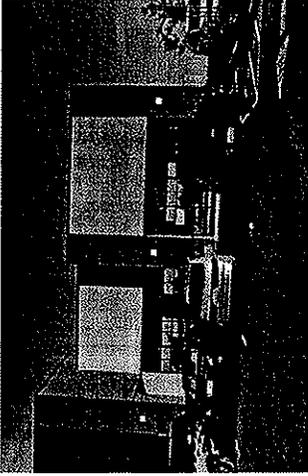
TENANT:  
 SUNNYSIDE LIQUOR  
 4125 E. KINGS CANYON  
 PRENSO CA 95366-3512  
 219-0462

SQUARE FOOTAGE : 2091 SQ FT  
 OCCUPANCY : M

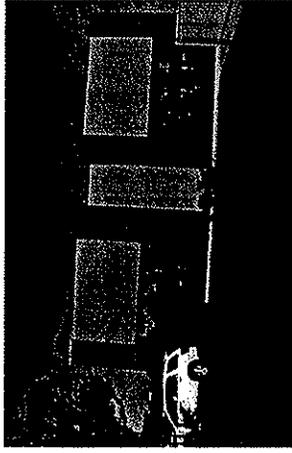
EXHIBIT A 11-18-10

**SITE PLAN SUNNYSIDE LIQUOR**

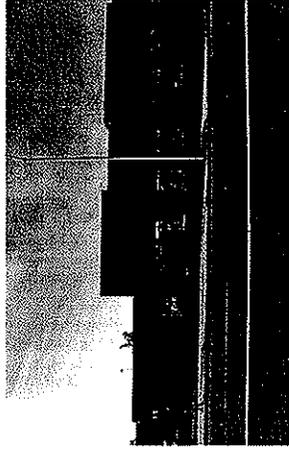
Exhibit 1



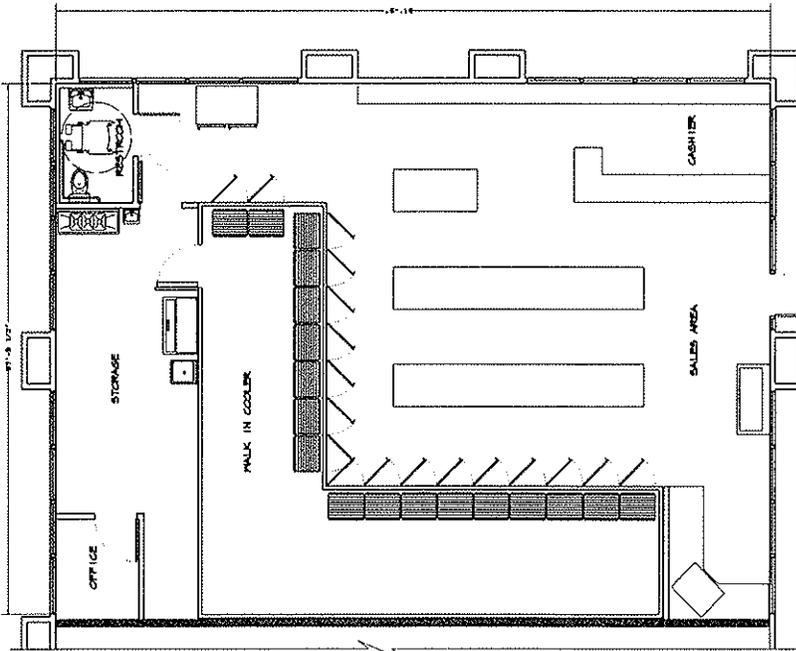
SOUTH ELEVATION



EAST ELEVATION



NORTH ELEVATION



FLOOR PLAN

SCALE: 1/4" = 1'-0"

PROPERTY OWNER:  
SUNNY'S IDE MARKETPLACE LLC  
5630 N. FRESNO STREET # 105  
FRESNO CA PH-439-3912

DESIGNER:  
KELLY ERBY  
6192 N. FRUIT  
FRESNO CA  
559-440-1800

TENANT:  
SUNNY'S IDE LIQUOR  
VIKRAM VIGNA  
6127 E. KINGS CANYON # 105  
FRESNO CA  
219-0462

SQUARE FOOTAGE : 2031 SQ FT  
OCCUPANCY : M

Exhibit 1-1870  
**FLOOR PLAN / ELEVATIONS SUNNYSIDE LIQUOR**



**County of Fresno**

Department of Public Health  
Edward L. Moreno, M.D., M.P.H., Director-Health Officer

