

CITY OF MERCED
Planning Commission

Resolution #4142

WHEREAS, the Merced City Planning Commission at its regular meeting of October 9, 2024, held a public hearing and considered **Conditional Use Permit #1281**, submitted by Moe Jawad, property owner. The application involves a request to establish a mobile food vendor plaza for up to ten mobile food vendors with on-site seating for customers. The project consists of three parcels that total 0.68 acres or 30,000 square feet. The subject site is generally located on the northeast corner of West 16th Street and Martin Luther King Jr Way. The site has a General Plan designation of Regional/Central Commercial (CC) and is zoned Central Commercial (C-C) also known as Assessor's Parcel Number (APN) 031-154-010, 031-154-011 and 031-154-012; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through K (Exhibit B) of Staff Report #24-921; 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 #24-24, and approve Conditional Use Permit #1281, 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: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)

ABSTAIN: Commissioner(s)

ATTACHMENT A

PLANNING COMMISSION RESOLUTION #4142

Page 2

October 9, 2024

Adopted this 9 th day of October 2024

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 # 4142
Conditional Use Permit #1281

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) - Attachment C of Staff Report #24-921, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”) 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 and all participating food truck vendors onsite shall comply with all City of Merced business licensing requirements and with all requirements of the Merced County Environmental Health Department. The applicant shall be responsible for ensuring that all food truck vendors meet this requirement.
8. At least two trash receptacles per food truck 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. Any permanent trash receptacles placed within the outdoor seating area shall be of the tamperproof variety. The Applicant shall work with the City Refuse Department to determine the proper location for a trash enclosure and if a recycling container will be required to comply with AB 341.
9. All signing shall be contained on the food trucks. 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 onsite. (Some of these signs may be allowed during the applicant's 30-day grand opening period only). A temporary banner permit shall be obtained prior to installing any temporary signs. However, one permanent sign identifying the food truck parking area may be allowed. Details to be worked out with staff.
10. This approval allows the request for extended hours of 7 days a week from 6:00 a.m. to 3:00 a.m. If the applicant wishes to extend or modify the business hours in the future, they must obtain approval from the Director of Development Services and the Police Chief, or if deemed necessary by the Director of Development Services, be referred back to the Planning Commission for action.

11. 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. Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility.
13. The applicant shall ensure that all food truck vendors onsite 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 #24-921 or as otherwise required by the WQCD.
14. If problems arise as a result of this use that may require excessive Police Department service calls to the site, in the opinion of the Police Chief, 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.
15. 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.
16. Food trucks shall be oriented in a manner that allows room for customers to gather without being in danger of collisions from vehicles entering/exiting the site. The food trucks shall not block the driving aisles or access to the alley.
17. It shall be the applicant's responsibility to ensure all customers park in an orderly fashion and do not block the driveway entrances or interfere with other customers driving through the site to access the parking on the adjacent parcel to the east.

18. 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.
19. The applicant shall provide parking at a ratio of 2 parking stalls per food truck onsite or 1 parking stall per every 2.5 seats, whichever number is greater. The new parking spaces shall be designed to meet Zoning requirements and the City's Engineering Standards.
20. The parking stalls shall be striped with paint.
21. Food truck activities shall in no way interfere with the operation of nearby businesses, including noise, litter, loitering, and traffic circulation.
22. The business owner(s) shall ensure that restroom facilities are available for the employees that meet the Merced County Environmental Health Department's requirements and distance from the business operation. Facilities that are classified as portable toilets shall not be allowed.
23. 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.
24. The sale of alcohol by any mobile food vendor is prohibited.
25. Minor adjustments to the site plan may be reviewed and approved by the Director of Development Services, or if deemed necessary, be referred to the Planning Commission.
26. Any music (live or played over outdoor speakers) shall be kept to a minimum noise level so as not to travel outside the immediate area and disturb the surrounding businesses. Music may only be played between the hours of 7:00 a.m. and 9:00 p.m. daily.
27. Any outdoor heating units or large tents used onsite shall be listed and approved by the Fire Department.
28. The food truck shall comply with the Fire Departments Food Truck Safety Fact Sheet shown at Attachment E of Planning Commission Staff Report #24-921.
29. The applicant must contact the San Joaquin Air Pollution Control District prior to operating if the food trucks will be using gas generators.
30. If the operations are to remain on site for longer than two years from the date of approval of this Conditional Use Permit, the applicant must install

EXHIBIT A

OF PLANNING COMMISSION RESOLUTION #4142

a trash enclosure per Refuse Department Standards. The applicant must also provide permanent utilities to the food trucks, including a permanent power source and plumbing.

**Findings and Considerations
Planning Commission Resolution #4142
Conditional Use Permit #1281**

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 (CC) and the zoning designation of Central Commercial (C-C) with approval of this Conditional Use Permit.

