

CITY OF MERCED
Planning Commission

Resolution #4166

WHEREAS, the Merced City Planning Commission at its regular meeting of September 17, 2025 held a public hearing and considered **Conditional Use Permit #25-0015**, submitted by Malek Mosleh, on behalf of Chanana Sham & Meenu Trustee, property owners. This application involves a request to operate a convenience store that sells tobacco and tobacco products at 1277 V Street, Suite B. The subject site is generally located at the southwest corner of V Street and McSwain Road (turns into 13th Street going East), with a General Plan Designation of Thoroughfare Commercial (CT) , and a Zoning classification of Thoroughfare Commercial (C-T),; said property being more particularly described as Parcels 1,2,3, and 4 of Block 262, as shown on that certain map entitled “Map of The Mussotto Tract,” recorded in Page 59 of Book 2 of Merced County Records; also known as Assessor’s Parcel Number (APN) 031-271-016; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through J 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 #25-0021 and approve Conditional Use Permit #25-0015 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 #4166

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September 17, 2025

Adopted this 17th day of September 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 #4166
Conditional Use Permit #25-0015

1. The proposed project shall be constructed/designed/operated as shown on the Site Plan and Floor Plan, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.
3. The 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.
9. The proprietor and/or successors in interest and management shall comply with all Municipal Codes relating to loitering, 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, 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. The applicant shall obtain proper permits and licenses from the State to sell tobacco products.
13. Building improvement work shall be done by qualified licensed contractors.
14. 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.

15. Any music played shall be kept to a minimum noise level so as not to travel outside the immediate area around the building.
16. Signage approval is not being included with this request. Future signage shall match or compliment the design of the facade (in regard to color, design, and materials) and be in compliance with the City of Merced Municipal Code regarding signage.
17. Tobacco products and associated paraphernalia shall be kept inaccessible from the general public, stored behind the employee counter.
18. The business shall be allowed to operate from 8:00 A.M. to 10:00 P.M. Should the Police Department receive excessive calls regarding noise or disturbances, the Police Chief may reduce the hours of operation at their discretion, or potentially revoke the permit.
19. If the business owner wishes to extend or modify the business hours in the future, they must obtain approval from the Development Services Director and the Police Chief, or if deemed necessary by the Development Services Director, be referred to the Planning Commission for action.

**Findings and Considerations
Planning Commission Resolution #4166
Conditional Use Permit #25-0015**

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan designation of Thoroughfare Commercial (CT), and the Zoning classification of Thoroughfare Commercial (C-T) with approval of this Conditional Use Permit.

Tobacco Sales

- B) Per Merced Municipal Code Land Use 20.44.160 – Tobacco Sales Prohibited Near Schools, a conditional use permit is required for tobacco sales within 600 feet of “youth oriented” facilities. A convenience market is principally permitted within the subject site, but the proximity to Dennis Chavez Memorial Park is triggering the need for a conditional use permit. Tobacco Sales is a discretionary permit that does not require adoption of specific findings (such as is required for alcohol sales), but the general findings required for all conditional use permits is required and are being included under Finding I.

Neighborhood Impact

- C) The subject site is located in the southern portion of Merced and is surrounded by a variety of commercial uses. The tobacco sales ordinance (MMC 20.44.160 – Tobacco Sales Prohibited Near Schools) was adopted in 2016 through the City’s comprehensive Zoning Ordinance Update, and then amended again in 2022. As such, there are several businesses throughout the community that were in operation prior to the adoption of the ordinance, selling tobacco products near schools and youth-oriented facilities. There are currently some businesses near this project site selling tobacco products, including an Arco roughly 500 feet away, and a Sinclair approximately 600 feet away. Given the existing businesses selling tobacco in the area, staff, including the City of Merced Police Department, do not anticipate that the approval of this convenience market with tobacco sales would create any unusual circumstances for 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 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.

Building Elevation

- D) This subject site is located within a suite of a larger commercial building. The applicant is not proposing any modifications to the site plan or exterior elevations, beyond possibly adding new business signage (not provided at this time). If the applicant were to add new signage, the sign would be required to be comply with the City of Merced's Municipal Code regarding signage and would require a building permit.

Floor Plan

- E) As shown on the floor plan at Attachment C of Planning Commission Staff Report #25-789, the convenience market would be accessible through the main entrance along the east elevation. The floor plan includes areas displaying snacks such as candies and chips. Along the southern portion of the floor plan, there would be large refrigerators to store a variety of beverages and water. Alcohol sales are not included with this request (alcohol sales would require a Conditional Use Permit and a Finding of Public Convenience or Necessity). The floor plan also includes a restroom along the southeast portion of the store. Tobacco products would be required to be kept inaccessible to the public, stored behind the employee counter (Condition #17). Also stored behind the employee counter would be a variety of clothing products and hats for sale for customers.

Signage

- F) The applicant is not proposing any specific signage with this request. Typically, a signage plan is produced towards the end of the development 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 as shown at Condition #16.

Parking

- G) The building and site plan will remain as is. 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 site is also located with the City of Merced High Quality Transit Corridor and is exempt from parking requirements.

Operation Details

- H) The applicant has indicated that they would like to operate daily from 8:00 a.m. to 10:00 p.m. The market would sell snacks, candies, and drinks normally found in convenience markets. They also plan on selling clothes and hats. Alcohol would not be sold at this location (this requires a conditional use permit and possibly a finding of public convenience or necessity). Tobacco products would be stored away from the public, behind the employee counter.

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 Thoroughfare Commercial (CT), and the Zoning classification of Thoroughfare Commercial (C-T) 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 a land use request only (for tobacco sales). Modifications will not be made to the exterior of the existing building. Staff believes that the location, size, design, and operating characteristics of the proposal would be compatible 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 consulted with the Merced Police Department regarding tobacco 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 tobacco sales for 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 public health, safety, 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 subject site is existing and currently served by existing infrastructure.

Environmental Clearance

- J) Planning staff has conducted an environmental review (Environmental Review #25-0021) 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.