City of FRESNO

REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. VIII-D
COMMISSION MEETING 5-7-14

APPROVED BY

DEPARTMENT DIRECTOR

May 7, 2014

FROM: MIKE SANCHEZ, Planning Manager
Development Services Division

THROUGH: BONIQUE EMERSON, AICP, Supervising Planner
Development Services Division

BY: CHRISTOPHER PRECIADO, Planner
Development Services Division

SUBJECT: CONSIDERATION OF AN APPEAL OF DIRECTOR ACTION APPROVING CONDITIONAL USE PERMIT APPLICATION NO. C-14-011 AND ENVIRONMENTAL FINDING FOR ENVIRONMENTAL ASSESSMENT NO. C-14-011 FOR PROPERTY LOCATED NEAR THE SOUTHWEST CORNER OF BULLARD AND MARKS AVENUE

RECOMMENDATION

Upon consideration of staff evaluation, it can be concluded that proposed Conditional Use Permit Application No. C-14-011 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-14-011 dated March 20, 2014, a determination that the proposed project is exempt from CEQA through a Class 1 and Class 32 Categorical Exemption.

2. DENY the appeal and UPHOLD the action of the Development and Resource Management Department Director approving Conditional Use Permit Application No. C-14-011 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-14-011 dated April 1, 2014.

EXECUTIVE SUMMARY

Conditional Use Permit Application No. C-14-011-ABCUP was filed by Gurmeet Singh and Manpreet Kaur and pertains to 3,000 square feet of tenant space within the existing Marks-Bullard 8.84-acre shopping center located on the southwest corner of North Marks and West Bullard Avenues. The applicant proposes to relocate Old Doc's Food and Liquor Store to a new space within the shopping center. The owners of the liquor store (Gurmeet Singh and Manpreet Kaur) have a pending ABC Type 21 alcohol license (package store selling beer, wine, and distilled spirits for consumption off the premises). The Old Doc's Food and Liquor store is proposed in a 3,000 square foot tenant space within an existing building. The Development and

Resource Management Department Director approved the subject conditional use permit application on April 1, 2014. 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 feet of the subject site. In response to this notice, one appeal letter was received, with twenty two (22) signatures (Exhibit C).

PROJECT INFORMATION

PROJECT		Conditional Use Permit Application No. C-14-011 is a request to establish a premise to premise State of California Alcoholic Beverage Control ABC Type 21 alcohol license transfer (*package store selling beer, wine, and distilled spirits for consumption off the premises*), within a proposed 3,000 square foot convenience store. The convenience store is proposed in tenant space within an existing building
APPLICANT		Gurmeet Singh and Manpreet Kaur
LOCATION		Located near the southwest corner of Bullard and Marks Avenue
SITE SIZE		± 8.84 acres shopping center
LAND USE		Existing - Neighborhood Commercial Proposed - No Change
ZONING		C-1 (*Neighborhood Shopping Center District*)
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 Bullard Community Plan
ENVIRONMENTAL FINDING		Staff has determined that the proposed project is exempt from CEQA through a Class 1 and Class 32 Categorical Exemption, dated March 20, 2014.
PLAN COMMITTEE RECOMMENDATION		Because of the nature of the project, the project was not routed to District 2 Implementation Committee for review.
STAFF RECOMMENDATION		Staff recommends approval of Conditional Use Permit Application No. C-14-011 subject to the Conditions of Approval detailed in the approval letter dated April 1, 2014.

BORDERING PROPERTY INFORMATION

	Planned Land Use	Existing Zoning	Existing Land Use
North	Commercial/neighborhood	C-1, Neighborhood Shopping Center	General Commercial
South	Residential Medium Low Density	R-1-C, *Single Family Residential*	Single Family Residential
East	Residential Professional	R-P, Residential and Professional Office District	Professional Office
West	Residential Medium Low Density	R-1-C, *Single Family Residential*	Single Family Residential

ENVIRONMENTAL FINDING

The proposed project was determined to be exempt from CEQA by the Development and Resource Management Department on March 20, 2014 through a Class 1 and Class 32 Categorical Exemption. No further environmental assessment is needed. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project. The California Environmental Quality Act (Public Resource Code Section 21000 et seq.) permits a public agency to determine whether a particular project is exempt from CEQA. A determination of a Categorical Exemption, Section 15301/Class 1 and Section 15332/Class 32 of California CEQA Guidelines was made and Environmental Assessment No. C-14-011 (Categorical Exemption) was completed for this project.

The conditional use permit application is consistent with the general and community plan planned land use designation of *neighborhood commercial* and conforms to all applicable policies. The site is completely surrounded by urban uses, and does not contain any significant value as habitat for endangered, rare, or threatened species. The subject site is 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 3,000 square foot convenience store (existing building). The property is zoned C-1 which is consistent with the 2025 Fresno General Plan and the Bullard 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 and 32 Categorical Exemptions.

BACKGROUND / ANALYSIS

Conditional Use Permit Application No. C-14-011 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 3,000 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 April 1, 2014. 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 feet of the subject site. In response to this notice, one appeal letter was received with twenty two (22) signatures (Exhibits C).

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 products and tobacco. No fortified liquor or pornographic material will be sold.

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.

Research of Applicant's other ABC License Locations

After researching the Alcohol and Beverage Control database and speaking with their representatives, it was determined that the current licenses held by the applicant do not have any disciplinary actions. This fact illustrates that the retail establishment held by applicants are managed properly to the extent that no history of active disciplinary actions have been submitted against the applicant. 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.

Singh, Gurmeet License No. 413923
El Campesino Meat Market (245 E Whitesbridge Avenue)
No current or historical disciplinary action found.
ABC License Type 21 – Off-Sale General (allows the sale of beer, wine and distilled spirits)

Singh, Gurmeet License No. 452914
Bubas Liquor and Food (3281 E 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)

Calls for Service

The Fresno Police Department has provided the calls for police service for the subject property shopping center. The original Old Doc's Food and Liquor store is located at 3061 West Bullard Avenue and at the southeast corner said property. The proposed new location for Old Doc's Food and Liquor store is 3021 West Bullard Avenue. Said locations are properties that are within the jurisdiction of the City of Fresno and within Police Zone 1549. Police Zone 1549 covers the area between Marks, Barstow, Brawley, and Bullard Avenues. The calls for service that were provided are within the dates of March 1, 2013, to March 1, 2014.

The proposed new business location (3021 West Bullard Avenue) is not in operation, as such, there are no recent police calls for service for said location. As for the original Old Doc's Food and Liquor store of the approximately 32 calls for service between March 1, 2013, to March 1, 2014, for the entire shopping center, four (4) were for the subject retail establishment (12.5%) prior to business closure.

The following list represents calls for service for the old location and the calls for service within the shopping center. Calls are very minimal, with the exception of Fat Boy's Taqueria and Sports Bar (restaurant) at 3045 W. Bullard. Currently the Fat Boys restaurant is operating with a restricted license type 47, *on sale general eating place*. The proposed Old Doc's Food and Liquor will be adjacent to this location, at 3021 W Bullard Avenue. The appellant in a protest letter, states that Fat Boys restaurant has been the cause for many disturbances in the neighborhood (Exhibit D). Per the Fresno Police department, 50% of the calls for service originated from the Fat Boys Restaurant.

Calls for service for the entire shopping center (All addresses are on W. Bullard Avenue):

3061 4 total calls for service- 1 medical aid, 1 petty theft, 1 suspicious vehicle and 1 burglary.
3005: 2 total calls for service-1 burglary and 1 suspicious activity.
3011: 1 medical aid.
3027: 1 patrol check.
3045: 16 total calls for service, disturbances, assaults, loud music, stolen vehicles, etc.
3077: 1 verbal disturbance.
3083: 2 total calls for service-1 verbal disturbance and 1 suspicious vehicle.
3085: 1 theft of merchandise.
3097: 4 total calls for service-3 disturbances and 1 complaint for possible overcrowding.

