



CITY OF MERCED

City Council Chamber
Merced Civic Center
678 W. 18th Street
Merced, CA 95340

Minutes Planning Commission

Wednesday, January 8, 2025

6:00 PM

A. CALL TO ORDER

Commissioner GONZALEZ called the meeting to order at 6:00 PM.

A.1. Moment of Silence

A.2. Pledge of Allegiance to the Flag

Commissioner OCHOA led the Pledge of Allegiance to the Flag.

B. ROLL CALL

Clerk's Note: The Planning Commission has 1 vacancy at this time.

Present: 6 - Member Jose Delgadillo, Vice Chair Anthony Gonzalez, Member Yang Pao Thao, Member Walter Smith, Member Emanuelle Ochoa, and Member Jeremiah Greggains

Absent: 0

C. PUBLIC COMMENT

There were no public comments.

D. CONSENT CALENDAR

D.1 **SUBJECT:** Planning Commission Minutes of December 4, 2024

ACTION:

Approving and filing the Planning Commission Minutes of December 4, 2024

A motion was made by Member Ochoa, seconded by Member Greggains and carried by the following vote, to approve the Consent Agenda.

E. PUBLIC HEARINGS AND ACTION ITEMS

E.1 **SUBJECT:** Conditional Use Permit #1283, initiated by Edwardo Beltran, property owner. This application involves a request to expand an existing restaurant into an unused portion of the building to host live events and entertainment. The subject site is generally located on the north side of West Main Street, approximately 200 feet west of Martin

Luther King Jr Way. The subject site has a General Plan designation of Regional Commercial, (RC) and a zoning classification of Central Commercial, (C-C). **PUBLIC HEARING**

ACTION Approve/Disapprove/Modify

- 1) Environmental Review #24-29 (*Categorical Exemption*)
- 2) Conditional Use Permit #1283

SUMMARY

Edwardo Beltran is requesting conditional use permit approval to expand his current business, Joystiq, into an unused part of his building. This new usable space would be used for live entertainment events. Hosting live entertainment events requires a conditional use permit. The Planning Commission will be reviewing this proposal to ensure that the site plan is designed in a manner that minimizes negative impacts to the existing site and promotes compatible and orderly development with the surrounding uses. Staff is recommending approval with conditions.

RECOMMENDATION

Planning staff has reviewed this request and recommends that the Planning Commission approve Environmental Review #24-29 (Categorical Exemption) and Conditional Use Permit #1283, including the adoption of the Draft Resolution at Attachment A subject to the conditions in Exhibit A and the findings/considerations in Exhibit B.

Assistant Planner LIVINGSTON reviewed the report on this item. Staff noted a memo provided to the Commission prior to the meeting with modifications to several conditions. For further information, refer to Staff Report #24-1205.

Public Testimony was opened at 6:19 PM.

Speaker from the Audience in Favor

JOSEPH BELTRAN, Applicant, Merced, CA

There were no speakers in opposition to the project.

Public Testimony was closed at 6:23 PM.

Based on staff recommendation, the following conditions were modified:

(Note: Strikethrough deleted language, underline added language)

"11. The applicant shall install exterior video surveillance cameras that continuously record outside activities 24 hours a day, 7 days a week (details or 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 on Thursday, Friday, and Saturday nights, 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 security guards will work from 9:00 PM until closing on these days. 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.

"17. Noise levels generated by the business shall not create a public nuisance to the surrounding business and residential 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 or for the residences next door. Details to be worked out with Planning and Building Staff."

A motion was made by Member Ochoa, seconded by Member Greggains to adopt a Categorical Exemption regarding Environmental Review #24-29 and approve Conditional Use Permit #1283, subject to the Findings and twenty-six (26) Conditions set forth in Staff Report #24-1205 (RESOLUTION #4146) with changes to Conditions #11, #12, #17, and #18 as recommended by staff (as shown above).

Aye: 6 - Member Delgadillo
 Vice Chair Gonzalez
 Member Pao Thao
 Member Smith
 Member Ochoa
 Member Greggains

No: 0

Absent: 0

E.2

SUBJECT: Conditional Use Permit #1285, initiated by Chick-fil-A, on behalf of Dignity Health, property owner. This application involves a request to operate a food truck within the parking lot located at 120 Mercy Avenue. The subject site is generally located at the southeast corner of G Street and Mercy Avenue, within an Office Commercial (C-O) Zone. *PUBLIC HEARING*

ACTION: Approve/Disapprove/Modify
 1) Environmental Review #24-38 (*Categorical Exemption*)
 2) Conditional Use Permit #1285

SUMMARY

Chick-fil-A is requesting conditional use permit approval to operate a food truck within the parking lot located at 120 Mercy Avenue (Attachment B). Mobile Food Vendors are considered a conditional use within an Office Commercial (C-O) Zone. The proposed food truck would be located within a parking lot on the northeast portion of the parcel (Attachment C). The Planning Commission will be reviewing this proposal to ensure that the proposed site plan is designed in a manner that minimizes negative impacts to the existing site and promotes compatible and orderly development. Staff is recommending approval of this request subject to conditions.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #24-38 (Categorical Exemption) and Conditional Use Permit #1285 (including the adoption of the Resolution at Attachment A).

