



CITY OF MERCED

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

Minutes Planning Commission

Wednesday, September 18, 2024

6:00 PM

A. CALL TO ORDER

Chairperson HARRIS called the Regular 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: Commissioners GONZALEZ and DELGADILLO were absent, excused.

Present: 5 - Chairperson Michael Harris, Member Yang Pao Thao, Member Walter Smith, Member Emanuelle Ochoa, and Member Jeremiah Greggains

Absent: 2 - Member Jose Delgadillo, and Vice Chair Anthony Gonzalez

C. PUBLIC COMMENT

There were no public comments.

D. CONSENT CALENDAR

D.1

SUBJECT: Planning Commission Minutes of August 21, 2024

ACTION:

Approving and filing the Planning Commission Minutes of August 21, 2024

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

Aye: 5 - Chairperson Harris
Member Pao Thao
Member Smith
Member Ochoa
Member Greggains

No: 0

Absent: 2 - Member Delgadillo
Vice Chair Gonzalez

E. PUBLIC HEARINGS AND ACTION ITEMS

E.1

SUBJECT: Conditional Use Permit #1277, initiated by AT&T Mobility, on behalf of The Church of the Nazarene of Merced, California, property owner. This application involves a request to construct a 55-foot-tall wireless communication tower in the form of a stealth mono-pine tree at 1717 E. Olive Avenue, generally located at the northeast corner of E. Olive Avenue and Parsons Avenue, with a General Plan designation of Low Density Residential (LD), and a Zoning classification of (R-1-6) *PUBLIC HEARING*

ACTION: Approve/Disapprove/Modify
1) Environmental Review #24-10 (*Categorical Exemption*)
2) Conditional Use Permit #1277

SUMMARY

AT&T Mobility is requesting approval to construct a 55-foot-tall wireless communication tower in the form of a stealth mono-pine tree at 1717 E. Olive Avenue (Attachment D) within a Low Density Residential (R-1-6) Zone. The project is located at the northeast corner of E. Olive Avenue and Parsons Avenue within a developed lot occupied by the Bear Creek Community Church of the Nazarene. Per Merced Municipal Code Land Use Table 20.58-2 - Review Procedures for Support Towers for Wireless Communication Facilities, a site plan review is required for stealth facilities within an R-1 Zone that are over 140% of the maximum height allowed within this zone. However, as described in the background section of this report, because the Site Plan Review Committee is referring this request to the Planning Commission, the land use permit required is now a conditional use permit. On July 3, 2024, the Planning Commission considered this matter and voted to continue the public hearing to August 7, 2024. On August 7, 2024, the Planning Commission considered this matter and continued the public hearing to the Planning Commission meeting of September 18, 2024. Staff is recommending approval of this application subject to the conditions contained in the Staff Report. Staff is recommending approval of this application subject to the conditions contained in the Staff Report.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve

Environmental Review #24-10 (*Categorical Exemption*), and Conditional Use Permit #1277, including the adoption of the Draft Resolution at Attachment A, subject to the conditions in Exhibit A and the findings/considerations in Exhibit B.

Development Services Technician II LEE reviewed the report on this item. For further information, refer to Staff Report #24-783.

Public Testimony was opened at 6:15 PM.

Staff received 2 voicemails from JASON VERRINDER and SHERRI JURGENS and 1 email from JASON VERRINDER. The emails and voicemails were provided to the Planning Commission via email prior to the meeting and posted on the City's website.

Speakers from the Audience in Opposition

BRYANT RODRIGUEZ, Resident, Merced, CA

SHERYL WIGHT, Resident, Merced, CA

MARIA RODRIGUEZ, Resident, Merced, CA

LOLA O'BRIEN, Resident, Merced, CA

MICHAEL O'BRIEN, Resident, Merced, CA

JASON VERRINDER, Resident, Merced, CA

MARGARITO SANCHEZ, Resident, Merced, CA

AMY VERRINDER, Resident, Merced, CA

GARY HODNETT, Resident, Merced, CA

SHERRI JURGENS, Resident, Merced, CA

Speaker from the Audience in Favor

CARL JONES, Applicant, AT&T

Public Testimony was closed at 6:52 PM

A motion was made by Member Ochoa, seconded by Member Greggains and carried by the following vote, to deny Conditional Use Permit #1277, per the Finding that Conditional Use Permit #1277 does not meet the City of Merced Municipal Code Chapter 20.68's requirements regarding Wireless Communication Facilities as stated in Staff Report #24-783, Wireless Communication Facilities

Findings, Finding K (RESOLUTION #4137).