For the remaining addresses listed in the shopping center, there were zero calls for service.

Fresno Unified School District

The subject project was routed to the Fresno Unified School District (FUSD) for comment. The comment received from FUSD was that the Malloch Elementary school is located over 3,700 feet from the proposed convenience store. FUSD response on the project is subject to the Alcohol Beverage Control Act and the Fresno Police Departments review and support of the project with regards to the concentration and use of alcohol-related business in close proximity to school sites. 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. FUSD support of the project is

dependent on the Alcohol Beverage Control and Fresno Police Department support of the project. Since these entities support this project, then FUSD is in support of the project.

District 2 Plan Implementation Committee

Because of the nature of the project, the project was not routed to District 2 Implementation Committee for review.

ANALYSIS OF THE APPEAL LETTERS

There was one appeal letter received in response to the Notice of Granting issued for the project. The appeal letter was received from a surrounding property owner (Exhibit C). The appeal letter contains twenty-two (22) signatures in support of the appeal.

Below is an analysis of the issues raised in the appeal letter dated April 6, 2014 (Exhibit C).

Issue #1: Numerous homeowners in the area have objected to the approval of the CUP. Specifically the concern is with the proposed hours of operation and possible ramifications thereof.

Response:

The Fresno Police Department has reviewed and approved the project with conditions. Per the property manager, the hours of operation for the original Old Doc's was from 9:00am to 7:00pm Monday through Saturday, and from 10:00am to 5:00pm on Sunday. The new hours of operation are 7:00 am to 12:00 am Sunday through Thursday, and 7:00 am to 1:00 am Friday and Saturday.
Both the Planning staff and the Police Department are in support of the proposed operational hours. Similar uses in the area, in particular a liquor store across the street have similar hours of operation and they do not have high levels of calls for service.

Issue #2: The appellant has concerns that the hours proposed may promote an increase in vehicular traffic and thus create noise at a time of day that is normally quiet.

Response:

Public Works Traffic Planning Division has reviewed the project and has determined that the proposed relocation will not result in a significant increase in traffic. Excessive noise is prohibited by the Fresno Municipal Code. The surrounding residents can call the Fresno Police Department when excessive noise causes a public nuisance.

Issue #3: The appellant has concerns regarding the safety of residents and possible increase in crime that can occur with late night hours.

Response:

The Fresno Police Department, in their conditions dated March 31, 2014, requires the owners to take responsibility for their property. "Frequent" (as

defined as 3 calls for service for every 2) 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: violent criminal acts, illegal consumption of intoxicants in public view, or any other activities set forth in the FMC section 10-708(g) may result in the 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. 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: The appellant has concerns that the proposed liquor store is in the midst of a quiet neighborhood and a few hundred feet from a bus stop.

Response:

The Fresno Police Department, in their conditions dated March 31, 2014, 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. The bus stop, route 22, is located on the southeast corner of Bullard and Marks. The last pick up is at 9:15 weekdays, 5:40pm on Saturday, and 5:49pm on Sunday. The Fresno Area Express does not have record of recent disturbances at that location.

Issue #5: The appellant is concerned that there will be no on-site consumption of food or liquor at the new location.

Response:

The applicant, in the submitted operational statement, states that deli products will not be produced on the premises. The CUP is for a retail food and liquor store and not approved as a restaurant. Food service and dining is not included, nor approved as part of the CUP. Consumption of liquor is prohibited and violations to the conditions set forth by the Fresno Police Department may cause CUP revocation proceedings.

Request for modification hours of operation, Appellant to the Project Applicant

In response to the appeal letter received for the project, the appellants requested staff to contact the project applicant to try to modify the hours of operation to match the original Old Doc's retail

establishments. On April 7, 2014, the project applicant indicated that they would only modify the opening hours, changing them form 7:00 am to 8:00 am, and closing at 12:00 am (midnight), with no further modifications to the proposed hours of operation. On April 7, 2014, staff contacted the appellants to inform them that the applicant would not modify the hours of operation to match the original Old Doc's hours. Therefore the matter has been set to be heard by the Planning Commission.

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 E).

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:

Findings per Fresno Municipal Code Section 12-405-A-2	
a. *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,*	
Finding a:	The subject property shopping center was approved on February 17, 1977, under Conditional Use Permit No. S-4228. The original Old Doc's Liquor Store was located at 3061 W. Bullard Avenue in 1981 and stayed at that location until its closing, approximately December of 2013. The site has adequate parking for the proposed retail establishment.
b. *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,*	
Finding b:	The subject site is bordered by two arterial streets (West Bullard and North Marks 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.
c. *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.*	

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 two 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.

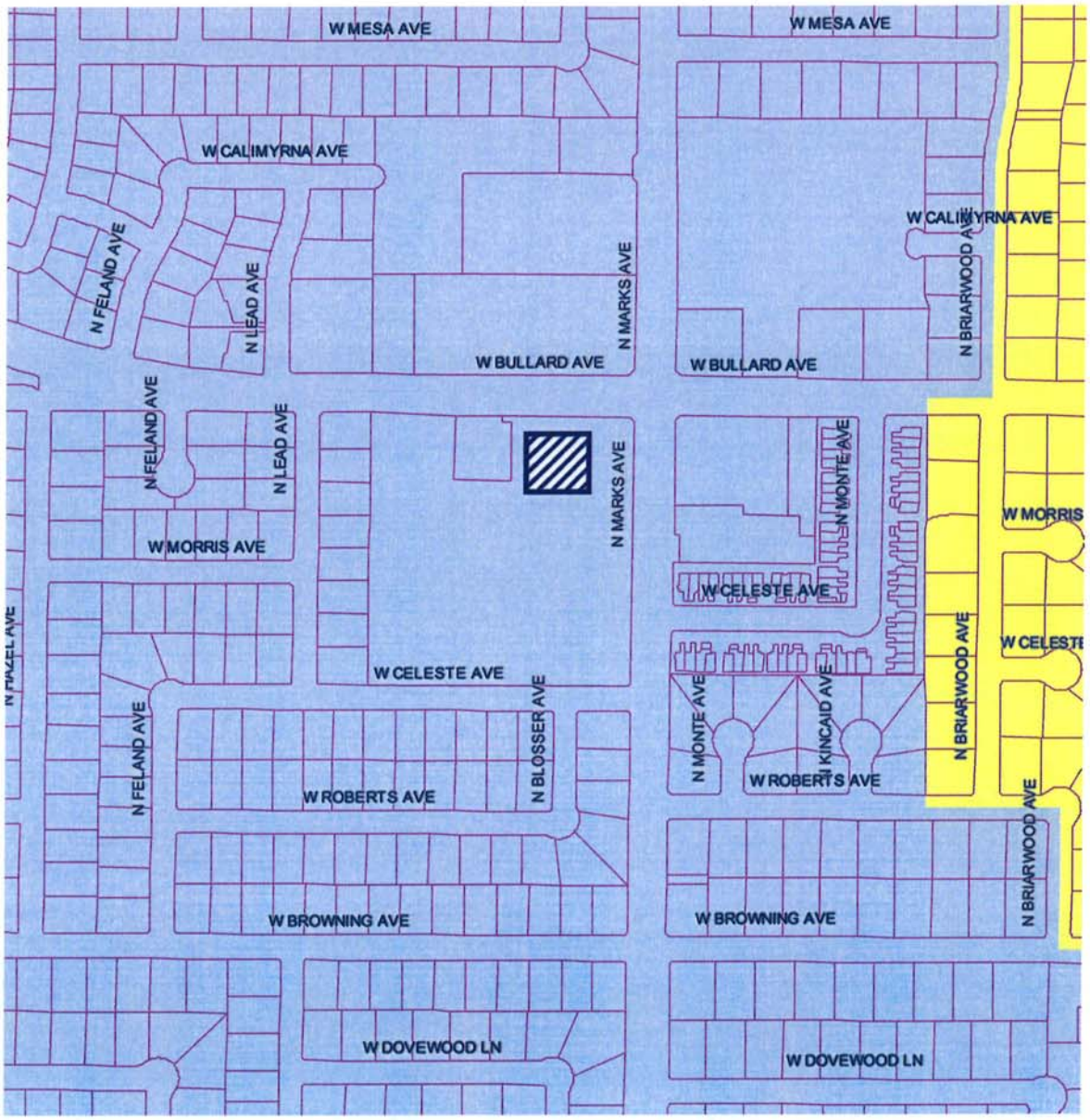
Conclusion

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-14-011, and given that the project meets all requirements of a Class 1, and Class 32 Categorical Exemption and is thus exempt from CEQA, staff recommends that the Planning Commission deny the appeal and uphold the action of the Director as previously described in this staff report.

