

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #18-06

AGENDA ITEM: 4.1

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: March 7, 2018

PREPARED BY: Francisco Mendoza-Gonzalez,
Planner

SUBJECT: **Conditional Use Permit #1224**, initiated by Ramon Sandoval on behalf of Taher Murshed and Nakhlah Dabwan, property owners. This application involves a request to operate a food truck within the Best Buy Market parking lot, generally located on the southwest corner of 9th Street and S Street (1220 W. 9th Street), within Neighborhood Commercial (C-N) Zone.
PUBLIC HEARING

ACTION: Approve/Disapprove/Modify

- 1) Environmental Review #18-08 (Categorical Exemption)
- 2) Conditional Use Permit #1224

SUMMARY

The applicant is requesting approval to operate a food truck within the Best Buy Market parking lot located at 1220 W. 9th Street (Attachment A). The food truck would be located within the southeast portion of the parcel along the market's east elevation (Attachment B). The food truck would operate daily between 10:00 a.m. and 8:00 p.m. Mobile Food Vendors are considered a conditional use within a Neighborhood Commercial (C-N) Zone and require Planning Commission approval to review the proposed site plan (among other factors). In addition, the Planning Commission will be reviewing this proposal for interface approval, as the food truck would be located across the street from a Low-Density Residential Zone. Interface review is required to protect existing residential neighborhoods and to ensure that new development is designed in a manner that minimizes negative impacts and promotes compatible and orderly development. Staff is recommending approval of this request subject to the conditions of approval outlined below.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #18-08 (Categorical Exemption) and Conditional Use Permit #1224 (including the adoption of the Resolution at Attachment I) subject to the following conditions:

- *1) The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (photos) - Attachments B and C, 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in Resolution #1249-Amended (“Standard Conditional Use Permit Conditions”—except for Condition #16 which has been superseded by Code) shall apply.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, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
- *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.
- 9) At least two 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 business shall close at sundown.
- 12) If the business owner wishes to extend the business hours in the future, he 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.
 - 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 F, 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 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, 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. The food truck shall not block the driving aisle or access to the alley.
 - 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) The parking spaces used by the food truck shall be replaced with new parking spaces on the western portion of the property. The new parking spaces shall be designed to meet Zoning requirements and the City's Engineering Standards.

- 23) Food truck activities shall in no way interfere with the operation of existing businesses on the lot, or nearby businesses, including noise, litter, loitering, and traffic circulation, and public safety must be a high priority.
- 24) 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.
- 25) The sale of alcohol is prohibited.
- 26) Approval of this permit constitutes approval of interface review.
- 27) Illegal signs advertising alcohol on the outside of the Best Buy Market or Laundry World shall be removed before issuing a business license to the food truck.
- 28) “No Loitering” signs shall be posted on the food truck and grocery market at specific locations approved by the City Police Department.

(* Denotes non-discretionary conditions.

PROJECT DESCRIPTION

The applicant is proposing to operate a food truck within the Best Buy Market parking lot located at 1220 W. 9th Street (Attachment A). The food truck would be located within the southeast portion of the property along the market’s east elevation and be oriented in a manner that does not block driving aisles or fire lanes (Attachment B). The food truck would operate daily between 10:00 a.m. and 8:00 p.m. Food truck employee restrooms would be located inside the Best Buy Market, as allowed by the Merced County Environmental Health Department.

Surrounding Uses
(Attachment A)

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	Single-Family Homes (across 9 th Street)	Low Density Residential (R-1-6)	Low Density Residential (LD)
South	Multi-Family Homes (across alley)	Neighborhood Commercial (C-N)	Neighborhood Commercial (CN)
East	Single-Family Homes (across S Street)	Low Density Residential (R-1-6)	Low Density Residential (LD)
West	Vacant 0.35-Acre Lot	Neighborhood Commercial (C-N)	Neighborhood Commercial (CN)

BACKGROUND

Merced City Fire Department records show that the site was previously operated by Salters Market during the early 1960's, Sierra Super Save during the mid 1960's, and by Super M Market during the late 1960's. Best Buy Market took over this site during the mid 1970's and the market has remained under that business name since that time. Most of the 10,000-square-foot building is occupied by Best Buy Market, but a small portion of the building is occupied by a laundromat (Laundry World) that has been there since at least 1997. In 2011, the Planning Commission approved Conditional Use Permit #1163 allowing Best Buy Market to sell alcohol for off-site consumption.

