

CITY OF MERCED
Planning Commission

Resolution #4160

WHEREAS, the Merced City Planning Commission at its regular meeting of July 23, 2025, held a public hearing and considered Conditional Use Permit #25-0011 and Restaurant Encroachment Permit #25-0001, initiated by Sair Lara, applicant for Michael McCutcheon Trustee, property owner. This application involves a request to operate a bar that serves beer and wine for on-site and off-site consumption with a patio area in the front, and a food truck in the private parking lot behind the site at 521 West Main Street. The subject site is generally located the north side of West Main Street, approximately 150 feet west of Canal Street. The subject site has a General Plan designation of Regional/Community Commercial, (RC) and a Zoning classification of Central Commercial (C-C). Said property being more particularly described as Parcel 13 of Block 145, as shown on that certain map entitled “Supplemental Map of Town of Merced” recorded in Volume 2, Page 12 of Merced County Records; also known as Assessor’s Parcel Number (APN) 031-141-021.

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through M of Exhibit B; 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 #25-0018, and approve Conditional Use Permit #25-0011 and Restaurant Encroachment Permit #25-0001, 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 #4160

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July 23, 2025

Adopted this 23rd day of July 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 #4160
Conditional Use Permit #25-0011
Restaurant Encroachment Permit #25-0001

1. The proposed project shall be constructed/designed as shown on the Floor Plan (Attachment C of Planning Commission Staff Report #25-650), and Site Plan (Attachment D of Planning Commission Staff Report #25-650), except as modified by the conditions.
2. All conditions contained in Resolution #1283-Amended (“Standard Conditional Use Permit Conditions”)
3. 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.

4. 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.
5. Sufficient lighting shall be provided throughout the site to provide a safe environment for employees and patrons of the business.
6. All landscaping shall be kept healthy and maintained in good condition and any damaged or missing landscaping shall be replaced immediately.
7. The premises shall remain clean and free of debris and graffiti at all times. Any damaged materials shall be replaced by matching materials.
8. A temporary banner permit shall be obtained prior to installing any temporary signs. Free-standing temporary signs (i.e., sandwich boards, A-frame signs, etc.) are limited as allowed by the City's Sign Ordinance.
9. The proprietor and/or successors in interest and management shall comply with all Municipal Codes relating to loitering, open container laws, and other nuisance-related issues.
10. The City reserves the right to periodically review the area for potential problems. If in the opinion of the Police Chief, problems (on-site or within the immediate area) including, but not limited to, public drunkenness, the illegal sale or use of narcotics, drugs or alcohol, disturbing the peace, and disorderly conduct result from the proposed land use, the conditional use permit may be subject to review and revocation by the City of Merced after a public hearing and in conformance with the procedures outlined in the Merced Municipal Code.
11. The business shall comply with all applicable requirements from the Merced County Health Department.
12. This approval is subject to the business owner being in good standing with all laws of the State of California, including the Alcohol Beverage Control (ABC), City of Merced, and other regulatory agencies.

13. A Finding of Public Convenience or Necessity must be obtained from the City Council for this use.
14. Adult entertainment as defined by MMC 5.58 and 20.60 are not allowed on the premises.
15. Building improvement work shall be done by qualified licensed contractors, and all improvements shall be prepared by a design professional.
16. The hours of operation for Thursdays, Fridays, and Saturdays shall end by 1:00 a.m. The hours of operation from Sunday through Wednesday shall end by 11:00 p.m. Should the Police Department receive excessive calls regarding noise or disturbance to the residence at the Merced Lofts, the Police Chief may reduce the hours of operation at their discretion.
17. 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 in an operable manner at all times.
18. Outside doors shall not be propped open during operation. If excessive complaints (as determined by the Director of Development Services) are received regarding the noise from music or other activities, the business shall provide a means for suppressing the noise coming from the building. The means and method used shall be approved by the Building Department prior to installation.
19. Any music played shall be kept to a minimum noise level so as not to travel outside the immediate area around the building.
20. The applicant shall comply with all City of Merced business licensing requirements and with all requirements of the Merced County Environmental Health Department for both the bar and food truck.
21. If the business owners wish to extend the business hours for the bar 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.