Attachments:
- Exhibit A: Vicinity Map
- Exhibit B: 2008 Aerial Photograph of site
- Exhibit C: Appeal Letter dated April 6, 2014
- Exhibit D: Appeal Letter (email) dated April 6, 2014
- Exhibit E: Noticing Map (350-foot radius)
- Exhibit F: Approval Letter/Conditions of Approval dated April 1, 2014
- Exhibit G: Operation Statement dated March 25, 2014
- Exhibit H: Site Plan (Exhibit A within conditions of approval)
- Exhibit I: Floor Plan (Exhibit F within conditions of approval)
- Exhibit J: Comments from Responsible Agencies
- Exhibit K: Environmental Assessment No. C-14-011, dated March 20, 2014

Vicinity Map

Exhibit "A"



LEGEND:

SUBJECT PROPERTY

VICINITY MAP

2008 Aerial Photograph of Site

Exhibit "B"

City of Fresno

Aerials

- City Limits
- Fresno County

SCALE 1 : 5,367

500 0 500 1,000 1,500

FEET

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Appeal letter Dated April 6, 2014

Exhibit "C"

5675 N. Monte Ave
Fresno, CA 93711

Application # C-14-011 ABCUP

April 6. 2014

Christopher Preciado
Development and Resource Management Dept.
2600 Fresno St. Room 3076
Fresno, CA 93721-3604

Dear Christopher:

The undersigned are submitting this letter of protest to the conditional use permit that has been granted to Old Doc's Food and Liquor Store being relocated at 3021 W. Bullard Avenue. Specifically we are protesting the hours the store will be open for operation and the possible ramifications thereof. Our concern is that these hours may promote an increase in vehicular traffic and thus also increase the noise in the area at a time of day that is normally quiet. We have concerns regarding the safety of our residents and the possible increase in crime that can occur with late-night hours. This location is in the midst of a quiet residential neighborhood and is only a few hundred feet from a school bus stop. Finally, we would like assurance that there will be no on-sight consumption of food or liquor at the new location.

We are not objecting to having a liquor and food store in the neighborhood but would like a return to the more conservative hours of operation that were in affect in the former store, ones that are more in keeping with the character of this residential neighborhood.

Respectfully submitted,

Sara M Pagnulato
Chris Pagnulato
Pam Isnio 5682 N. Monte
[illegible] 5682 N. MONTE
Gladwin Lee 2786 W Roberts
Grigor Lamilye 2756 W. Roberts
Vickie Linder 2785 W. Roberts Ave
James Linder 2785 W. Roberts AVE
TOM Marsella 2738 W. Roberts 93711
Charles McGregor 5675 N. Kinsaid Ave
Donald L Kappen 5685 N. Monte Dr
Diana Hinshaw 5674 N. Monte

PAGE 2

Jessica DelaO	5664 N. Blosser Ave.
CARLOS DELAO	5664 N. BLOSSER AVE.
Phillip Jamin	2803 W. Celest Ave.
Mary Riley	2803 W. Celeste
Josyane Codi	2781 W. Celeste #4
Dyane Tullis	2781 W. Celeste # 3
Marie DiStefano	2782 W. Celeste Ave #1, Fresno, CA 93711
James Christopher	"
Peggy Hicks	2804-4 W. Celeste 93711
Diane Curry	2804 W Celeste #2

Appeal Letter dated April 6, 2014

Exhibit "D"

Christopher Preciado

From: Sara Pagoulatos [saramp1@yahoo.com]
Sent: Sunday, April 06, 2014 8:25 PM
To: Christopher Preciado
Subject: Protest Letter

Christopher - I am writing this on behalf of my husband, Chris Pagoulatos, who spoke to you yesterday regarding the Conditional Use Permit #C-14-011 ABCUP.
He will be delivering our letter of protest to you sometime tomorrow along with signatures of neighborhood residents who want to join in. In the process of walking the neighborhood he heard repeated concerns about the noise and crime that has already been generated by the presence of a late-night bar and restaurant, Fat Boys, which is adjacent to the proposed new site for Old Doc's. We all want to preserve the integrity and safety of this neighborhood and reducing the hours of the liquor store to those similar to the original Old Doc's seems the least we can ask.

Please keep us informed of the progress in this licensing process.