In 1993, the City granted approval for an outdoor CRV recycling center at this site. That recycling center was under three different ownerships until 2014 when it closed down. According to City records, the Code Enforcement Department and Police Department have received a high volume of calls associated with the recycling center with customers littering bottles, bags, and containers throughout the neighborhood. In addition, there were issues with people recycling bottles to purchase alcohol from Best Buy Market then loitering in the parking lot. Given the history of this site, special consideration is being given to loitering and littering as staff is including Conditions #9, #11, #15, #17, #23, #25, and #28, which are discussed throughout this report.

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed Project complies with the General Plan designation of Neighborhood Commercial (CN) and the zoning designation of Neighborhood Commercial (C-N) with approval of this Conditional Use Permit.

Traffic/Circulation

- B) The applicant is proposing to locate the food truck within the southwest portion of the parking lot. This particular location is important to the applicant because it is closer to existing water lines (to serve the food truck) and because the surrounding parking lot lights create a safer environment for food truck employees. Under most circumstances, staff would recommend placing the food truck behind the market where the new parking spaces will be located. Doing so would create a less disruptive traffic circulation. However, given the excessive calls for service in this area (Attachments D and E), staff acknowledges that it would be appropriate to allow the applicant to park his food truck at the proposed location for safety reasons. The food truck would be located about 125 feet from the driveway at the southwest corner of 9th and S Streets. The food truck would be oriented perpendicular to the parking stalls, in a manner that does not block the driving aisle or alley, and provides some space for customers to gather around the food truck without backing into the driving aisle. Orienting the food truck in this manner would allow vehicles exiting the property to have enough space to enter the alley and exit towards S Street or T Street.

Parking

- C) A property within the City of Merced may not be considered non-conforming based on parking alone. The Best Buy Market and Laundry World do not have enough parking to

meet the City's current parking requirements because they were constructed several decades ago before the City had those parking standards in place. The current parking requirement for retail is one parking space for every 300 square feet of floor area. Based on this parking formula, the existing 10,000-square-foot building would be required to have a minimum of 34 parking spaces. The subject site has less parking than required with 25 parking spaces. Because the food truck will occupy 8 parking spaces (for the food truck itself and for customer parking), the applicant shall be required to replace those spaces with new parking spaces on the west side of the parcel, where there is another driveway along 9th Street (Condition #22). The applicant is aware of this requirement and is considering providing more parking spaces than required to help bring the Best Buy Market and Laundry World closer to complying with the City's parking requirements. The new parking spaces shall be designed to comply with the City's Engineering Standards and the Zoning Ordinance's parking, access, and loading requirements (Condition #22).

Public Improvements/City Services

- D) The subject site is fully developed and most public improvements are existing including a paved alley that provides access to the site. The food truck is self-contained and would not require a separate connection to the City's sewer and/or water systems. The applicant will park the food truck close to an existing water valve on the east elevation that they can tap into as needed to refill their water reservoir.

Site Design

- E) The subject site is located at the southwest corner of 9th Street and S Street. The subject site is a developed 0.68-acre parcel with a 10,000-square-foot grocery market/laundromat at the center of the parcel. Vehicle access is available from two driveways along 9th Street and from an alley south of the grocery store. The parking lot is located on the east side of the parcel. As shown at Attachment B, the food truck (and customer parking stalls) would be located within the southwest portion of the parking lot in a manner that does not block driving aisles. The parking spaces used by the food truck would be replaced with the new parking spaces on the west side of the parcel. The property owner is not proposing to make any interior or exterior modifications to the grocery market.

Neighborhood Impact/Interface

- F) The subject site is surrounded by a variety of land uses. There are single-family homes to the north and east of the subject site (across 9th Street and S Street respectively). There are several high-density apartments to the south across the alley. To the west, there is a vacant 0.35-acre lot (about half the size of the subject site) reserved for neighborhood commercial and next to that site is a 5,600-square-foot grocery market. All of the developed lots south of 9th Street, between T Street and S Street, are being used for retail purposes such as grocery markets (one of which serves hot food inside). The proposed food truck would be consistent with the other uses on this block.

