

**CITY OF MERCED  
Planning Commission**

**Resolution #4146**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of January 8, 2025, held a public hearing and considered Conditional Use Permit #1283, initiated by Edwardo Beltran, property owner. This application involves a request to expand an existing business into an unused part of the building to host live events. The subject site is generally located on the west side of Martin Luther King Jr Way, approximately 40 feet north of West Main Street. The subject site has a General Plan designation of Regional Commercial (RC) and a zoning classification of Central Commercial (C-C); Assessor’s Parcel Number (APN) 031-151-006.

**WHEREAS**, the Merced City Planning Commission concurs with Findings/Considerations A through J of Staff Report #24-1205; and,

**WHEREAS**, the Merced City Planning Commission concurs with the Findings for Conditional Use Permits in Merced Municipal Code Section 20.68.020 (E), and other Considerations as outlined in Exhibit B; and,

**NOW THEREFORE**, after reviewing the City’s Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #24-29, and approve Conditional Use Permit #1283, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by reference.

Upon motion by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and carried by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

PLANNING COMMISSION RESOLUTION #4146

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January 8, 2025

Adopted this 8<sup>th</sup> day January 2025

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Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:

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Secretary

Attachments:

Exhibit A - Conditions of Approval

Exhibit B - Findings

**Conditions of Approval**  
**Planning Commission Resolution #4146**  
**Conditional Use Permit #1283**

1. The proposed project shall be constructed/designed/operated as shown on the Site Plan (Attachment C of Staff Report #24-1205), except as modified by the conditions.
2. All conditions contained in Resolution #1283-Amended (“Standard Conditional Use Permit Conditions”
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
5. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant’s project is subject to that other governmental entity’s approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, suits, or proceeding. Developer/applicant shall be responsible to immediately prefund the litigation cost of the City including, but not limited to, City’s attorney’s fees and costs. If any claim, action, suits, or proceeding is filed challenging this approval, the developer/applicant shall be required to execute a separate and formal defense, indemnification, and deposit agreement that meets the approval of the City Attorney and to provide all required deposits to fully fund the City’s defense immediately but in no event later than five (5) days from that date

of a demand to do so from City. In addition, the developer/applicant shall be required to satisfy any monetary obligations imposed on City by any order or judgment.

6. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
7. The applicant shall comply with all City of Merced business licensing requirements and with all requirements of the Merced County Environmental Health Department.
8. No outdoor tables or chairs shall be permitted on the premises, unless otherwise approved by the Planning Department in consideration of all relevant parking and vehicle circulation areas on this site.
9. If the business owners wish to extend the business hours in the future, they must obtain approval from the Development Services Director or designee, or if deemed necessary by the Development Services Director or designee, be referred to the Planning Commission for action.
10. If problems arise as a result of this business that may require excessive Police Department service calls, in the opinion of the Police Chief, to the site or within the immediate area including, but not limited to, excessive harassment, malicious property damage, lewd and/or disorderly conduct, this approval may be subject to review and revocation by the City of Merced.
11. The applicant shall install exterior video surveillance cameras that continuously record outside activities 24 hours a day, 7 days a week (locations to be worked out with the Police Department). Any video related to criminal investigations must be accessible immediately for viewing by the Merced Police Department or any other law enforcement agency. A recorded copy of surveillance video, requested in connection with a criminal investigation, must be reasonably accessible and available within 24 hours when requested by law enforcement. The business owner is responsible for maintaining the video surveillance equipment at all times in an operable manner.
12. During live events, security shall be provided at a ratio of 1 guard per 100 occupants. While alcohol is being served, the security requirements shall be

increased at a ratio of 1 guard per 50 occupants. The Police Department reserves the right to request additional security guards if any problems arise. All security guards shall be hired from a company that has been approved by the Merced City Council and properly licensed through the City of Merced. All security guards are subject to approval of the Merced Police Department.

13. Receptacles acceptable for the disposal of smoldering remnants and discarded debris associated with smoking tobacco products (such as ashes and cigarette butts) shall be made available outside by the main entrance to the building. The receptacles shall be included in the plans for the business expansion. Onsite consumption of cannabis products are not allowed per City Code.
14. Business signage and minor exterior changes to the building shall be reviewed with a staff level design review permit. Signage shall comply with Merced Municipal Code Section 20.62 – Signs.
15. The applicant must obtain applicable building permits when completing tenant improvements, if required by the City of Merced Inspection Services Division.
16. No “adult entertainment” uses as defined in Merced Municipal Code (MMC Section 20.90) shall be allowed on the premises.
17. Noise levels generated by the business shall not create a public nuisance to the surrounding business establishments and immediate area. If noise-related complaints are received by the City of Merced, the conditional use permit may be subject to review and possible revocation by the City of Merced per the procedures in the Merced Municipal Code.
18. Any music played shall be kept to a minimum noise level so as not to travel outside the immediate area around the building. Additional noise attenuation measures may be required if music can be heard outside the immediate area around the building. Details to be worked out with Planning and Building staff.
19. To prevent noise from carrying throughout the area, the doors shall be kept closed except as patrons enter and exit. The doors shall not be propped open during business hours.
20. The business owner shall be in compliance with any state laws regarding alcohol sales and distribution, as well as the Alcohol Beverage Control’s (ABC) rules and regulations.