November 29, 2010

999999999  
LU0015847  
PE 2602

Israel Trejo  
City of Fresno  
Development Department  
2600 Fresno Street  
Fresno, CA 93721

Dear Mr. Trejo:

**PROJECT NUMBER: C-10-221 ABCUP**

**Conditional Use Permit Application No. C-10-221 ABCUP** was filed by Kelly Bray and pertains to tenant space within a 8.26-acre commercial shopping center located on the south side of East Kings Canyon Road, east of South Fowler Avenue. The applicant proposes interior tenant improvements and the establishment of Sunnyside Liquor with a State of California Alcoholic Beverage Control Type 21 License (*Package Store -- sale of beer, wine, and distilled spirits for consumption off the premises where sold*). The property is zoned C-1 (*Neighborhood Shopping Center*).

**APN: 313-210-23      ZONING: C-1      ADDRESS: 6127 East Kings Canyon Road # 105**

Recommended Conditions of Approval:

- Prior to issuance of building permits, the applicant shall submit complete food facility plans and specifications to the Fresno County Department of Public Health, Environmental Health Division, for review and approval. Contact the Consumer Food Protection Program at (559) 445-3334 for more information.
- Prior to operation, the applicant shall apply for and obtain a permit to operate a food facility from the Fresno County Department of Public Health, Environmental Health Division. A permit, once issued, is nontransferable. Contact the Consumer Food Protection Program at (559) 445-3334 for more information.
- Prior to operation, the applicant shall contact the California Alcoholic Beverage Control Department at (559) 225-6334 for information relative to applying for and obtaining a license to sell alcoholic beverages.

REVIEWED BY:

**Janet Gardner**

Digitally signed by Janet Gardner  
DN: cn=Janet Gardner, o=Environmental Health Division,  
ou=Fresno County Public Health Department,  
email=jgardner@co.fresno.ca.us, c=US  
Date: 2010.11.29 14:02:39 -0800

R.E.H.S., M.P.H.  
Environmental Health Specialist

(559) 445-3271

jg

cc: Baruti/Casagrande/Tolzmann, Environmental Health Division  
C-10-221 Sunnyside Liquor



Mariposa Mall  
P.O. Box 1271  
Fresno, CA 93715-1271

Police Department

Jerry P. Dyer  
Chief of Police



October 6, 2011

City of Fresno, Development Department  
Director of Planning & Development.  
Special Permit, Conditional Use Permit  
2600 Fresno Street  
Fresno, California, 93721-3604

Attn. Israel Trejo

Re: SPECIAL PERMIT NO. C-10-221-ABCUP  
Vikram Vohra  
6127 East Kings Canyon Road #105  
Fresno, Ca 93727  
A.P.N. 313-210-23

Dear Mr. Trejo

Pursuant to your Department's request, the Fresno Police Department has reviewed the special permit application for property located at **6127 E. Kings Canyon Rd.** The property has been zoned C-1 for Neighborhood Shopping Center. The Fresno Police Department's primary concern with the application is the propensity of the operations on the premises to generate calls for police service, and therefore, be detrimental to the public welfare.

As you know, to approve any Conditional Use Permit, the City must make the following findings:

1. All applicable provisions of the Fresno Municipal Code are complied with and the site of the proposed use is adequate in size and shape to accommodate the use, and all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,
2. 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,
3. 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. This third finding

Revised March 17, 2009

shall not apply to uses which are subject to the provisions of Section 12-306-N-39 of the Fresno Municipal Code (Regulating Adult Businesses).