Traffic/Circulation

- B) The proposed site plan shows vehicle access to the subject site from 16th Street and the alley north of the project site with two 14.5-foot-wide one-way drive aisles to be maintained, on the north and south portion of the project site. Circulation leads from W. 16th Street out to the alley access at the northern portion of the subject site leading out to Martin Luther King Jr. Way. Customer and employee parking stalls would be located within the spaces to be created per Engineering Standards. The food truck parking area and outdoor seating would be located along the southwest portion of the subject site. All parking areas and seating areas shall be designed to satisfy the City's Engineering Standards for parking lots (Condition #19 of Staff Report #24-921), oriented in a manner that does not block any driving aisles, and provides ample space for customers to gather around the food trucks without backing into traffic. The parking lot would be striped with a fresh coat of paint to accommodate the proposed site plan (Condition #20 of Staff Report #24-921).

Parking

- C) The subject site used to be a KFC and a restaurant, the KFC building has since been demolished and the restaurant building is currently vacant. The site already contains ample parking spaces; the applicant has also proposed to place two rows of parking in the northeast corner of the project site and a third row of parking along the northern portion of the project site, for a total of 23 stalls. The Applicant is proposing 12 tables for customer use (an average of 96 seats). Parking for the food trucks shall be provided at a ratio of 2 parking stalls per food truck or 1 parking stall per every 2.5 outdoor seats, whichever number is greater (Condition #19 of Staff Report #24-921). Based on the number of seats, the site shall require a minimum of 38; depending on space, the applicant has been

contacted by 5 interested food truck vendors to participate; at 2 spaces per truck, the requirement would be 10 parking spaces. Parking requirements would be reviewed by Planning staff as food truck vendors request business license approval to sell within the subject site.

Public Improvements/City Services

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

Site Design

- E) The subject site includes three lots generally located at the northeast corner of Martin Luther King Jr. Way and W. 16th Street. Vehicle access is available from W. 16th Street, at the southern portion of the subject site, and an alleyway at the northern portion of the site which leads to Martin Luther King Jr. Way. Outdoor seating and food truck parking is reserved along the center-southwest portion of the site (Attachment C of Staff Report #24-921). The applicant proposes the use of 12 tables (an average of 96 seats). The subject site, parking stalls, and driving aisles shall be designed to meet the City's Engineering Standards for parking lots.

Neighborhood Impact/Interference

- F) The subject site is surrounded by a variety of commercial uses. Surrounding uses to the north, south, east, and west, include a vacant building (former restaurant), Appliance Repair, Golden Dreams Retail Store, a thrift store, and a vacant furniture store building. Many of the uses in the neighborhood consist of businesses and there's many entertainment uses (restaurants and bars) half of a block away. Given the existing commercial surroundings staff is of the opinion that the proposed food truck parking is in conformance with the area and can conveniently sell food to employees working and residents living in the neighborhood.

Signage

- G) Food trucks are not allowed any signs other than what is provided on the vehicle itself. Condition #9 of Staff Report #24-921 prohibits the use of any A-frame signs, feather signs, pennants, or other freestanding signs. However, a permanent sign to identify the parking area itself can be allowed (details to be worked out with staff).

Truck Details/Operation/Hours of Operation

- H) The applicant does not have a list of confirmed vendors to be participating, but they have been approached by 5 interested vendors. Food trucks shall be standard in appearance and size and meet the requirements of the Merced County Environmental Health Department. Trash receptacles would be provided to collect the disposable plates, eating utensils, aluminum foil, and paper bags that are typically used to serve their meals (Condition #8 of Staff Report #24-921). The sale of alcohol is prohibited (Condition #24 of Staff Report #24-921) by any food truck. The applicant proposes to use the vacant restaurant building on site for employee restroom, which is within a 200-foot-distance from where the food trucks would be located. Employee restrooms shall be made available within a 200-foot-distance of the site as allowed by the Health Department and agreed upon by the property owner (Condition #22 of Staff Report #24-921). Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility (Condition #12 of Staff Report #12-921). 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 #24-921, or as otherwise required by the WQCD (Condition #13 of Staff Report #24-921).
- I) The applicant has proposed hours of operation be 7 days a week from 6:00 a.m. to 3:00 a.m., which is outside of the usual 7:00 a.m. to 9:00 p.m. hours that most food trucks in the City operate within. Because of the number of nearby uses that stay open later, (such as bars, restaurants, the movie theater, etc.)the applicants have proposed these expanded hours. Staff is recommending a number of conditions in order to address these expanded hours, including Condition # 26, which limits the playing of music past 9:00 p.m., Condition #14 which allows the City to review the permit if excessive calls for service are received; Condition #15 regarding security and surveillance, etc.

Conditional Use Permit Findings

- J) A Conditional Use Permit is required to allow mobile food vendors within a Central Commercial 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 Regional/ Community Commercial (CC) and the zoning designation of Central Commercial (C-C) 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, including modifications within this approval.

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 vendors are located within the City and can be adequately accessed through existing roads. Each food truck would be self-contained with its own water and power and would

not need to hook-up to City utilities. Each food truck would be serviced at an appropriate commissary facility.

Environmental Clearance

- K) 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 F of Staff Report #24-921).