Senior Planner MENDOZA-GONZALEZ reviewed the report on this item. Staff noted a memo provided to the Commission prior to the meeting with the addition of Condition #32. For further information, refer to Staff Report #24-1229.

There was no one present wishing to speak regarding the project; therefore, public testimony was opened and closed at 6:44 PM.

Based on staff recommendation, the following condition was added:

(Note: Strikethrough deleted language, underline added language)

"32. The applicant shall display two signs informing pedestrian to use the crosswalk at intersection of Yosemite Avenue and G Street. One sign shall be visible from Mercy Avenue and the other sign form the food truck's order window. Details to be reviewed and approved by Planning Staff prior to approval of the business license."

A motion was made by Member Delgadillo, seconded by Member Greggains to adopt a Categorical Exemption regarding Environmental Review #24-38 and approve Conditional Use Permit #1285, subject to the Findings and thirty-one (31) Conditions set forth in Staff Report #24-1229 (RESOLUTION #4147) with the addition of Condition #32 as recommended by staff (as shown above).

Aye: 5 - Member Delgadillo
Vice Chair Gonzalez
Member Pao Thao
Member Ochoa
Member Greggains

No: 1 - Member Smith

Absent: 0

E.3

SUBJECT: Election of Chairperson and Vice-Chairperson

ACTION

Election of Chairperson and Vice-Chairperson

Commissioner THAO nominated Commissioner GONZALEZ to be elected as Chairperson and Commissioner GREGGAINS to be elected as Vice Chair. Both Commissioner GONZALEZ and Commissioner GREGGAINS accepted the nominations. There were no other nominations for Chairperson or Vice Chairperson.

A motion was made by Member Thao, seconded by Member Ochoa, and carried by the following vote, to elect Anthony Gonzalez as Chairperson and Jeremiah Greggains as Vice Chairperson.

Aye: 6 - Member Delgadillo
Vice Chair Gonzalez
Member Pao Thao
Member Smith
Member Ochoa
Member Greggains

No: 0

Absent: 0

F. INFORMATION ITEMS

F.1

SUBJECT: Report by Temporary Director of Development Services of Upcoming Agenda Items

ACTION

Information only.

Temporary Director of Development Services ESPINOSA went over the items for the next several Planning Commission meetings.

F.2

SUBJECT: Calendar of Meetings/Events

Jan.	6	City Council, 6:00 p.m.
	8	Planning Commission, 6:00 p.m.
	21	City Council, 6:00 p.m. (Tuesday)
	22	Planning Commission, 6:00 p.m.
Feb.	3	City Council, 6:00 p.m.
	5	Planning Commission, 6:00 p.m.
	18	City Council, 6:00 p.m. (Tuesday)
	19	Planning Commission, 6:00 p.m.
	25	Bicycle and Pedestrian Advisory Committee, 4:00 p.m.

G. ADJOURNMENT

Clerk's Note: The Regular Meeting was adjourned at 6:57 PM.

A motion was made by Member Greggains, seconded by Member Ochoa, that this agenda item be adjourned. The motion carried by the following vote:

Aye: 6 - Member Delgadillo
 Vice Chair Gonzalez
 Member Pao Thao
 Member Smith
 Member Ochoa
 Member Greggains

No: 0

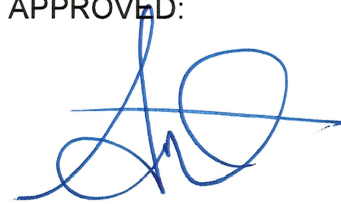
Absent: 0

BY:



KIM ESPINOSA, SECRETARY
MERCED CITY PLANNING COMMISSION

APPROVED:



ANTHONY GONZALEZ, CHAIRPERSON
MERCED CITY PLANNING COMMISSION

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 Eduardo 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 Ochoa seconded by Commissioner Greggains, and carried by the following vote:

AYES: Commissioners Delgadillo, Ochoa, Thao, Smith, Greggains, and
Chairperson Gonzalez

NOES: None

ABSENT: None

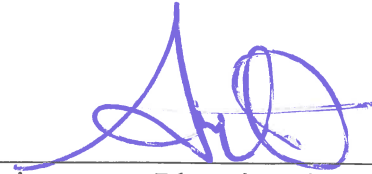
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4146

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January 8, 2025

Adopted this 8th day January 2025



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



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 (details or 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 on Thursday, Friday, and Saturday nights, 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 security guards will work from 9:00 PM until closing on these days. 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 and residential establishments and immediate area. If noise-related complaints are received by the City of Merced, the conditional use permit may be subject to review, revision, and or 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 or for the residences next door. 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).