Aye: 5 - Chairperson Harris
Member Pao Thao
Member Smith
Member Ochoa
Member Greggains

No: 0

Absent: 2 - Member Delgadillo
Vice Chair Gonzalez

E.2

SUBJECT: Conditional Use Permit #1280, initiated by Aulakh Properties II, LLC, property owner. This application involves a request to operate a food truck parking area for multiple food trucks on a vacant lot (approximately 1.70-acres). The subject site is generally located on the east side of Highway 59, approximately 250 feet north of Olive Avenue. The subject site has a General Plan designation of Business Park (BP) and a zoning classification of Planned Development, (P-D) #12. **PUBLIC HEARING**

ACTION: Approve/Disapprove/Modify
1) Environmental Review #24-23 (*Categorical Exemption*)
2) Conditional Use Permit #1280

SUMMARY

Aulakh Properties II, LLC, is requesting conditional use permit approval to establish a food truck parking area to allow multiple food truck vendors and outdoor seating. The subject site is an undeveloped 1.70-acre parcel located on the east side of Highway 59, 250 feet north of Olive Avenue (north of the 7-Eleven at 1995 W Olive Avenue. Food truck parking lots are considered a conditional use within a Business Park (BP) Zone. 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 #24-23 (*Categorical Exemption*) and Conditional Use Permit #1280, 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. For further information, refer to Staff Report #24-838.

Public Testimony was opened at 7:15 PM.

Speakers from the Audience in Favor

CESAR PEREZ, Engineer for the Applicant, Golden Valley Engineering

BRYANT RODRIGUEZ, Resident, Merced, CA

There were no speakers in opposition to the project.

Public Testimony was closed at 7:19 PM.

A motion was made by Member Greggains, seconded by Member Thao and carried by the following vote, to adopt a Categorical Exemption regarding Environmental Review #24-23, and approve Conditional Use Permit #1280, subject to the Findings and twenty-seven (27) Conditions set forth in Staff Report #24-838 (RESOLUTION #4141).

Aye: 5 - Chairperson Harris
Member Pao Thao
Member Smith
Member Ochoa
Member Greggains

No: 0

Absent: 2 - Member Delgadillo
Vice Chair Gonzalez

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 items for the next several Planning Commission meetings.

F.2 **SUBJECT:** Calendar of Meetings/Events

Sept. 16 City Council, 6:00 p.m.
18 Planning Commission, 6:00 p.m.
Oct. 7 City Council, 6:00 p.m.
9 Planning Commission, 6:00 p.m.
21 City Council, 6:00 p.m.
22 Bicycle and Pedestrian Advisory Committee, 4:00 p.m.

- 23 Planning Commission, 6:00 p.m.
Nov. 4 City Council, 6:00 p.m.
6 Planning Commission, 6:00 p.m.
18 City Council, 6:00 p.m.
20 Planning Commission, 6:00 p.m. **(To be Cancelled)**

G. ADJOURNMENT

Clerk's Note: The Regular Meeting adjourned at 7:25 PM.

A motion was made by Member Ochoa, seconded by Member Greggains and carried by the following vote, to adjourn the Regular Meeting.

Aye: 5 - Chairperson Harris
Member Pao Thao
Member Smith
Member Ochoa
Member Greggains

No: 0

Absent: 2 - Member Delgadillo
Vice Chair Gonzalez

BY:

A handwritten signature in black ink, appearing to read "Kim Espinosa", written in a cursive style.

KIM ESPINOSA, SECRETARY
MERCED CITY PLANNING COMMISSION

APPROVED:

MICHAEL HARRIS, CHAIRPERSON
MERCED CITY PLANNING COMMISSION

CITY OF MERCED
Planning Commission

Resolution #4141

WHEREAS, the Merced City Planning Commission at its regular meeting of September 18, 2024, held a public hearing and considered Conditional Use Permit #1280, initiated by Aulakh Properties II, LLC, property owner. This application involves a request to operate a food truck parking area for multiple food trucks on a vacant lot (approximately 1.70-acres). The subject site is generally located on the east side of Highway 59, approximately 250 feet north of Olive Avenue. The subject site has a General Plan designation of Business Park (BP) and a zoning classification of Planned Development, (P-D) #12. Said property being more particularly described as Parcel B, as shown on that certain map entitled “For Chase Merced LP California Limited Partnership” recorded in Book 120, Page 45 of Merced County Records; also known as Assessor’s Parcel Number (APN) 058-030-045.

WHEREAS, the Merced City Planning Commission concurs with Findings/Considerations A through J of Staff Report #24-838; 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 #24-23, and approve Conditional Use Permit #1280, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by reference.

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

AYES: Commissioner Ochoa, Smith, Greggains, Thao, and Chairperson Harris
NOES: None
ABSENT: Commissioner Gonzalez and Delgadillo
ABSTAIN: None

PLANNING COMMISSION RESOLUTION #4141

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September 18, 2024

Adopted this 18th day September 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 #4141
Conditional Use Permit #1280

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (Site Plan) - Attachment C of Staff Report #24-838, except as modified by the conditions.
2. All conditions contained in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #14 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. At least seven 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.
8. 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 on or off the site, except as otherwise allowed by the City's Sign Ordinance. However, the food truck parking lot itself may have a permanent signs, identifying the name of Food Truck Park, per the Sign Ordinance.
9. The hours of operation shall be any span of time between 7:00 a.m. and 11:00 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 trucks shall close at sundown.
10. If the business owners wish to extend 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 back to the Planning Commission for action.
11. Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility.

