

CITY OF MERCED
Planning Commission

MINUTES

Merced City Council Chambers
Wednesday, March 7, 2018

Chairperson Dylina called the meeting to order at 7:00 p.m., followed by a moment of silence and the Pledge of Allegiance.

ROLL CALL

Commissioners Present: Sonia Alshami, Travis Colby, Robert Dylina, Jeremy Martinez, and Peter Padilla

Commissioners Absent: Mary Camper (excused), (one vacancy)

Staff Present: Planning Manager Espinosa, Interim City Attorney Flores, Planner Mendoza-Gonzalez, and Recording Secretary Davis

1. APPROVAL OF AGENDA

M/S ALSHAMI-MARTINEZ, and carried by unanimous voice vote (one absent, one vacancy), to approve the Agenda as submitted.

2. MINUTES

M/S ALSHAMI-MARTINEZ, and carried by unanimous voice vote (one absent, one vacancy), to approve the Minutes of February 21, 2018, as submitted.

3. COMMUNICATIONS

None.

4. **ITEMS**

- 4.1 Conditional Use Permit #1224, initiated by Ramon Sandoval on behalf of Taher Murshed and Nakhlah Dabwan, property owners. This application involves a request to operate a food truck within the Best Buy Market parking lot, generally located on the southwest corner of 9th Street and S Street (1220 W. 9th Street), within Neighborhood Commercial (C-N) Zone.

Planner MENDOZA-GONZALEZ reviewed the report on this item. For further information, refer to Staff Report #18-06.

Public Testimony was opened at 7:19 p.m.

No one spoke in favor of the Project.

Speaker from the Audience (Neutral):

TAHER MURSHED, Property Owner, Merced

No one spoke in opposition to the Project.

Public Testimony was completed at 7:29 p.m.

M/S ALSHAMI-MARTINEZ, and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #18-08, and approve Conditional Use Permit #1224, subject to the Findings and twenty-eight (28) Conditions set forth in Staff Report 18-06 (RESOLUTION #3091):

AYES: Commissioners Alshami, Colby, Martinez, Padilla and Chairperson Dylina

NOES: None

ABSENT: Commissioner Camper, (one vacancy)

ABSTAIN: None

March 7, 2018

5. **INFORMATION ITEMS**

5.1 Calendar of Meetings/Events

Planning Manager ESPINOSA briefed the Planning Commission on items for the next few Planning Commission meetings.

5.2 Miscellaneous

Commissioner COLBY suggested to the Commission, as a topic for the discussion at a future meeting, to review the requirements for Food Trucks in the Zoning Code.

Planning Manager ESPINOSA agreed to include the Zoning Ordinance text regarding Food Trucks in the next meeting packet for the Commission to review.

Commissioner PADILLA announced to the Commission that he will be absent for the Planning Commission meeting of April 4, 2018, due to a business conference.

There was discussion regarding the vacancy on the Planning Commission.

6. **ADJOURNMENT**

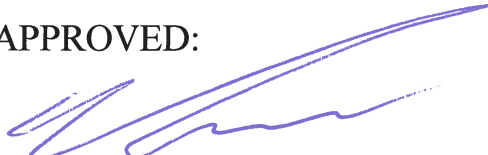
There being no further business, Chairperson DYLINEA adjourned the meeting at 7:37 p.m.

Respectfully submitted,



KIM ESPINOSA, Secretary
Merced City Planning Commission

APPROVED:



ROBERT DYLINEA, Chairperson
Merced City Planning Commission

CITY OF MERCED
Planning Commission

Resolution #3091

WHEREAS, the Merced City Planning Commission at its regular meeting of March 7, 2018, held a public hearing and considered **Conditional Use Permit #1224**, initiated by Ramon Sandoval on behalf of Taher Murshed and Nakhlah Dabwan, property owners. This application involves a request to operate a food truck within the Best Buy Market parking lot, generally located on the southwest corner of 9th Street and S Street (1220 W. 9th Street), within Neighborhood Commercial (C-N) Zone; also known as Assessor's Parcel Number 032-121-004; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #18-06; 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 #18-08, and approve Conditional Use Permit #1224, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this reference.