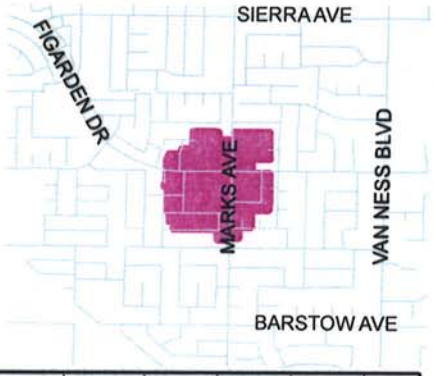
sincerely, Sara and Chris Pagoulatos

Noticing Map

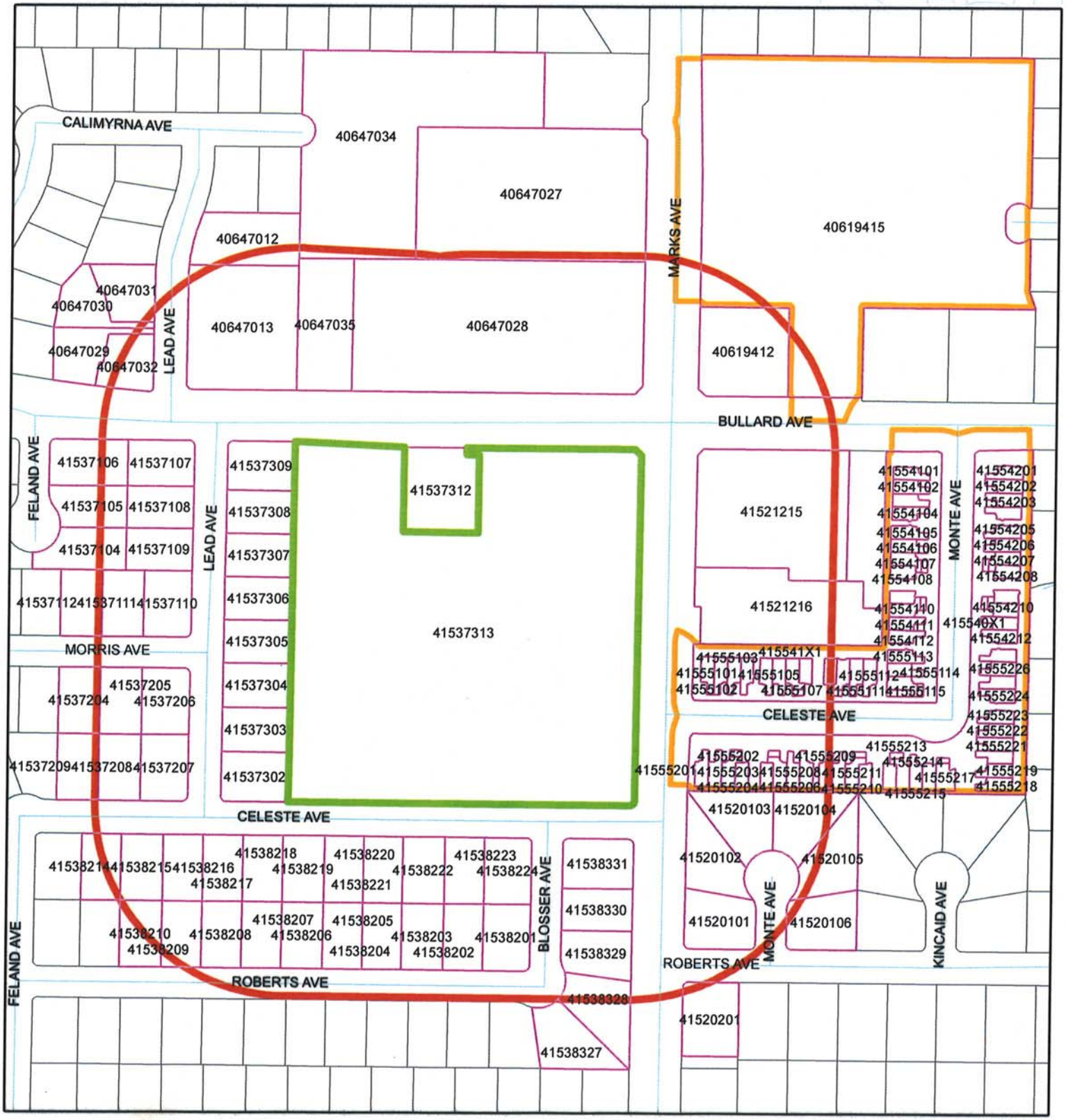
Exhibit "E"

999779 C-14-011

Buffered at:350 Feet, Legal Notices, Owners
41537313



Address List Map, Gary Unruh, c:\gisdm5\automap\adrlist.mxd, Wed Apr 30 18:18:00 2014



Approval Letter/Conditions of Approval dated April 1, 2014

Exhibit "F"

City of
FRESNO

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

Development and Resource Management Department
Jennifer K. Clark, Director

April 1, 2014

Please reply to:
Christopher Preciado
(559) 621-8068

Dirk Poeschel
Dirk Poeschel Land Development Services, Inc.
923 Van Ness Avenue, #200
Fresno, CA. 93721
dpoeschel@dplds.com)
Sent via email only.

SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. C-14-011 ABCUP FOR PROPERTY LOCATED AT 3021 W. BULLARD AVENUE (APN: 415-373-13)

Mr. Poeschel,

The Development and Resource Management Director, on April 1, 2014, approved Conditional Use Permit Application No. C-14-011 requesting authorization to establish a premise to premise State of California Alcoholic Beverage Control ABC Type 21 alcohol license transfer (*package store selling beer, wine, and distilled spirits for consumption off the premises*) for the Old Doc's Food and Liquor Store relocation within the same shopping center.

The proposed project was determined to be exempt from CEQA by the Development and Resource Management Department on March 20, 2014 through a Class 1 and Class 32 Categorical Exemption. The approval of this project is subject to compliance the following Conditions of Approval:

CONDITIONS OF APPROVAL

PART A – ITEMS TO BE COMPLETED

The following items are required prior to issuance of building permits or occupancy:

Planner to check when completed		
☐	1.	Development shall take place in accordance with Exhibits A and F dated February 13, 2014. Transfer all comments and conditions on Exhibits to the corrected exhibit(s) and **submit to planner at least 15 days prior to issuance of building permits or prior to commencement of operations**.
☐	2.	Comply with the requirements contained in the letter, dated March 24, 2014, from the County of Fresno Department of Public Health including the

		requirement to apply for and obtain a permit to operate a food facility from the Fresno County Department of Public Health, Environmental Health Division, prior to occupancy. Provide proof that this has been completed **prior to commencement of operations.**
☐	3.	Add applicable notes from the attached document titled "General Notes and Requirements for Entitlement Applications". Revise exhibits and **submit to planner *at least* 15 days prior to issuance of building permits**

PART B – OTHER REQUIREMENTS

1) Planning/Zoning/Environmental Compliance Requirements

a) Development shall take place in accordance with the policies of the 2025 Fresno General Plan, Bullard Community Plan, and with the neighborhood commercial planned land use designation.

b) Development shall take place in accordance with the attached "General Notes and Requirements for Entitlement Applications" (as applicable).

c) Comply with the operational statement submitted for the proposed project as received March 25, 2014. The primary business is to sell alcohol for off-site use (ABC Type 21 alcohol license - *package store selling beer, wine, and distilled spirits for consumption off the premises*). The hours of operation are 7:00am to 12:00am Sunday through Thursday and 7:00am to 1:00am on Friday and Saturday.

d) Contact the California Alcoholic Beverage Control Department for the license to sell alcoholic beverages.

e) Development shall take place in accordance with the C-1 *(Neighborhood Shopping Center)* zone district and all other applicable sections of the Fresno Municipal Code, not limited to the following requirements:

1. Noise levels shall not exceed adopted levels per Fresno Municipal Code Chapter 10, Article 1.
2. Non-operating Rule. Whenever all of the rights granted by a conditional use permit are discontinued, the following rules to reestablish the use shall apply:
    i. Three years or less: The same operator or a different operator may reestablish the use pursuant to the preexisting conditional use permit and all conditions applicable thereto.
    ii. More than three years: A new conditional use permit is required.

2) City and Other Services

a) Development shall take place in accordance with the attached memoranda and letters from City of Fresno Departments and partner agencies (Public Works Traffic Planning and Engineering dated February 21, 2014, Fire Department dated March 4, 2014, County of Fresno Department of Public Health dated March 24, 2014, and the Fresno Police Department dated March 31, 2014).

3) Miscellaneous Requirements

a) Contact the California Alcoholic Beverage Control Department for the license to sell alcoholic beverages.

b) Any improvements/modifications to the exterior façade shall be reviewed and approved by the Development and Resource Management Department-Development Services Division. Any proposed changes shall reflect architectural integrity and consistency with the entire shopping center.

c) Exercise of the special permit shall take place in accordance with all city, county, state, and federal laws and regulations, including ABC licensing requirements.

d) 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:

i) 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;

ii) All public and private easements, rights-of-way and any actual or potential prescriptive easements or uses of the subject property; and,

iii) Existing and proposed grade differentials between the subject property and adjoining property zoned or planned for residential use.

e) 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 Development and Resource Management Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plans not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or revisions.

f) The proposed project shall operate within the following hours:

   i) Sunday through Thursday: 7:00 a.m. to 12:00 a.m.
   ii) Friday and Saturday: 7:00 a.m. to 1:00 a.m.

g) Per FMC Section 12-304(24)(b): Failure to comply with any requirement or condition imposed under this conditional use permit shall constitute a violation of this Code and shall be subject to the modification or revocation of said conditional use permit.

APPEALS

A notice indicating the Development and Resource Management Department Director's approval of this project was mailed to nearby property owners on April 1, 2014, commencing a 15 day comment/appeal period. Should an appeal be received, it shall be scheduled to be heard before the Planning Commission.

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 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.

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 by the Development and Resource Management Department by **April 16, 2014**. The written request should be addressed to Jennifer Clark, Director, and include the application number referenced above.

BACKCHECK PROCESS

Please Note: To complete the back-check process for building permits or occupancy relative to planning and zoning issues, submit one copy of this corrected, final site plan, together with one copy of the elevations to Christopher Preciado in the Development Services Division for final review and approval, at least 15 days before applying for building permits.