12. 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 #24-838, or as otherwise required by the WQCD.
13. 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.
14. 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.
15. 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.
16. The food trucks shall be parked to allow room for customers to gather without being in danger of collisions from vehicles entering/exiting the site.
17. 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.
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. A minimum of 2 parking spaces per food truck shall be required.
20. 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.

21. 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.
22. The mobile food vendors are prohibited from selling alcohol.
23. "No Loitering" signs shall be posted on the food trucks and building onsite at specific locations approved by the City Police Department.
24. Restrooms shall be locked during non-business hours, as required by the Police Department.
25. The food truck shall comply with the Fire Departments Food Truck Safety Fact Sheet shown at Attachment E of Planning Commission Staff Report #24-838.
26. Since the lot is currently undeveloped, any areas of the lot to be occupied by food trucks, customer parking areas, and driving aisles shall be paved with an all-weather paving surface (no gravel) per City standards.
27. All landscaping shall be kept healthy and maintained, and any damaged or missing landscaping shall be replaced immediately, per City standards.

**Findings and Considerations
Planning Commission Resolution #4141
Conditional Use Permit #1280**

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed Project complies with the General Plan designation of Business Park (BP) and the zoning classification of Planned Development (P-D) #12 with approval of this Conditional Use Permit.

Traffic/Circulation

- B) The applicant is proposing to locate the food trucks within the northern portion of the parking lot (Attachment B). The food trucks would be parked in a manner that does not block any driving aisles and provides some space for customers to gather around the food trailers without backing into the driving aisle. Orienting the food trucks in this manner would allow vehicles to have enough space to enter or exit the subject site more easily. 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 #20).

Parking

- C) Mobile food vendors are required to have a minimum of 2 parking stalls per food truck. The park will contain 7 spots for food trucks and must have a minimum of 14 customer parking spaces. The subject site would meet this requirement by having a total of 14 parking stalls. Designated customer parking stalls would be located south of the food trucks.

Public Improvements/City Services

- D) The subject site is currently undeveloped, and would include developing a parking lot specifically designed for a food truck park. The food trucks are self-contained and would not require a separate connection to the City's sewer and/or water systems. However, if water or sewer connection is needed, lateral connections are available from the main lines on Highway 59.

Site Design

- E) The subject site (1.17 acres undeveloped lot) is located west Highway 59, approximately 250 feet north of Olive Avenue (on the parcel north of 7-Eleven at 1995 W Olive Ave). Vehicle access is available from one driveway along Highway 59, and one driveway off W. Olive Avenue. Customer parking is available along the southern and western portions of the parcel. As shown on the site plan at Attachment C, the food trucks would be located near the northern portion of the parking lot and oriented in a manner that does not create congestion for customers driving to the site. The food trucks would be located at least 27 feet from the nearest driveway along Highway 59. “No Loitering” signs shall be posted on the food truck and building onsite at specific locations approved by the City Police Department (Condition #23 of Staff Report #24-838). All parking and driving surfaces shall be paved per Condition #26 of Staff Report #24-838. Gravel is not an acceptable paving material.

Neighborhood Impact/Interference

- F) The subject site is surrounded by a variety of commercial uses. The surrounding uses to the north, south, east, and west, include Fahrens Park, 7-Eleven, warehouse/commercial building, and an Arco Gas Station (across Highway 59) respectively. Given the variety of commercial uses throughout the neighborhood, staff does not anticipate that this proposal would change the character of the neighborhood.

Signage

- G) The food trucks are not allowed any signs other than what is provided on the vehicles themselves. Condition #8 of Staff Report #24-838 prohibits the use of any A-frame signs, inflatable signs, feather signs, pennants, or other freestanding signs. However, the food truck parking lot may have permanent signs identifying the name of the Food Truck Park per the Sign Code.

Truck Details/Operation

- H) The food trucks are expected to be standard in appearance and size, which is generally 8 feet wide by 23 feet long, and approximately 7 ½ feet tall. The food trucks will operate daily between 7:00 a.m. to 9:00 p.m. The food trucks would sell a variety of different cuisines. 7 Trash

receptacles would be provided to collect the plates, forks, aluminum foil, and paper bags that are typically used to serve these meals (Condition #7). The sale of alcohol is prohibited (Condition #22). Employee restrooms would be available on site as allowed by the Health Department and agreed upon by the property owner (Condition #21). Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility (Condition #11). 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 #24-838, or as otherwise required by the WQCD (Condition #12).

Conditional Use Permit Findings

- I) A Conditional Use Permit is required to allow a mobile food parking area within a Business Park (B-P) Zone (or equivalent General Plan designation since this is a Planned Development zone) per Merced Municipal Code (MMC) Table 20.44.020 (C.) – Food Trucks in Fixed Locations. 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 Business Park (BP) and the zoning designation of Planned Development (P-D) #12 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 vendors 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 vendors are located within the City and can be adequately accessed through existing roads. The food trucks would be self-contained with their own water and power, and would not need to hook-up to City utilities. The food trucks 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 #24-838).