Upon motion by Commissioner ALSHAMI, seconded by Commissioner MARTINEZ, and carried by the following vote:

AYES: Commissioners Alshami, Colby, Martinez, Padilla, and Chairperson Dylina

NOES: None

ABSENT: Commissioner Camper

ABSTAIN: None

PLANNING COMMISSION RESOLUTION #3091

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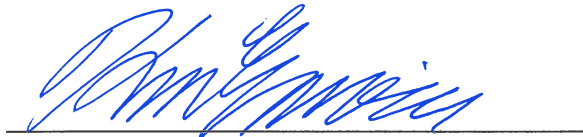
March 7, 2018

Adopted this 7th day of March 2018



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachment:

Exhibit A – Conditions of Approval

Conditions of Approval
Planning Commission Resolution # 3091
Conditional Use Permit #1224

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (photos) - Attachments B and C of Staff Report #18-06, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.
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, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any

agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

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.
9. At least two trash receptacles shall be provided while food is being served. The site and the immediate surrounding area shall be maintained free of all debris and trash generated from this use.
10. All signing shall be contained on the food truck. No A-frame signs, banners, inflatable signs, feather signs, pennant signs, flags, or other moving or portable signs shall be permitted for this use anywhere on or off the site.
11. The hours of operation shall be any span of time between 7:00 a.m. and 9:00 p.m. and the business may be open 7 days a week. However, if the business is open after dark, lights shall be provided on the vehicle or on the property that are sufficient to light the vehicle and at least a 50-foot radius around the vehicle. If lights are not provided, the business shall close at sundown.
12. If the business owner wishes to extend the business hours in the future, he must obtain approval from the Development Services Director and the Police Chief, or if deemed necessary by the Development Services Director, be referred back to the Planning Commission for action.
13. Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility.
14. The applicant shall comply with the Water Quality Control Division's (WQCD) Best Management Practices regarding the disposal of cooking grease and proper cleaning of kitchen equipment, as shown on Attachment F, or as otherwise required by the WQCD.

15. If problems arise as a result of this business that may require excessive Police Department service calls 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.
16. During hours of operation, food truck employees shall have access to a cell phone (either their own or one provided by the business owner) in case of emergencies.
17. In the future, if there are excessive calls for police assistance, the Police Chief may require the applicant to install exterior video surveillance cameras. 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 in an operable manner at all times.
18. The food truck shall be oriented perpendicular to the parking stalls to allow room for customers to gather without being in danger of collisions from vehicles entering/exiting the site. The food truck shall not block the driving aisle or access to the alley.
19. It shall be the operator's responsibility to ensure all customers park in an orderly fashion and don't block the driveway entrances or interfere with other customers visiting the site.
20. The applicant shall comply with all regulations found in Merced Municipal Code Section 20.44.020 - Food Trucks in Fixed Locations, except as modified by these conditions.
21. A minimum of 2 parking spaces on the site shall be dedicated to food truck customers. These spaces shall be located as close as possible to the food truck.
22. The parking spaces used by the food truck shall be replaced with new parking spaces on the western portion of the property. The new parking spaces shall be designed to meet Zoning requirements and the City's Engineering Standards.
23. Food truck activities shall in no way interfere with the operation of existing businesses on the lot, or nearby businesses, including noise,

litter, loitering, and traffic circulation, and public safety must be a high priority.

24. The owner shall ensure that restroom facilities are available for the employees. These restrooms shall be provided in a permanent building that meets the Health Department's requirements for distance from the business operation. Portable toilets shall not be allowed.
25. The sale of alcohol is prohibited.
26. Approval of this permit constitutes approval of interface review.
27. Illegal signs advertising alcohol on the outside of the Best Buy Market or Laundry World shall be removed before issuing a business license to the food truck.
28. "No Loitering" signs shall be posted on the food truck and grocery market at specific locations approved by the City Police Department.

n:\shared\planning\PC Resolutions: CUP #1224 Exhibit A