CITY OF MERCED
Planning Commission

Resolution #4147

WHEREAS, the Merced City Planning Commission at its regular meeting of January 8, 2025, held a public hearing and considered **Conditional Use Permit #1285**, initiated by Chick-fil-A, applicant for Dignity Health, property owner. This application involves a request to operate a food truck within the parking lot at 120 Mercy Avenue. The subject site is generally located at the southeast corner of G Street and Mercy Avenue. The subject site has a General Plan designation of Office Commercial (CO), and a zoning classification of Office Commercial (C-O); Assessor's Parcel Number (APN) 231-040-003.

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through J of Staff Report #24-1229; 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 #24-38, and approve Conditional Use Permit #1285, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by reference.

Upon motion by Commissioner Delgadillo, seconded by Commissioner Greggains, and carried by the following vote:

AYES: Commissioners Ochoa, Delgadillo, Greggains, Thao, and Chairperson Gonzalez

NOES: Commissioner Smith

ABSENT: None

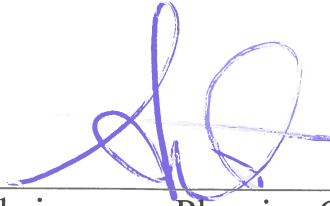
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4147

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January 8, 2025

Adopted this 8th day of January 2025



Chairperson, Planning Commission of
the City of Merced, California

ATTEST:



Secretary

Attachments:

Exhibit A - Conditions of Approval

Exhibit B – Findings

Conditions of Approval
Planning Commission Resolution #4147
Conditional Use Permit #1285

1. The proposed project shall be constructed/designed/operated as shown on the Site Plan (Attachment C of Staff Report #24-1229), except as modified by the conditions.
2. All conditions contained in Resolution #1282-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, 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 Division in consideration of all relevant parking and vehicle circulation areas on this site.
9. At least two tamperproof 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. The applicant shall work with the Refuse Division to determine a service plan for 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 food truck shall close at sundown.
12. 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 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 D of Staff Report #24-1229, 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, 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.
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 in the opinion of the Police Chief, 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 as to not block 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 be located at least 100 feet north from the main drive aisle that provides access to Sandpiper Avenue. The specific location of the food truck to be reviewed and approved by Planning staff prior to operating.

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. Food truck activities shall in no way interfere with the operation of any business on the lot, or nearby businesses, including noise, litter, loitering, and traffic circulation, refuse service, and public safety.
22. 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.
23. The mobile food vendor is prohibited from selling alcohol.
24. "No Loitering" signs shall be posted on the food truck and building onsite at specific locations approved by the City Police Department.
25. The site is to remain well lit, as required by the City Police Department.
26. The operators of this food truck must identify what they will use as a commissary, as the property does not have a grease interceptor.
27. Propane tanks (if being used) must not exceed 5 gallons in size without special approval from the City Fire Department.
28. Spare tanks are not allowed in the area.
29. No motorized vehicles shall be parked within 20 feet of the food truck.
30. Fire extinguishers must be located in an easily accessible location.
31. No combustible storage is allowed near any cooking equipment or other sources of ignition.
32. The applicant shall display two signs informing pedestrian to use the cross-walk at intersection of Yosemite Avenue and G Street. One sign shall be visible from Mercy Avenue and the other sign from the food truck's order window. Details to be reviewed and approved by Planning staff prior to approval of the business license.

**Findings and Considerations
Planning Commission Resolution #4147
Conditional Use Permit #1285**

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed Project complies with the General Plan designation of Office Commercial (CO) and the zoning classification of Office Commercial (C-O), with approval of this Conditional Use Permit.

Traffic/Circulation

- B) The applicant is proposing to locate the food truck on the eastern portion of the parking lot located at 120 Mercy Avenue. This parking lot is used for overflow parking for both the UC Davis Cancer Center and the Dignity Health Hospital (Attachment C of Staff Report #24-1229). There are no buildings on this parcel, so the food truck would not conflict or impact operations for another business. Condition #18 would require that the food truck be located at least 100 feet north of the main driving aisle between the parking lot and Sandpiper Avenue. The food truck would thus be located and oriented in a way that does not affect the flow of traffic, and provide space for customers to gather around the food truck (Condition #18 of Staff Report #24-1229). Orienting the food truck in this manner allows vehicles to enter and exit the subject site without impediments. In addition, the applicant will have to work with the Refuse Department to determine how to serve this site, or if they can share containers with a nearby business. (Condition #9).