It may be necessary to resubmit these "corrected exhibits" a second time if not all the conditions have been complied with or are not shown on the exhibits. Once the "corrected exhibits" are approved by the Development Services Division, please place these exhibits in the plan check set and contact the Development Services Division, along with Traffic Planning, to set up an appointment to signoff and stamp these exhibits. Please bring one additional copy of the exhibit(s) to this appointment so the Development Services Division has a final signed-off copy of the site plan.

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

The exercise of rights granted by this special permit must be commenced by **April 1, 2018**, (four years from the date of approval). There is no extension.

If you have any questions regarding this letter, feel free to give me a call at the number listed above.

Sincerely,

Christopher Preciado, Planner
Development Services Division

Enclosures: Exhibits dated February 13, 2014
Comments from Partner Agencies & Departments
General Notes and Requirements for Entitlement Applications

CC: JAF: 3021 W Bullard Avenue

Operational Statement dated March 25, 2014

Exhibit "G"

Mr. Gurmeet Singh
Mrs. Manpreet Kaur
ABC Conditional Use Permit Operational Statement
March 25, 2014

Applicant:	Mr. Gurmeet Singh Mr. Manpreet Kaur 3021 W. Bullard Avenue Fresno, CA 93711
Property Owner:	Marks Bullard Investors, LP C/O Mr. Jim Burden 285 W. Shaw Ave., Suite No. 107 Fresno, CA 93704
Project Address:	3021 W. Bullard Avenue Fresno, CA 93711
Representative:	Dirk Poeschel Land Development Services, Inc. 923 Van Ness Ave., Suite No. 200 Fresno, CA 93721
APN:	415-373-13
Zoning:	C-1 (Neighborhood Shopping Center)
Area:	8.7+/- acres
Plan Area:	Bullard Community Plan

REQUEST

The applicant proposes relocate the former Old Doc's liquor store within the exiting parcel/shopping center. Old Doc's Food & Liquor was at the site for over 25 years. The proposed site will be downsized to 3,000 square feet. The proposed Old Docs's has requested a Type 21 – Off-Sale General liquor license transfer. Please see the enclosed California Department of Alcoholic Beverage Control License Query System Summary as of February 4, 2014.

The only tenant improvements are within the suite in which activities may occur. Please see the attached project site and floor plan prepared by Associated Design and Engineering.

BACKGROUND

The shopping center located on the southwest corner of W. Bullard and N. Marks Avenues in the City of Fresno has been there for many years. After 25 years, Old Doc's Food and Liquor at 3061 W. Bullard closed its doors. Old Doc's Food and Liquor under the ownership of Mr. Singh and Mr. Kaur will open at its new location at 3021 W. Bullard Avenue approximately 300 feet from the original store in the same shopping center. The new location provided a smaller floor area which is more conducive to the current retail liquor market.

OPERATIONS

Merchandise

Beer, wine, liquor, tobacco products and deli products not produced on the premises. No fortified liquor or pornographic material will be sold.

Store Hours

7am to 12am Sunday through Thursday
7am to 1am Friday and Saturday

Dailey Visitors/Customers

The store will generate fewer visitors and traffic than the previous Old Doc's. The previous store was approximately 8,000 square feet whereas the proposed location is 3,000 square feet.

Employees

2

Traffic

Traffic will be reduced as a result of the reduction in store size from the previous Old Doc's on-site location.

Deliveries

2 deliveries per week

Security

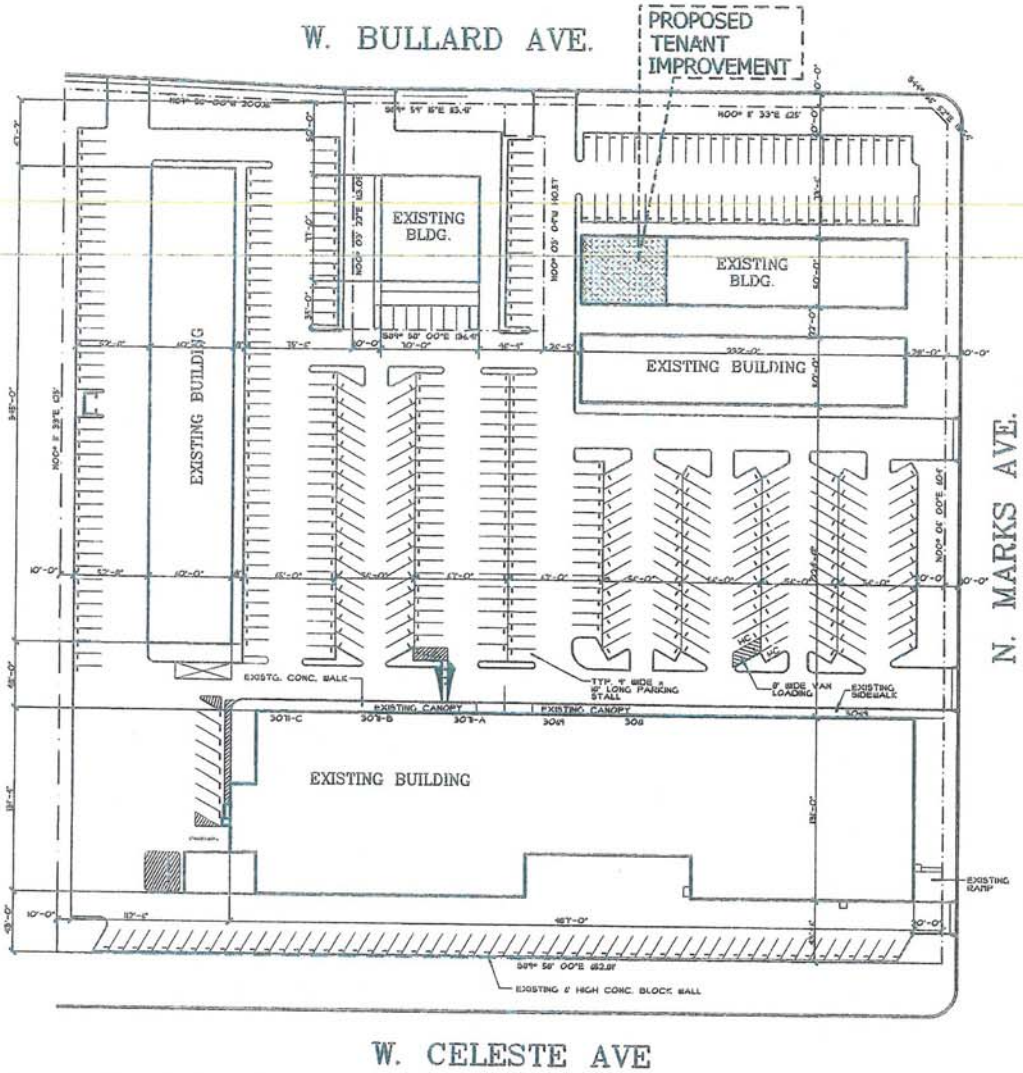
Security cameras will be installed per City of Fresno Police Department requirements.

