

CITY OF MERCED
Planning Commission

Resolution #4133

WHEREAS, the Merced City Planning Commission at its regular meeting of April 17, 2024, held a public hearing and considered **Conditional Use Permit #1275**, initiated by Marina Ochoa on behalf of Any Merced, Inc., property owner. This application involves a request to operate a food truck at 963 W. 16th Street. The subject site is generally located on the northeast corner of 16th Street and Q Street, within a Zoning Classification of Central Commercial (C-C) Zone; the subject site is more particularly described as Lot 013 of Block 122 as shown on the map entitled “Town of Merced” recorded in Volume 2, Page 12, in Merced County Records; also known as a portion of Assessor’s Parcel Number (APN) 031-122-013; and,

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through J (Exhibit B) of Staff Report #24-324; 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 #24-02, and approve Conditional Use Permit #1275, 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 #4133

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April 17, 2024

Adopted this 17th day of April 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 #4133
Conditional Use Permit #1275

1. The proposed project shall be constructed/designed/operated as shown on the Site Plan (Attachment C of Staff Report #24-343), except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
5. The developer/applicant shall indemnify, protect, defend (with counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant’s project is subject to that other governmental entity’s approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, 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. 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.
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 #24-343, 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 perpendicular to the parking stalls to allow room for customers to gather without being in danger of collisions from vehicles entering/exiting the site.
19. It shall be the operator's responsibility to ensure all customers park in an orderly fashion and don't block the driveway entrances or interfere with other customers visiting the site.
20. The applicant shall comply with all regulations found in Merced Municipal Code Section 20.44.020 - Food Trucks in Fixed Locations, except as modified by these conditions.

21. A minimum of 2 parking spaces on the site shall be dedicated to food truck customers. These spaces shall be located as close as possible to the food truck.
22. 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.
23. 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.
24. The mobile food vendor is prohibited from selling alcohol.
25. "No Loitering" signs shall be posted on the food truck and building onsite at specific locations approved by the City Police Department.

**Findings and Considerations
Planning Commission Resolution #4133
Conditional Use Permit #1275**

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 District (C-C), with approval of this Conditional Use Permit.

Traffic/Circulation

- B) The applicant is proposing to locate the food truck on the north side of a property located at 963 W. 16th Street. The parking on this property supports the Gas & Save gas station (Attachment C of Staff Report #24-343). The food truck would be located about 25 feet from the nearest driveway along Q Street. The food truck would be oriented perpendicular to the adjacent parking stalls (Condition #18 of Staff Report #24-343) in a manner that does not block any driving aisles and provides space for customers to gather around the food truck without backing into vehicle access points. Orienting the food truck in this manner allows vehicles to enter and exit the subject site without impediments. In addition, the applicant shall be required to preserve access for the Refuse Department so that their trucks can access this site and serve this property (Condition #22 of Staff Report #24-343).

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 Gas & Save which has a small gas station building and a metal awning all at 963 W. 16th Street. Gas stations with convenience markets require 3 parking spaces plus one parking stall per 250 square feet of floor area for the convenience market. A mobile food vendor is required to have a minimum of 2 parking stalls. Together, both uses would require a minimum of 10 parking stalls. The subject site meets this requirement by having 10 parking spaces. (Designated food truck parking stalls would be located adjacent to the east of the food truck.

Public Improvements/City Services

- D) The subject site is fully 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 on the northeast corner of West 16th Street and Q Street. The subject site is a paved 0.24-acre parcel that is currently being used as rear parking for the Gas & Save business at 963 W. 16th Street. Vehicle access is available from driveways along 16th and Q Streets. Customer parking is available along the northern portion of the parcel, where it abuts the alley. As shown at Attachment C of Staff Report #24-343, the food truck (and customer parking stalls) would be located near the northern portion of the parcel and oriented in a manner that does not create congestion for customers driving to and from the site. The food truck is proposed to be located approximately 25 feet from the nearest driveway along Q Street. The property owner is not proposing to make any other modifications. Outdoor seating is prohibited (e.g., tables, umbrellas, chairs, etc.) as shown under Condition #8 of Staff Report #24-343, unless subsequently approved by the Planning Department. "No Loitering" signs shall be posted on the food truck onsite at specific locations approved by the City Police Department (Condition #25 of Staff Report #24-343).

Neighborhood Impact/Interference

- F) The subject site is located on 16th Street, a busy street downtown, surrounded by a variety of commercial uses. Adjacent to the north of this property exists a vacuum and sewing machine repair shop. To the east is a tire installation business. Across 16th Street to the south of the site is a grocery store and a busy carwash facility. Given the existing traffic volumes and dense variety of commercial 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 #24-343 prohibits the use of any A-frame signs, inflatable signs, feather signs, pennants, or other freestanding signs.

Truck Details/Operation

- H) The food truck is standard in appearance and size. It is approximately 8 feet wide by 23 feet long, and approximately 7 ½ feet tall. Per Code, the food truck can operate daily between 7:00 a.m. to 9:00 p.m. The food truck will sell Mexican food including, but not limited to, tacos, quesabirrias, and burritos. 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 #24-343). The sale of alcohol is prohibited (Condition #24 of Staff Report #24-343). Employee restrooms will be available inside the real estate office as allowed by the Health Department and agreed upon by the property owner (Condition #23 of Staff Report #24-343). Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility (Condition #13 of Staff Report #24-343). 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 #24-343, or as otherwise required by the WQCD (Condition #14 of Staff Report #24-343).

Conditional Use Permit Findings

- I) A Conditional Use Permit is required to allow mobile food vendors within the Central 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 Regional Community Commercial (RC) and the zoning classification of Central Commercial District (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.

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 #24-343).