Parking

- C) The subject site must meet the minimum parking requirements for the existing businesses onsite and the proposed food truck. This parking lot is used by the UC Davis Cancer Center and Dignity Health Hospital as overflow parking. Typically, a mobile food vendor is required to have a minimum of 2 parking stalls. There are over 100 parking spaces in this overflow parking lot, therefore the parking provided onsite exceeds the parking required for this use.

Public Improvements/City Services

- D) The parking lot is developed, and most public improvements are existing. The food truck is self-contained and would not require a separate connection to the City's sewer and/or water systems.

Site Design

- E) The subject site is located at the southeast corner of G Street and Mercy Avenue. The subject site is approximately 10 acres large and the food truck would be located within the northeast portion of the parcel. The parking lot has vehicle access from Sandpiper Avenue and contains approximately 100 parking spaces, and two storage areas. The perimeter of the site is mostly enclosed with a 6-foot-tall chain link fence.

As shown on Attachment C of Staff Report #24-1229, the food truck would be located near the eastern portion of the parking and oriented in a manner that does not create congestion for customers driving to and from the site. Condition #18 requires that the food truck be located at least 100 feet north of the main driving aisle that provides access to Sandpiper Avenue. The property owner is not proposing to make any other modifications to the subject site. The applicant is not requesting any outdoor tables or chairs.

Neighborhood Impact/Interference

- F) The subject site is located along G Street, a highly trafficked arterial road, surrounded by a variety of uses. Across Mercy Avenue, to the north of the subject site, is the UC Davis Cancer Center. To the east of the subject site, across Sandpiper Avenue, is the Northview Professional Center (medical uses). To the south is the Yosemite & G Commons (commercial shopping center). To the west, across G Street, is Merced Community College.

Given the existing traffic volumes and dense variety of uses throughout the neighborhood, staff does not anticipate that this proposal would significantly change the neighborhood's character.

Signage

- G) The food truck is not allowed any signs other than what is provided on the vehicle itself. Condition #10 of Staff Report #24-1229 prohibits the use of any A-frame signs, inflatable signs, feather signs, pennants, or other freestanding signs.

Truck Details/Operation

- H) Per the Municipal Code, the food truck can operate daily between 7:00 a.m. to 9:00 p.m. However, the applicant intends to operate the food truck one to two times per month. Trash receptacles will be provided to collect the plates, forks, aluminum foil, and paper bags that are typically used to serve these meals (Condition #9 of Staff Report #24-1229). The sale of alcohol is prohibited (Condition #23 of Staff Report #24-1229). Employee restrooms will be available inside the Medical Pavilion at 315 Mercy Avenue, as allowed by the Merced County Environmental Health Department and agreed upon by the property owner (Condition #22 of Staff Report #24-1229). Disposal of waste products shall be limited to an Environmental Health Department approved commissary or alternative approved facility (Condition #13 of Staff Report #24-1229). 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 at Attachment D of Staff Report #24-1229, or as otherwise required by the WQCD (Condition #14 of Staff Report #24-1229).

Conditional Use Permit Findings

- I) A Conditional Use Permit is required to allow mobile food vendors within the Office Commercial District Zone per Merced Municipal Code (MMC) Table 20.10-1 Permitted Land Uses in the Commercial Zoning Districts. 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 for Conditional Use Permits."

MMC 20.68.020 (E) Findings for Approval.

- 1. The proposed use is consistent with the purpose and standards of the zoning district, the general plan, and any adopted area or neighborhood plan, specific plan, or community plan.*

The proposed project complies with the General Plan designation of Office Commercial (CO) and the zoning classification of Office Commercial (C-O) 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.*

The mobile food vendor shall be required to comply with all relevant standards and requirements from MMC Section 20.44.020 – Food Trucks in Fixed Location, to provide compatibility with surrounding sites. Said standards and requirements are in regard to hours of operation, parking, access, maintenance, advertising, and licenses required.

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

To ensure the proposal is not detrimental to the public health, safety, and welfare of the City, the applicant shall subsequently apply for permit approval from the Merced County Environmental Health Department, as required for establishments selling hot meals. The Environmental Health Department would inspect food truck cooking facilities before the business could sell food to the general public.

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

The proposed mobile food vendor is located within the City and can be adequately accessed through existing roads. The food truck would be self-contained with its own water and power and would not need to hook-up to City utilities. The food truck would be serviced at an appropriate commissary facility.

Environmental Clearance

- J) Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (i.e., no further environmental review is needed) is being recommended (Attachment E of Staff Report #24-1229).