Enclosures

G:\WPDOCS\Old Docs CUP 14-04\02-05-14 CUP operational statement.doc

Site Plan
(Exhibit A within conditions of approval)

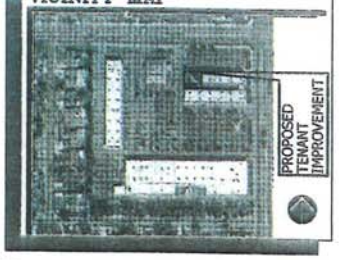
Exhibit "H"



PROJECT DATA

PROJECT ADDRESS:	CONVENIENCE STORE 3021 W. BULLARD FRESNO, CALIF.
CONSTRUCTION TYPE:	III - SPRINKLED
BUILDING USE:	CONVENIENCE STORE
OCCUPANCY GROUP:	M
A.P.N.	48-373-II
ZONE:	C-1
IMPROVEMENT AREAS	
PUBLIC FLOOR AREA	1,470 SQ.FT.
NON PUBLIC FLOOR AREA	1,530 SQ.FT.
TOTAL	3,000 SQ.FT.
MAXIMUM OCCUPANCY=	55 PERSONS

VICINITY MAP



SITE:

1. ANY UTILITIES REQUIRING RELOCATION SHALL BE THE RESPONSIBILITY AND AT THE EXPENSE OF THE DEVELOPER. CONTACT TRAFFIC ENGINEER FOR INFORMATION REGARDING REIMBURSEMENTS RELATIVE TO RELOCATING TRAFFIC SIGNAL FACILITIES; FIRE HYDRANTS WILL BE RELOCATED BY CITY FORCES. DEVELOPER IS RESPONSIBLE TO NOTIFY CITY WATER DIVISION TO ARRANGE AND CO-ORDINATE WORK.
2. REPAIR ALL DAMAGED AND/OR OFF-GRADE CONCRETE STREET IMPROVEMENTS AS DETERMINED BY THE CONSTRUCTION MANAGEMENT ENGINEER PRIOR TO OCCUPANCY.
3. ANY SURVEY MONUMENTS WITHIN THE AREA OF CONSTRUCTION SHALL BE PRESERVED OF RESET BY A REGISTERED CIVIL ENGINEER OR A LICENSED LAND SURVEYOR.
4. NOTIFY THE CITY ELECTRONICS AND COMMUNICATIONS DIVISIONS, 10 WORKING DAYS PRIOR TO ANY OFF-SITE CONCRETE CONSTRUCTION.
5. PROVIDE 2% SLOPE AWAY FROM BUILDING FOR A MINIMUM OF FIVE FEET.
6. NO ON-SITE WATER RETENTION.
7. NO DRAINAGE TO ADJACENT PROPERTY.
8. GRADE DIFFERENTIALS GREATER THAN 12 INCHES SHALL BE SUPPORTED BY AN APPROVED RETAINING WALL.
9. A BACKFLOW PREVENTION DEVICE IS REQUIRED TO BE INSTALLED ON THE WATER SERVICE TO PROTECT THE PUBLIC WATER SYSTEM. A PLUMBING PERMIT IS REQUIRED TO INSTALL DEVICE. CONTACT THE DEPARTMENT OF PUBLIC UTILITIES, WATER DIVISION (TERRY SCHNEIDER 410-1100 FOR DETERMINATION OF SIZE, TYPE, ACCEPTABLE MAKE/MODEL AND LOCATION. BACKFLOW PREVENTION DEVICES SHALL BE INSTALLED AT THE DEVELOPER'S EXPENSE BY A QUALIFIED JOURNEYMAN PLUMBER WHO HAS BEEN CERTIFIED AS COMPETENT FOR SUCH INSTALLATION BY THE WATER SYSTEMS MANAGER. BACKFLOW DEVICE MUST BE TESTED AND ACCEPTED BY THE WATER DIVISION PRIOR TO GRANTING BUILDING FINAL. THE DEVELOPER IS RESPONSIBLE TO CONTACT WATER DIVISION A MINIMUM OF 5-DAYS PRIOR TO REQUESTING FINAL BUILDING INSPECTION.
10. SUBMIT PLANS TO AND OBTAIN PERMIT FROM THE FIRE PREVENTION BUREAU FOR FIRE SPRINKLER SYSTEM INSTALLATION OR MODIFICATION.

APPL. NO. C-14-011 EXHIBIT A DATE 2-13-14
PROJ ENG. _____ DATE _____
TRAFFIC ENG. _____ DATE _____
COMM APPROVED BY _____ DATE
CITY OF FRESNO PLANNING & DEVELOPMENT DEPT

NORTH
SITE PLAN
SCALE: 1"=40'

MICHAEL D. JUNDT S.E. S3396
TERRY MOORE P.E. 58582
JAMES QUINN C9269
[illegible]

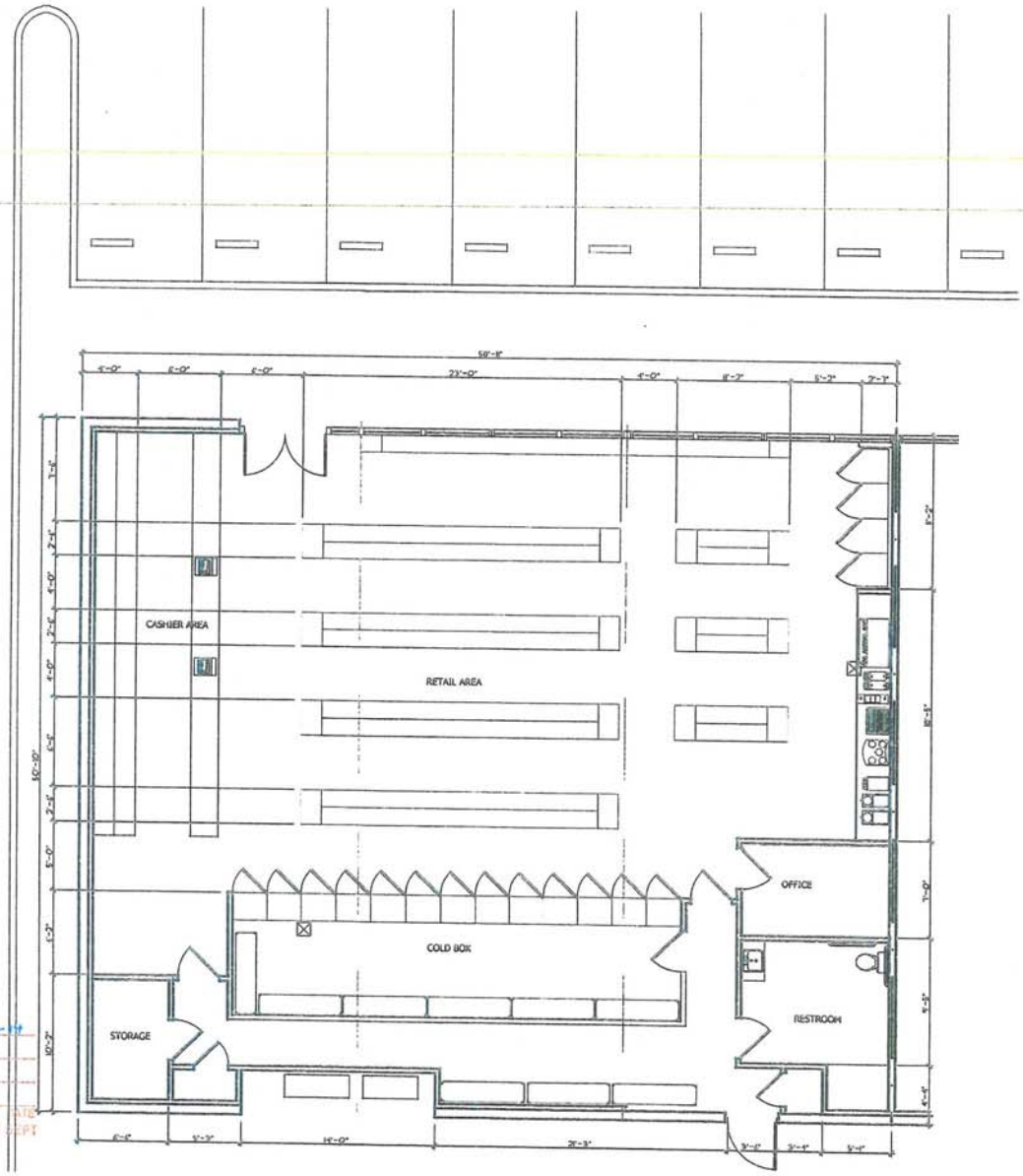
CONVENIENCE STORE-BULLARD AND MARKS
architecture
engineering
forensic sciences
ASSOCIATED DESIGN AND ENGINEERING INC.
351 WEST CROMWELL AVE. SUITE 105 FRESNO, CA 93711 OFFICE 559.431.2889 FAX 559.431.2074 office@adeinc.biz http://adeinc.biz

REVISIONS

SHEET A1-1
JOB NO. C14009
DATE 2/13/2014

Floor Plan
(Exhibit F within the conditions of approval)

Exhibit "I"



FLOOR PLAN

CONVENIENCE STORE - BULLARD AND MARKS

architecture
engineering
forensic sciences

ASSOCIATED DESIGN AND ENGINEERING INC.