The conditions are established to ensure public safety, and to minimize any impact to the surrounding area. If approved, this Conditional Use Permit would allow for an **off-sale Type 21 ABC license**. We request the following conditions be included as Conditions of Approval for Conditional Use Permit Application No. **C-10-221-ABCUP**. These conditions will help to insure maintain an environment that is least likely to generate criminal activity, public complaints and police 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 following conditions are not included as conditions of approval of CUP No. **C-10-221-ABCUP** the Fresno Police Department shall oppose the approval of this Conditional Use Permit, and shall appeal such approval to the Planning Commission. As such, we request that you provide Detective Santellano with notice of the Director's decision regarding this Conditional Use Permit as well as a complete copy of the conditions of approval, if the Director approves the Conditional Use Permit.

**Requested Conditions of Approval:**

**1. Fresno Municipal Codes**

The applicant shall comply with all applicable provisions of the Fresno Municipal Codes ("FMC"), including but not limited to:

- FMC 9-502 (Amusement Devices - Permit Required)
- FMC 9-1803 (Hours of Operation of Billiard Hall)
- FMC 9-1804 (Restriction on Attendance of Minors in Billiard Rooms)
- FMC 9-1805 (Minors allowed: Family Billiard Rooms)
- FMC 9-1905 (Public Dancing - Permit Required)
- FMC 10-105 (Noise Ordinance)
- FMC 10-708 (Unlawful Nuisances - High Calls for Police Service)
- FMC 12-224 (C-M Zone, Adult Theater activities not permitted, see 12-105-T-1.1 for definition of Adult Theater, and 12-306-N-30 for additional limitations on Adult Business activities.)

A current version of the Fresno Municipal Code may be viewed at the City of Fresno's website: [www.Fresno.gov](http://www.Fresno.gov). The link to the FMC is located on the Home Page of that website.

**2. State and Federal Law**

The applicant shall comply with all applicable state and federal law, rules and regulations, including but not limited to the following California Business and Professions Code sections and ABC rules:

- 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 25631 (No sale of alcoholic beverages between 2:00 a.m. and 6:00 a.m.)
- BP 25665 (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)

### 3. Video Camera

Prior to exercising any privileges granted by CUP No. C-10-221-ABCUP the applicant must install a fully functional color digital video camera system ("System") that meets the following requirements:

- 3.1 The System must continuously record, store, be capable of playing back images and be fully functional at all times, including during any hours the business is closed. The System must be maintained in a secured location inside of the business.
- 3.2 The System shall have the correct date and time stamped onto the image at all times.
- 3.3 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 than can be made a permanent record and that can be enlarged through projection or other means.
- 3.4 Digital video recorder must be capable of storing at least seven days of real-time activities.
- 3.5 The System shall be capable of producing a CD or digital playback feature and may be provided to an authorized representative of the Fresno Police Department within 24 hours of the initial request relating to a **criminal investigation only**.
- 3.6 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.
- 3.7 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.

3.8 All interior cameras shall record in color.

3.9 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.

It is recommended, but not required, that the owner/operator 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 Fresno Police Department may perform periodic inspections of the System to ensure compliance with these specifications. An inoperable System may be good cause for seeking revocation of this Conditional Use Permit.

#### 4. ABC Education

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

4.1 Completed training from the State of California Department of Alcoholic Beverage Control--Fresno District Office-administered "Leadership and Education in Alcohol and Drugs" (LEAD) Program as confirmed by receipt of an ABC-issued certificate of completion; or,

4.2 Completed equivalent training acceptable to 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:

4.3 The ABC-licensed proprietors shall have confirmed with the Development Department within 15 days of the final approval of the CUP or within 15 days of the opening to the public of a new store, whichever is later, that a date certain has been scheduled with the local ABC Office for said prospective employees to take the LEAD Program course; and

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

5. **Sale of Malt and Wine-Cooler Alcoholic Beverages**

5.1 Malt liquor or malt beverage products shall not be sold in less than six (6) pack quantities for sale. They must be sold in manufacturer pre-packaged multi-unit quantities. This will include all sizes of containers.

5.2 All wine cooler products shall not be sold in less than four (4) pack quantities for sale. They must be sold in manufacturer pre-packaged multi-unit quantities.