22. The design of the fence for the outdoor patio shall be in keeping with the architectural design of the building and shall be approved by the planning department staff prior to installation. The fence shall require a staff level design review permit for simple modifications.
23. The outdoor patio shall require an agreement to use City right-of-way from the Engineering Division.
24. The outdoor patio shall comply with all requirements from Merced Municipal Code Section 12.36 – Restaurant Encroachment Permits.
25. The outdoor seating area shall be delineated by a wrought-iron fence on all sides not enclosed by the building. The fence shall be a minimum of 3-feet high and shall comply with all Uniform Fire Code requirements for exiting, including any hardware on the gate, the swing of the gate, etc.

Food Truck Specific Conditions

26. Disposal of waste products from the food truck shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility.
27. 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.
28. 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.
29. The owner shall ensure that restroom facilities are available for the employees of the food truck. 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.
30. The site where the food truck will operate is to remain well lit, as required by the City Police Department.
31. All electric cords in or around the food truck must be organized in a way to prevent tripping, and outlets must not be overcharged with multiple connections, per the City Fire department.

32. The food truck must maintain a distance of at least 10 feet from any motorized vehicles or structures.
33. Propane tanks used by the food truck must not exceed 5 gallons in size without special approval from the City Fire Department.
34. Fire extinguishers must be located in an easily accessible location for the food truck.
35. No Cooking operations used under any membrane structures(Canopies).
36. No combustible storage is allowed near any cooking equipment or other sources of ignition.
37. 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.
38. The mobile food vendor is prohibited from selling alcohol.
39. The food truck may operate between 9:00 a.m. and 11:00 p.m. Thursday through Saturday, and 9:00 a.m. and 10:00 p.m. the rest of the days. Hours of operation may be extended at the discretion of the Director of Development Services or be referred to the Planning Commission at their discretion. Should the Police Department receive excessive calls from residents at the Merced Lofts regarding noise, the hours of operation may be reduced to 9:00 p.m., at their discretion.
40. The food truck shall comply with the requirement found within Water Quality Control Division Best Management Practices Brochure and Fire Department Food Truck Safety Fact Sheet both found respectively at Attachments E and F of Planning Commission Staff Report #25-650.
41. 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.

Findings and Considerations
Planning Commission Resolution #4160
Conditional Use Permit #25-0011
Restaurant Encroachment Permit #25-0001

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 (C-C), with approval of this Conditional Use Permit and Restaurant Encroachment Permit.

B) Alcohol Sales

Per Merced Municipal Code Land Use Table 20.10-1 (Permitted Land Uses in the Commercial Zoning Districts), a Conditional Use Permit is required for businesses that meet the definition of a “bar” within a Central Commercial (C-C) Zone, and for the sale of alcohol for off-site consumption within a building that is under 20,000 square feet. In order for the Planning Commission to approve or deny a request for the sale of alcoholic beverages, it must consider the following criteria and make findings to support or deny each criteria per MMC 20.44.010:

Criteria #1

The proposed use will not result in an "undue concentration" of establishments dispensing alcoholic beverages as defined by Section 23958 and 23958.4 of the California Business and Professional Code and considering the California Department of Alcoholic Beverage Control's guidelines related to number and proximity of such establishments within a 500-foot radius of the site.

Finding #1:

The Department of Alcoholic Beverage Control may require a Finding of Public Convenience or Necessity. The subject site is located within Alcoholic Beverage Control Census (ABC) Tract #13.02. In checking with the State of California Alcoholic Beverage Control, this census tract is over concentrated with businesses selling alcohol as 2 licenses are allowed per ABC guidelines, but there are currently 27 active sites. The

City Council may need to approve a Finding of Public Convenience or Necessity for this use if determined necessary by the Department of Alcoholic Beverage Control (Condition #13 of Staff Report #25-650).