Over the past 15 years, the City Police Department has received an excessive number of calls from residents in the neighborhood concerned about people going to the previously opened recycling center at this site and littering bottles and trash bags throughout the neighborhood. Some of these people would recycle bottles to purchase alcohol at Best Buy

Market and loiter in the parking lot throughout the day. The Police Department noted that there has been a significant decrease in calls for service since the recycling center closed in 2014. However, to address some of these concerns that may also be relevant to a food truck, staff is including conditions limiting the food trucks hours of operation between 7:00 a.m. and 9:00 p.m. (Condition #11), requiring 2 trash receptacles in front of the food truck (Condition #9), requiring that “No Loitering” signs be posted on the food truck and the grocery market (Condition #28), and prohibiting the sale of alcohol (Condition #25).

In addition, there are also some safety concerns given the high volume of calls for thefts and assaults in the area. Should the Police Department receive an excessive number of calls from the neighborhood regarding the food truck or its customers, the City may review and revoke the Conditional Use Permit in accordance with procedures in the City’s Municipal Code (Condition #15). The Police Department would also like to reserve the right to require video cameras around the food truck. The Police Department shall have access to the video footage within 24-hours of being requested (Condition #17). In addition, for security reasons, food truck employees shall have access to a cell phone at all times (either their own or one provided by the business owner) that can be used to contact the Police Department during emergencies (Condition #16).

Signage

- G) The food truck is not allowed any signs other than what is provided on the vehicle itself. Condition #10 prohibits the use of any A-frame signs, inflatable signs, feather signs, pennants, or other freestanding signs. As shown at Attachment G, the illegal signs and advertisements posted on the Best Buy Market shall be removed prior to the food truck obtaining a business license (Condition #27).

Truck Details/Operation

- H) The food truck is standard in appearance and size. It is approximately 7 ½ feet wide by 23 feet long and approximately 7 ½ feet tall (Attachment C). The food truck will operate daily between 10:00 a.m. to 8:00 p.m. The food truck will sell traditional Mexican food including but not limited to tacos, tortas, 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). The sale of alcohol is prohibited (Condition #25). Employee restrooms will be available inside the Best Buy Market as allowed by the Health Department and agreed upon by the property owner (Condition #24). Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility (Condition #13). 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 F, or as otherwise required by the WQCD (Condition #14).

Environmental Clearance

- I) 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 is being recommended (Attachment H).

Attachments:

- A) Location Map
- B) Site Plan
- C) Photographs of the Food Truck
- D) City Wide-Incident Map
- E) Incident Map
- F) Water Quality Control Division Best Management Practices Brochure
- G) Illegal Signs on the Best Buy Market
- H) Categorical Exemption
- I) Draft Planning Commission Resolution