5.3 Single Sales of any other beer product, 16 ounces or less in size, is not permitted.

6. **Wine Alcohol Per Volume**

No wine shall be sold with an alcoholic content greater than 24% volume, except premium dessert wines priced at \$10.00 or more.

7. **Non-refrigerated Alcoholic Beverages**

Non-refrigerated "hard" liquor or "distilled spirits," shall be placed within the cashier's area or, shall be located either in a locked cabinet, or other locked shelving system, with access controlled with either manual, remote control locking devices or other appropriate and acceptable locking systems approved in writing by the Fresno Police Department.

~~During the hours of midnight and 2:00 a.m. the cabinet or shelving system shall be locked and opened only after an authorized employee has verified that the customer seeking to purchase items within the cabinet or shelving system is of "legal age."~~

IT

8. **Posting Property**

The applicant shall post the property with the appropriate Fresno Municipal Code signs advising that consumption of alcoholic beverages, gambling, trespassing or loitering will be in violation of municipal ordinances. The applicant must send a letter to the Fresno Police Department, signed and dated by the applicant, every 180 days that authorizes FPD peace officers to enter the applicant's real property and/or establishment to enforce against the aforementioned activities at the business. The owners and employees are responsible for abating those activities when they occur during business hours.

9. **Consumption of Alcoholic Beverages and Loitering.**

9.1 The establishment shall not allow alcoholic beverages to be consumed outside the building premises or any other adjacent property under its control. No alcoholic beverage will be consumed on any property adjacent to the premises (i.e., parking lot and sidewalks). If the alcoholic beverages are consumed on the exterior portion of adjacent property not owned or controlled by the applicant, the applicant shall immediately report such consumption to the Fresno Police Department.

9.2 The establishment shall not allow any loitering on building premises or any adjacent property under its ownership or control.

9.3 The establishment shall not allow any gambling on building premises or any adjacent property under its control.

**10. Property Responsibility**

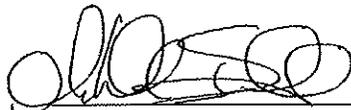
“Frequent” responses by the Fresno Police Department arising out of or relating to the operation or management of the real property owned or controlled by the permittee causing any combination of the following: animal disturbances; violent criminal acts; illegal consumption of intoxicants in public view; gaming activities; and juvenile disturbances, or any of the other activities set forth in the Fresno Municipal Code section 10-708(g) may result in an FPD recommendation to the Director of Planning and Development to commence proceedings to revoke the Conditional Use Permit for violation of the Management of Real Property Ordinance. In addition to recommending the commencement of revocation proceedings, the FPD may pursue any of the other remedies set forth in FMC, section 10-710, including assessing fines against the proprietor for the violations of the Management of Real Property Ordinance.

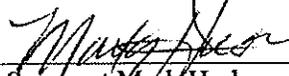
“Frequent” means response by the Fresno Police Department is occurring more than 1.5 times the average number of such responses (3 calls for every 2) for property of a similar size and character within the same policing district.

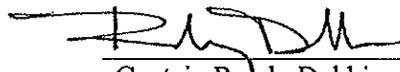
- 11. The establishment shall ensure that all employees involved, either directly or indirectly, in the sale of alcoholic beverages are aware of and comply with these conditions. The establishment shall have each employee sign a written acknowledgment that he/she has reviewed and understood each of these conditions.**

**The written acknowledgement shall be maintained by the establishment and made available to the Fresno Police Department upon reasonable request.**

**FRESNO POLICE DEPARTMENT**

  
Date: 10/6/11  
Officer Michelle Santellano #902  
Southeast District POP

  
Date: 10/6/11  
Sergeant Mark Hudson #S82  
Southeast District Detectives/POP

  
Date: 10-6-11  
Captain Randy Dobbins  
Southeast District Commander

3.