351 WEST CROMWELL AVE. SUITE 106 • FRESNO, CA 93711 • OFFICE: 559.431.2860 • FAX: 559.431.2774

MICHAEL D. JUNOT S.E. 53396
TERRY MOORE P.E. 58562
JAMES GUNN C9269

REVISIONS

SHEET A2-1

JOB NO. C14009

DATE 2/12/2014

C-14-011 EXHIBIT F DATE 2-13-14

DATE

DATE

DATE

DATE

FRESNO PLANNING & DEVELOPMENT DEPT

Comments from Responsible Agencies

Exhibit "J"

City of
FRESNO

FIRE DEPARTMENT

Date: March 4, 2014

To: Chris Preciado, Planner II
Development and Resource Management Department

From: MATT MARQUEZ, Fire Prevention Inspector II
Fire Department, Fire Prevention Division

Subject: Conditional Use Permit Application No. C-14-011-ABCUP was filed by Gurmeet Singh and Manpreet Kaur and pertains to 3,000 square feet of tenant space within the existing Marks-Bullard 8.84-acre shopping center located on the southwest corner of North Marks and West Bullard Avenues. The applicant proposes to relocate Old Doc's Food and Liquor Store to a new space within the shopping center. The owner of the liquor store (Manpreet Kaur) has a ABC Type 21 alcohol license (package store selling beer, wine, and distilled spirits for consumption off the premises). The property is in the C-1 (Neighborhood Shopping Center) zone district.

Other

No requirements.

This project was reviewed by the fire department only for requirements related to water supply, fire hydrants, and fire apparatus access to the building(s) on site. Review for compliance with fire and life safety requirements for the building interior and its intended use are reviewed by both the Fire Department and the Building and Safety Section of DARM when a submittal for building plan review is made as required by the California Building Code by the architect or engineer of record for the building.

County of Fresno
DEPARTMENT OF PUBLIC HEALTH
DAVID POMAVILLE, M.B.A., R.E.H.S.
DIRECTOR

March 24, 2014

LU0017610
2602

Chris Preciado
Development and Resource Management Department
2600 Fresno Street
Fresno, CA 93721

Dear Mr. Preciado:

PROJECT NUMBER: C-14-011-ABCUP

Conditional Use Permit Application No. C-14-011-ABCUP was filed by Gurmeet Singh and Manpreet Kaur and pertains to 3,000 square feet of tenant space within the existing Marks-Bullard 8.84-acre shopping center located on the southwest corner of North Marks and West Bullard Avenues. The applicant proposes to relocate Old Doc's Food and Liquor Store to a new space within the shopping center The owner of the liquor store (Manpreet Kaur) has a ABC Type 21 alcohol license (package store selling beer, wine, and distilled spirits for consumption off the premises). The property is in the C-1 (*Neighborhood Shopping Center*) zone district.

APN: 415-373-13 **ZONING: C-1** **ADDRESS: 3021 WEST BULLARD AVENUE**

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) 600-3357 for more information.

- Prior to operation, the applicant shall apply for and obtain a revised permit to operate a food facility to include a bar 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) 600-3357 for more information.

- Prior to the sale of alcohol, the applicant shall obtain their license to sell alcoholic beverages. Contact the California Alcoholic Beverage Control Department at (559) 225-6334 for more information.

The following comments pertain to the remodel of the existing structure:

- Should the structure have an active rodent or insect infestation, the infestation should be abated prior to the remodel of the structure in order to prevent the spread of vectors to adjacent properties.

- In the process of remodeling the existing structure, the contractor may encounter asbestos containing construction materials and materials coated with lead based paints.

- If asbestos containing materials are encountered, contact the San Joaquin Valley Air Pollution Control District at (559) 230-6000 for more information.

- If the structure was constructed prior to 1979 or if lead-based paint is suspected to have been used in these structures, then prior to remodel work the contractor should contact the following agencies for current regulations and requirements:

  - ☐ California Department of Public Health, Childhood Lead Poisoning Prevention Branch, at (510) 620-5600.

  - ☐ United States Environmental Protection Agency, Region 9, at (415) 947-8000.

  - ☐ State of California, Industrial Relations Department, Division of Occupational Safety and Health, Consultation Service (CAL-OSHA) at (559) 454-5302.

- Any construction materials deemed hazardous as identified in the remodel process must be characterized and disposed of in accordance with current federal, state, and local requirements.

REVIEWED BY:

Kevin Tsuda

Digitally signed by Kevin Tsuda
DN: cn=Kevin Tsuda, o, ou=Fresno County EH, email=ktsuda@co.fresno.ca.us, c=US
Date: 2014.03.24 08:06:26 -07'00'

Kevin Tsuda, R.E.H.S.
Environmental Health Specialist II

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(559) 600-3271

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cc: Casagrande, Tolzmann, Rogers - Environmental Health Division (CT 42.09)
Dirk Poeschel, Consultant (dpoeschel@dplds.com)

Christopher Preciado

From: Joann Zuniga
Sent: Friday, February 21, 2014 5:34 PM
To: Christopher Preciado
Subject: FW: C-14-011, 3021 W Bullard

For the file

From: Jill Gormley
Sent: Friday, February 21, 2014 3:16 PM
To: Arnoldo Rodriguez; Joann Zuniga
Cc: Louise Gilio
Subject: C-14-011, 3021 W Bullard

A TIS will not be needed for this project.

Jill Gormley, TE
Assistant Traffic Engineering Manager
City of Fresno, Public Works Department
2600 Fresno Street, 4th Floor
Fresno, CA 93721-3623
www.fresnotrafficengineering.com

P: 559/621-8792
F: 559/457-1107

Christopher Preciado

From: Dawnielle Serrano
Sent: Monday, February 24, 2014 8:41 AM
To: Christopher Preciado
Cc: Carl McKnight
Subject: FW: Request for Comment - C-14-011-ABCUP, Old Docs Food and Liquor Store relocation within same shopping center
Attachments: C-14-011 electronic routing.pdf

Hello,
We have no PD comments as long as the same conditions are attached to the business (Type 21 ABCUP) that the applicant currently has for the existing business.
Thank you

From: Fresno Development Services
Sent: Friday, February 21, 2014 5:50 PM
To: Dawnielle Serrano; Justin Beal; Deborah Remily; Darla Scott; skahl@co.fresno.ca.us; glallen@co.fresno.ca.us; jgardner@co.fresno.ca.us; Tsuda, Kevin; 'vivian.bourbonnais@fresnounified.org'; 'Heidi Heltne'; Steve Brandau; christine.weldon@abc.ca.gov; cathy.s.gilles@usps.gov
Cc: Christopher Preciado
Subject: Request for Comment - C-14-011-ABCUP, Old Docs Food and Liquor Store relocation within same shopping center

Routing Partners:

You have been identified as the best contact to provide your department/agency's review and comments for the subject project. Please click the following link and download an electronic copy of the project package for review.