Single-Family Homes

Choice Food Market

Merced Bethel Seventh-Day Adventist

Subject Site

Apartments

New Parking Spaces for the Market

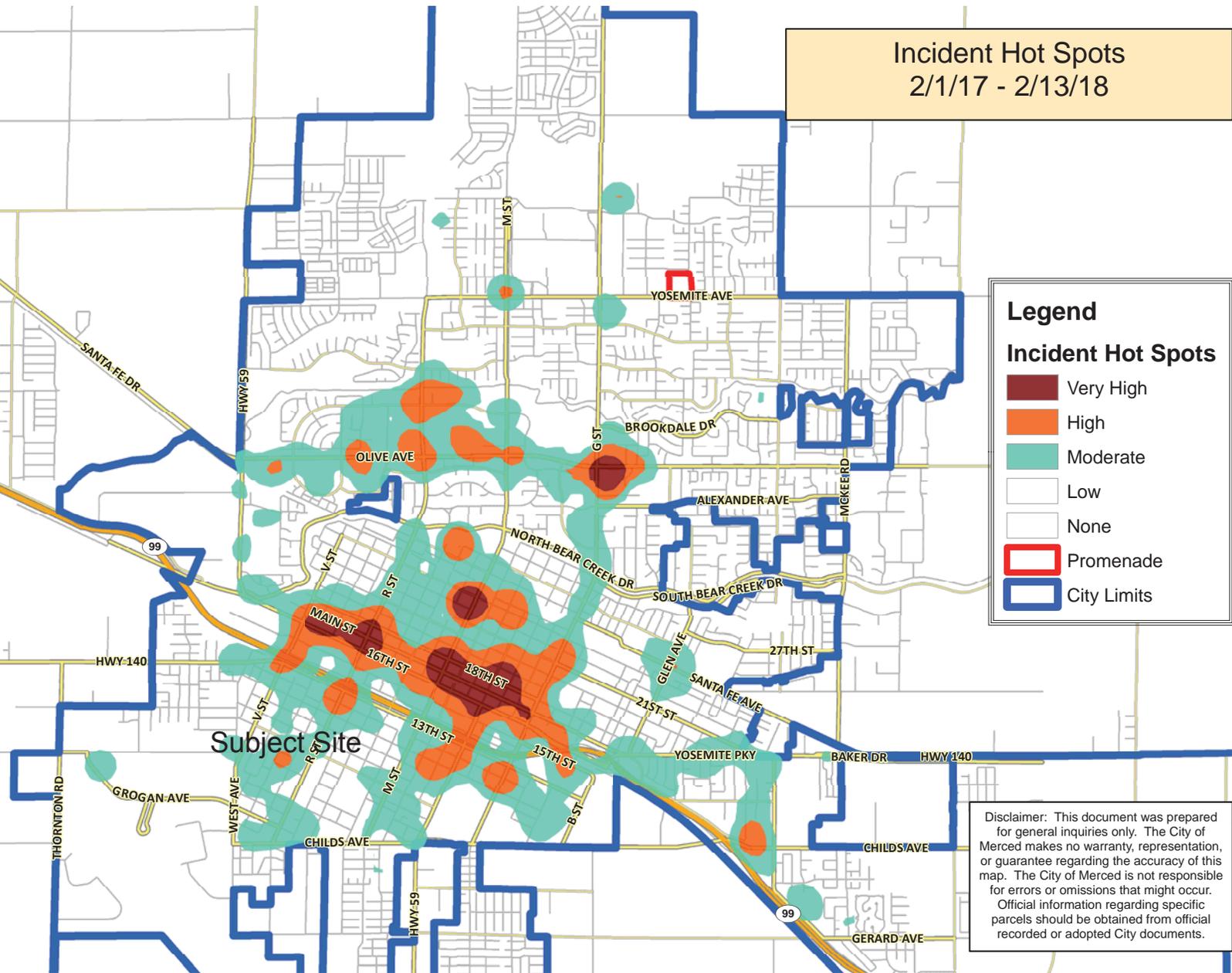
Existing Grocery Market

Food Truck Location (w/waiting area and designated parking)