Providing Life's Essential Services

**DEPARTMENT OF PUBLIC UTILITIES**

**Date:** November 24, 2010

**To:** ISRAEL TREJO, Planner III  
Planning and Development Department

**From:** GREG CONTRERAS, Senior Engineering Technician *GC*  
Department of Public Utilities, Planning and Engineering

**Subject:** SEWER REQUIREMENTS FOR CONDITIONAL USE PERMIT C-10-221 ABCUP

**General**

C-10-221 ABCUP was filed by Kelly Bray and pertains to tenant space within an 8.26 acre commercial shopping center located on the south side of East Kings Canyon Road, east of South Fowler Avenue, 6127 East Kings Canyon Road, APN 313-210-23. The applicant proposes interior tenant improvements and the establishment of Sunnyside Liquor with a State of California Alcoholic Beverage Control Type 21 License, Package Store, sale of beer, wine, and distilled spirits for consumption off the premises where sold. The property is zoned C-1, Neighborhood Shopping Center.

**Environmental Recommendations**

A NEGATIVE DECLARATION MAY BE ISSUED: The project may have adverse impacts but impacts can be mitigated without further study or are not serious enough to warrant an Environment Impact Report.

**Sewer Requirements**

Sewer facilities are available to provide service to the site subject to the following requirements:

1. The Project Developer shall contact Wastewater Management Division/Environmental Services at (559) 621-5100 prior to pulling building permits regarding conditions of service for special users.

**Sewer Fees**

1. Upon connection of this Project to the City Sewer System the owner shall be subject to payment of Sewer Facility charges per Fresno Municipal Code Section 6-304 and 6-305. Sewer Facility Charges consist of two components, a Wastewater Facilities Charge and Trunk Sewer Charge where applicable.
2. Sewer Facility Charges are collected after occupancy on a bi-monthly basis over time based on metered (water or sewer effluent) usage. The developer may contact the Department of Public Utilities/Wastewater-Environmental Control at (559) 621-5153 to receive an estimated cost of the Sewer Facility Charges applicable to the project (based on a constant sewer discharge and loading (Biochemical Oxygen Demand [BOD] and Total Suspended Solids [TSS] levels anticipated) at the current rates in effect, at that time, per Fresno's Master Fee Resolution. The developer shall provide data regarding estimated sewer discharge rates [flow] and loading [BOD/TSS levels] required for calculating the estimated charges.

Exhibit K

**CITY OF FRESNO  
CATEGORICAL EXEMPTION  
ENVIRONMENTAL ASSESSMENT NO. C-10-221**

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:** Vikram Vohra  
6127 East Kings Canyon Road #105  
Fresno, CA 93727

**PROJECT LOCATION:** **6127 East Kings Canyon Road #105**  
(APN: 313-210-23)

**PROJECT DESCRIPTION:** Conditional Use Permit Application No. C-10-221 is a request to authorize a Type 21, State of California, Alcohol Beverage Control (ABC) license to sell beer, wine and distilled spirits for consumption off the premises where sold within a proposed 2,031 square foot convenience store. The convenience store is proposed within an existing building

**This project is exempt under Sections 15301/Class 1, 15303/Class 3 and 15332/Class 32 of the California Environmental Quality Act (CEQA) Guidelines. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.**

**EXPLANATION:** Section 15301/Class1 consists 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 use beyond that existing at the time of the lead agency's determination.

Section 15303/Class 3 consists of the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

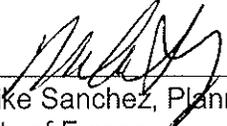
Section 15332/Class 32 consists of projects characterized as in-fill development meeting the conditions described in this Section. (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations. (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. (c) The project site has no value, as habitat for endangered, rare or threatened species. (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. (e) The site can be adequately served by all required utilities and public services.

The proposed project consists of a request to authorize a Type 21, State of California, Alcohol Beverage Control (ABC) license to sell beer, wine and distilled spirits for consumption off the premises where sold within a proposed 2,031 square foot convenience store (existing building). The property is zoned C-1 which is consistent with the 2025 Fresno General Plan and the Roosevelt Community Plan land use designation of neighborhood commercial. The proposed operation is allowed within the designated zone district. The site has no value as habitat for endangered, rare or threatened species. The project complies with the conditions of the Class 1, 3 and 32 Categorical Exemptions.

Date: October 26, 2011

Prepared By: Israel Trejo, Planner

Submitted By:

  
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Mike Sanchez, Planning Manager  
City of Fresno  
Development & Resource Management Department  
(559) 621-8277