21. Alcohol service shall end before 2:00 AM, per ABC guidelines.
22. The City reserves the right to periodically review the business for potential problems. Should excessive calls for service or violation of these conditions of approval occur in the opinion of the Police Chief, the City may consider revocation of the Conditional Use Permit following the procedures spelled out in the Merced Municipal Code.
23. Sufficient lighting shall be provided throughout the exterior of the building.
24. Live music shall end by 2:00 AM Thursday through Saturday, and by 11:00 PM on all other nights, any non-live music can continue until closing. Hours for live music may be modified with approval from the Director of Development Services.
25. Customers under the age of 21 will not be allowed in the business after 9:00 PM on Friday and Saturday nights. For customers over the age of 21, stamps must be given at the entrance to the building. These procedures are subject to modification if deemed appropriate by the Police Chief.
26. Customers under the age of 18 visiting the business on Thursday and Sunday nights must be accompanied by parents or guardians after 9:00 PM. These procedures are subject to modification if deemed appropriate by the Police Chief.

**Findings and Considerations  
Planning Commission Resolution #4146  
Conditional Use Permit #1283**

**FINDINGS/CONSIDERATIONS:**

**General Plan Compliance and Policies Related to This Application**

- A) The proposed project complies with the General Plan designation of Regional/Community Commercial (RC) and the Zoning classification of Central Commercial with approval of a Conditional Use Permit for the hosting of live entertainment.

**Neighborhood Impact**

- B) The subject site is in Downtown Merced and is surrounded by a variety of commercial uses. This business currently operates as a restaurant, and the use will not be changing. The current hours of operation, which include being closed on Mondays, 3:00 PM to 12:00 AM Tuesday through Thursday, 3:00 PM to 2:00 AM on Fridays, 11:00 AM – 2:00 AM on Saturdays, and 11:00 AM to 10:00 PM on Sundays, will also not be changing. The types of live events that are being proposed include live music, comedy shows, Karaoke, and private parties.
- C) A public hearing notice was mailed to property owners within 300 feet of the subject site prior to this public hearing. As of the date that this report was prepared, staff had not received any comments from the public about this project.

**Building Elevation**

- D) The applicant is proposing converting existing storage space into usable space for live entertainment. The exterior elevations were originally reviewed and approved by the Site Plan Committee in 2021. Nothing will be changing on the exterior of this building with the approval of this Conditional Use Permit application.

**Floor Plan**

- E) As shown on the floor plan at Attachment C of Staff Report #24-1205, the restaurant would be accessible through the main entrance along the front of the building off West Main Street. The floor plan will remain the same as the one that was previously approved by the Site Plan Committee, although they will be expanding into the space previously

used for storage. This new usable space will be used for live events and entertainment.

### **Signage**

- F) The applicant is not proposing any specific signage with this request. Typically, a signage plan is produced towards the end of the entitlement process. A formal request for permanent signage shall be reviewed with a building permit application and shall require compliance with the signage regulations for the City of Merced (MMC 20.62) as shown at Condition #14 of Planning Commission Staff Report #24-1205.

### **Parking**

- G) The building will remain the same, but the usable space in this business will expand into an area previously used for storage. The applicant is not proposing anything that would require additional parking, such as adding square footage to the building or intensifying the site with a use that requires more parking. As such, the existing parking lot complies with the City's parking requirements. The subject site is located within the City's Downtown Parking District, which does not require off-street parking for uses on the first floor. Parking for this site can be served by 5 City-owned parking lots located within a 400-foot radius of the subject site (see Attachment C).

### **Operation Details**

- H) The operations of this restaurant will remain the same, except for the addition of live entertainment. The applicant listed things such as live music, karaoke, comedy shows, and private parties as potential events that could be hosted at the site. All other operations will remain the same.

### **Conditional Use Permit Findings**

- I) In order for the Planning Commission to approve or deny a conditional use permit, they must consider the following criteria and make findings to support or deny each criteria per MMC 20.68.020 (E) – Findings for Approval.
1. *The proposed use is consistent with the purpose and standards of zoning district, the general plan, and any adopted area or neighborhood plan, specific plan, or community plan.*

As shown under Finding A, the proposed project complies with the General Plan designation of Regional Community Commercial (RC) and the Zoning classification of Central Commercial (CC) with approval of this conditional use permit.

2. *The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses in the vicinity of the subject property.*

This application is for expanding the usable space inside of an existing business and implementing live events. Modifications will not be made to the exterior of the existing building. The property owner will also be required to submit building permits for these changes. Staff believes that the location, size, design, and operating characteristics of the proposal would be compatible with existing and future land uses in the vicinity.

3. *The proposed use will not be detrimental to the public health, safety, and welfare of the city.*

As shown under Findings B and C, staff does not anticipate that this proposal would be detrimental to the public health, safety, and welfare of the City. Planning staff notified all of the other departments throughout the City, and no departments expressed any concern regarding public health and safety.

4. *The proposed use is properly located within the City and adequately served by existing or planned services and infrastructure.*

The subject site is existing and currently served by existing infrastructure.

### **Environmental Clearance**

- J) Planning staff has conducted an environmental review (Environmental Review #24-36) of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (no further environmental review is required) is being recommended (Attachment D of Staff Report #24-1205).