Criteria #2

The proposed use will not adversely affect the economic and societal welfare of the pertinent community or residentially zoned community in the area of the City involved, after giving consideration to the distance of the proposed use from residential buildings, churches, schools, hospitals, public playgrounds, and other similar uses; and other establishments dispensing, for sale or other considerations, alcoholic beverages including beer and wine.

Finding #2:

The nearest low-density residential zone is located approximately 1,600 feet northeast of the subject site near the southwest corner of West 21st Street and Martin Luther King Jr Way. In addition, there are some multi-family apartments within the Central Commercial (C-C) Zone, such as the Tioga Apartments and the Merced Lofts, and a High Density Residential (R-4) Zone at the northeast corner of Martin Luther King Jr. Way and 18th Street. The nearest school (Yosemite Independence High School) is located roughly 2,600 feet northwest of the subject site, with the nearest classrooms being 2,800 feet away from the subject site near the northeast corner of G Street and East 18th Street. The nearest park (Bob Hart Square) is located approximately 100 feet away from the subject site across the street.

Criteria #3

The crime rate around the proposed site with particular attention given to those crimes involving public intoxication, the illegal sale of narcotics, disturbing the peace, and disorderly conduct.

Finding #3:

Between June 24, 2024, and June 23, 2025, the Merced Police Department recorded 1091 incidents within a 500-foot radius of the subject site. The table below shows the number of incidents within that area involving public intoxication, assaults, MMC violations, and

narcotics violations (totaling 158 incidents during the 12-month period). As shown on the attached Incident Maps (Attachments H and I of Planning Commission Staff Report #25-650) the number of incidents reported City-wide for the same time period was over 69,000. Based on the total number of calls within the City, the calls to this area equals 1.5% of the overall calls for service within the City.

Incidents and Cases Reported (June 24, 2024 – June 23, 2025)

Incident/Case Type	Number of Incidents
Public Intoxication	3
Disturbance (assaults)	106
MMC*	47
Narcotics violations	2

*Municipal Code Violations regarding open containers, drinking in public, etc.

Planning staff consulted with the Merced Police Department regarding alcohol sales at this location. The Police Department did not have any significant concerns with this request and is not requiring any conditions of approval not normally associated with alcohol sales for on-site or off-site consumption. Based on the information provided by the Police Department, staff does not anticipate that the approval of this request would adversely affect the economic and social welfare of the surrounding area.

Traffic/Circulation

- C) The applicant is proposing to operate a pub that serves beer and wine for on-site and off-site consumption at 521 West Main Street. This site has already been built, and this use would not affect the flow of traffic and parking in this lot. The property fronts along West Main Street and has a shared parking lot directly behind it.

Parking

- D) The subject site is located within the City's Downtown Parking District which does not require parking for businesses located on the first floor of a building. There are 2 City-owned parking lots within 300 feet of the site, as well as parking on West Main Street directly in front of the site.

Public Improvements/City Services

- E) The subject site is a roughly 650-square-foot suite located within an existing commercial building, and all required public improvements have already been installed. With approval of this Conditional Use Permit, the applicants would be changing the occupancy of the building into a pub, which should not have any significant effect on the site.

Site Design

- F) The subject site is located north of West Main Street, between Canal Street and M Street. The proposed bar would be located at 521 W. Main Street (Merced Lofts) within a suite of a larger building that has a mix of residential and commercial uses. The ground floor contains several commercial suites, and the second and third floor contain residential units. The floor plan indicates that there would be an outdoor patio in front of the site, and multiple tables/ booths in the bar. The site would also feature a bar rail for customers to sit at, as well as 2 unisex bathrooms.

Neighborhood Impact/Interference

- G) The subject site is located north of West Main Street, between Canal Street and M Street. To the north of this property is a private parking lot. This site is in the downtown area, and is surrounded by multiple commercial uses, as well as some residential located directly above it (Merced Lofts). Some of the commercial businesses located near the site include Headquarterz Barber shop, Second Time Around Book Store, and a variety of restaurants.