Project Address: 3021 West Bullard Avenue
APN: 415-373-13

http://m3.fresno.gov/upload/files/42494512/C-14-011electronicrouting.pdf (click on bookmarks to navigate).

Please email your comments directly to Christopher.Preciado@fresno.gov who is the planner assigned to this project. We look forward to receiving your responses electronically and hearing any comments/suggestions you may have. If you do not have any comments, please communicate a "no comment" response.

Thank you.

If you experience difficulty opening the document, please call or email Joann (Joann.Zuniga@fresno.gov) and a copy of the request for comments will be sent to your mailing address.

Joann Zuniga
Development and Resource Management Department
City of Fresno
2600 Fresno Street

Fresno Ca 93721-3604
559-621-8052
Joann.Zuniga@fresno.gov

Christopher Preciado

From: Bruce Barnes
Sent: Thursday, March 20, 2014 10:59 AM
To: Michael Napoli; David Rodriguez; Rosie Hendry; Jas Singh; William M. Scott
Cc: Sophia Pagoulatos; Christopher Preciado
Subject: Possible Cancelation of Monday's Meeting

Importance: High

Please review this email and let me know if there is any objection to cancelling Monday's meeting?

From: ralph kachadourian [mailto:kachralph@gmail.com]
Sent: Thursday, March 20, 2014 10:26 AM
To: Bruce Barnes
Cc: Sophia Pagoulatos; Christopher Preciado
Subject: Re:

Bruce, If the other committee members are in agreement, I am in favor of cancelling the meeting for this one item. I remain confident with staff's decision and action on this ABC-CUP, given it is a current license with Old Doc's and that the business is remaining in the same shopping center.

Ralph Kachadourian
Central Section Director
American Planning Association
California Chapter
(559) 577-4366 (cell)
kachralph@gmail.com

Director, Community & Economic Development
City of Chowchilla
130 S. Second Street
Civic Center Plaza
Chowchilla, CA 93610
(559) 665-8615 x400
(559) 267-3835 (city cell)
rkachadourian@ci.chowchilla.ca.us

On Thu, Mar 20, 2014 at 9:51 AM, Bruce Barnes <Bruce.Barnes@fresno.gov> wrote:

I have only one item on the upcoming agenda: it is an ABC-CUP to relocate Old Doc's Liquor store from its current location to smaller space of 3,000 square within the same shopping center which is located at Marks and Bullard (southwest corner). Since ABC-CUPs are tied to a specific address/location it was necessary to obtain a new ABC-CUP.

Question: Since this is a simple relocation of an existing use from one location to another within the same complex I am not sure if it is even necessary for the Committee to met, especially since this is the only item. Therefore, would it be ok to cancel Monday's meeting?????

Bruce Barnes

Project Manager

Planning and Development Department

2600 Fresno Street, Third Floor

Fresno, CA 93721

559-621-8047 or 559-977-7004(cell)

City of
FRESNO

Police Department

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

Jerry P. Dyer
Chief of Police

March 31, 2014

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

Attn. Christopher Preciado, Planning Division

Re: SPECIAL PERMIT NO. C-14-011
Old Doc's Food and Liquor Store
3021 W. Bullard Ave
Fresno, CA 93711
A.P.N. 415-373-13

Dear Mr. Preciado,

Pursuant to your Department's request, the Fresno Police Department has reviewed the special permit application for property located at **3021 W. Bullard Avenue.** 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

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. The applicant proposes to relocate Old Doc's Food and Liquor Store to a new space within the shopping center. The owner of the business has an ABC Type 21 alcohol license (package store selling beer, wine and distilled spirits for consumption off the premises). We request the following conditions be included as Conditions of Approval for Conditional Use Permit Application No. C-14-011. 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-14-011, 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 Serrano 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. 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-14-011 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, of any size, is 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. **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.

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

8.1 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.

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

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

9. **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.

10. **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: 3/31/14
Lieutenant Jon Papaleo
Northwest District Commander

5165 Date: 3/31/14
Sergeant Carl McKnight
Northwest District Supervisor

Date: 3-31-14
Detective Dawnielle Serrano
Northwest District POP

Fresno Unified
School District
Preparing Career Ready Graduates

Facilities Management & Planning

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SUPERINTENDENT
Michael E. Hanson

March 20, 2014

Chris Preciado
Development and Resource Management
City of Fresno
2600 Fresno Street, Third Floor
Fresno, CA 93721-3604

SUBJECT: **CONDITIONAL USE PERMIT NO. C-14-011-ABCUP**
3021 W. BULLARD AVE.

Dear Mr. Preciado,

In response to the City's request for comments on the pending Conditional Use Permit (C.U.P.) referenced above, Fresno Unified School District (FUSD) has the following comments and concerns.

The former 'Old Doc's Food and Liquor Store' previously located at 3061 West Bullard Avenue is proposing to relocate to existing building space at 3021 West Bullard Avenue. The applicant has an existing State of California Alcoholic Beverage Control Type 21 (*package store selling beer, wine, and distilled spirits for consumption off the premises)* liquor license, and the project is located within approximately 3,700 feet from Malloch Elementary School.

As per the State of California's Alcohol Beverage Control Act, an alcohol license can be refused by the State if the location is "within at least 600 feet from schools." The District has concerns regarding potentially dangerous interaction between our students and the proposed operation. FUSD's response on this project is subject to the Alcohol Beverage Control Act and the Fresno Police Department's review and support of the project with regard to the concentration and use of alcohol-related business in close proximity to school sites.

The Fresno Unified School District levies a commercial/industrial development fee of $0.51 per square foot. However since no new square footage will be constructed, no development fee would be charged.

If you have any questions or require additional information regarding our comments and concerns, please contact Deana Clayton, Project Manager, at (559) 457-3066.

Sincerely,

Lisa LeBlanc, Executive Officer
Facilities Management and Planning

DWC

LL:hh
c: Steve Zoller, Principal, Malloch Elementary School

Environmental Assessment
No. C-14-011 dated March 20, 2014

Exhibit "K"

CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. C-14-011 ABCUP

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 and Manpreet Kaur
1770 Gibson Avenue
Clovis, CA. 93611

PROJECT LOCATION: 3021 W Bullard Avenue (APN 415-373-13)

PROJECT DESCRIPTION: Conditional Use Permit Application No. C-14-011-ABCUP requests authorization to establish a State of California Alcoholic Beverage Control Type 21 alcohol license (package store selling beer, wine, and distilled spirits for consumption off the premises). for a grocery store in an existing building.

This project is exempt under Sections 15301/Class 1 and 15332/Class 32 of the State of California CEQA Guidelines.

EXPLANATION: Section 15301/Class 1 exempts the licensing of existing public or private structures or facilities, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

The proposed project is consistent with the exemption because the project is requesting licensing for alcoholic beverage sales and the establishment of a grocery store, Old Doc's Food and Liquor, which is permitted in the existing C-1 zone district subject to a conditional use permit.

Section 15332/Class 32: Consist of projects characterized as in-fill development meeting the following conditions: (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with the 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 and no value as a habitat for endangered, rare of 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 conditional use permit application is consistent with the general, community, and specific plan planned land use designation of *neighbourhood commercial* planned land use and conforms to all applicable policies. Although the subject site is 8.84 acres, the site that includes the tenant space and related parking is less than five acres, is completely surrounded by urban uses, and does not contain any significant value as habitat for endangered, rare, or threatened species. The subject site is

adequately served by all required utilities and public services.

No adverse environmental impacts would occur as a result of the proposed project. None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, section 15300.2 apply to this project.

Date: March 20, 2014

Prepared By: Christopher Preciado, Planner

Submitted By: _____

Bonique Emerson, Supervising Planner
City of Fresno
Development and Resource Management Department
(559) 621-8024