Entertainment businesses are common throughout the surrounding area with businesses such as the Merced Theater, The Mainzer, The Cue Spot Billiards, 17th Street Public House (pub), Regal Hollywood (movie theatre), The Partisan (pub), O'Ryleigh's (pub), Chandelier's Hookah Lounge, Casino Merced, Poker Flats, Merced Playhouse Merced (live theatre), and El Palacio Night Club, all located throughout Downtown. In addition, there are a variety of restaurants that serve alcohol with food,

such as Destinos, J&R Tacos, Five Ten Bistro, and King's Asian Cuisine. Given the concentration of entertainment businesses and alcohol sales in the area, staff does not anticipate that the approval of this bar would create any unusual circumstances for the neighborhood. Given the concentration of entertainment businesses in the area, staff believes that the proposed use would not alter the character of the neighborhood or introduce any unusual impacts to the neighborhood.

A public hearing notice was circulated in the Merced County Times and mailed to property owners within 300 feet of the subject site three weeks prior to this public hearing. As of the date that this report was prepared, staff did not receive any comments from the public about this project.

Signage

- H) The submitted site plan did not indicate any signage for this project. Any other signage that the applicants would want to add would need to follow the Merced Municipal Code Section 20.62 – Signs, and a building permit would be required for permanent signs.

Operation Details

- I) The proposed project would serve as a pub that serves alcoholic and non-alcoholic beverages for on-site and off-site consumption. There would be no food served at this site. The applicant noted that they intend on applying for a Type 42 ABC license, which would allow them to serve beer and wine for on-site consumption. As shown with Condition #13, the applicant would need to obtain a Finding of Public Convenience or Necessity from the City Council of the City of Merced, if this proposal is approved. The bar would also have a patio area located in front of site. The hours of operation would be 12:30 p.m. to 1:00 a.m. Thursday through Saturday, 2:30 p.m. to 11:00 p.m. Monday through Wednesday, and 12:30 p.m. to 11:00 p.m. on Sundays. The hours of operation are being regulated due to the residential units above the bar (see Condition #16).

Conditional Use Permit Findings

- J) A Conditional Use Permit is required for this project as it is within the Central Commercial Zone per Merced Municipal Code (MMC) Table 20.11.1 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 (RC) and the Zoning classification 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.*

This project shall be required to comply with all relevant standards and requirements from the Merced Municipal Code. Said standards and requirements regarding hours of operation, parking, access, maintenance, and licenses required.

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

Staff does not believe this project will be detrimental to the health and welfare of the City.

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

The proposed project is located within the City and can be adequately accessed through existing roads. The project has adequate access to the required infrastructure.

Restaurant Encroachment Permit

- K) Merced Municipal Code Section 12.36 – Restaurant Encroachment Permits, outlines various definitions, permit expiration dates, submittal requirements, insurance requirements (certificate of insurance with coverage of at least \$500,000 for property damage and personal injury is required), public property use fees (\$150.00), fencing standards (may not extend beyond 10 feet of building frontage and shall maintain five-foot pedestrian clearance), products serve (food and beverages only), and the

EXHIBIT B

OF PLANNING COMMISSION RESOLUTION #4160

permit revocation process. Approval of a restaurant encroachment permit does not require the adoption of specific findings (see Conditions #22, #23, #24, #25).

Food Truck

- L) The proposed food truck shall be located as shown on the Site Plan at Attachment D of Planning Commission Staff Report #25-650, within the Merced Lofts privately-owned parking lot. The food truck may operate daily between 9:00 a.m. and 11:00 p.m. Thursday through Saturday, and 9:00 a.m. and 10:00 p.m. every other day (see Condition #39). The food truck shall comply with Merced County Environmental Requirements (Condition #20), and Water Quality Control Division Best Management Practices Brochure and Fire Department Food Truck Safety Fact Sheet (Condition #40).

Environmental Clearance

- M) 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.