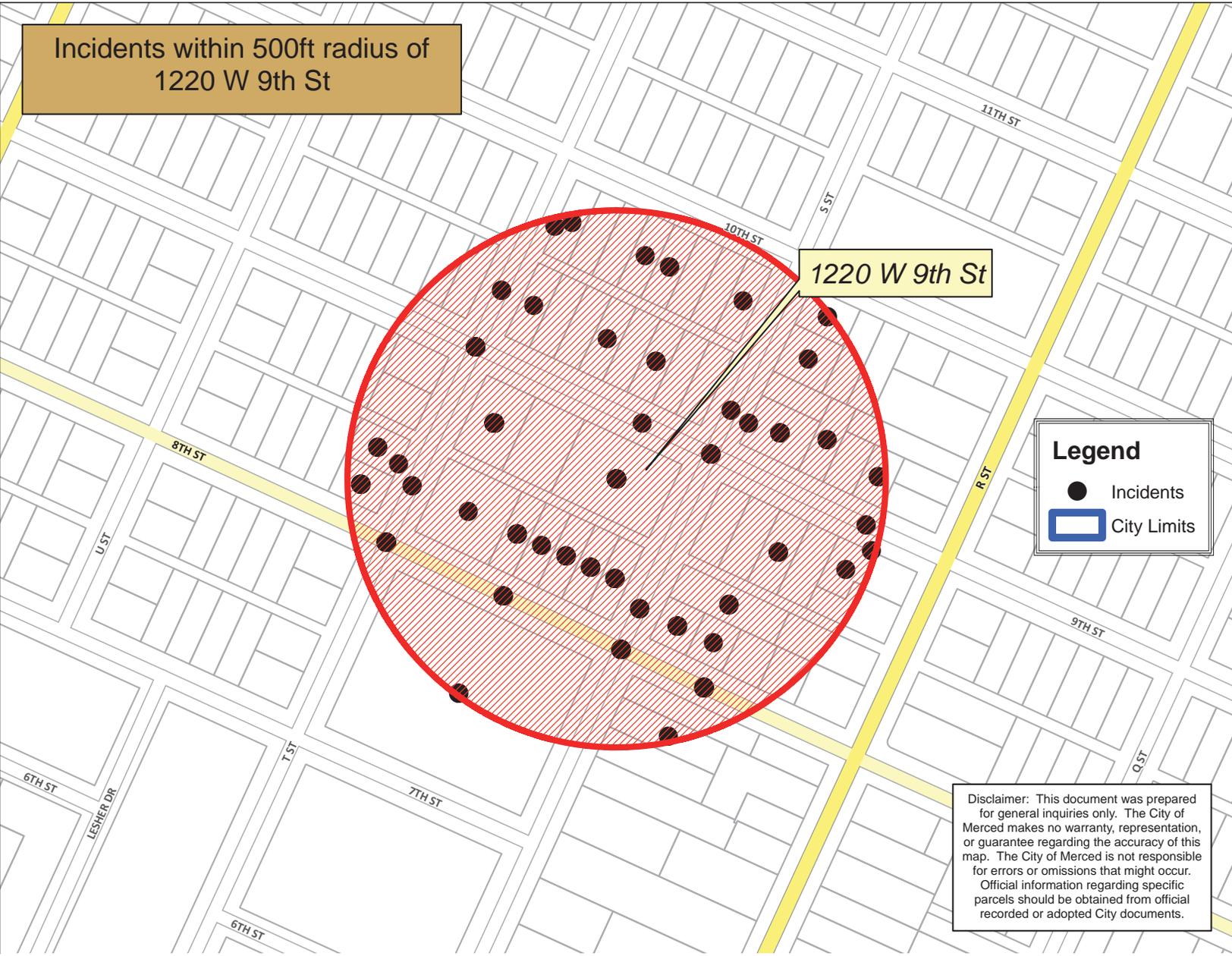




ATTACHMENT C



Incidents within 500ft radius of
1220 W 9th St



1220 W 9th St

Legend

- Incidents
- ▭ City Limits

Disclaimer: This document was prepared for general inquiries only. The City of Merced makes no warranty, representation, or guarantee regarding the accuracy of this map. The City of Merced is not responsible for errors or omissions that might occur. Official information regarding specific parcels should be obtained from official recorded or adopted City documents.

MERCED MUNICIPAL CODE

15.50.050 - Discharge of non-storm water prohibited

A. Except as provided in Section 15.50.060, it is unlawful, and a misdemeanor subject to punishment in accordance with Chapter 1.12 of this Code, for any person to make or cause to be made any non-storm water discharge.

B. Notwithstanding the exemptions provided by Section 15.50.060, if the regional water quality control board or the enforcement official determines that any otherwise exempt discharge causes or significantly contributes to violations of any storm water permit, or conveys significant quantities of pollutants to a surface water or storm water conveyance, or is a danger to public health or safety, such discharge shall be prohibited from entering the storm water conveyance system.

1.12.020 - General penalties

A. Misdemeanors. Unless otherwise provided, any person convicted of a misdemeanor under the provisions of this code shall be punishable by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment in the county jail of Merced County for a period not exceeding one (1) year, or by both such fine and imprisonment.

**REPORT
ILLEGAL DUMPING
(209) 385-6905**

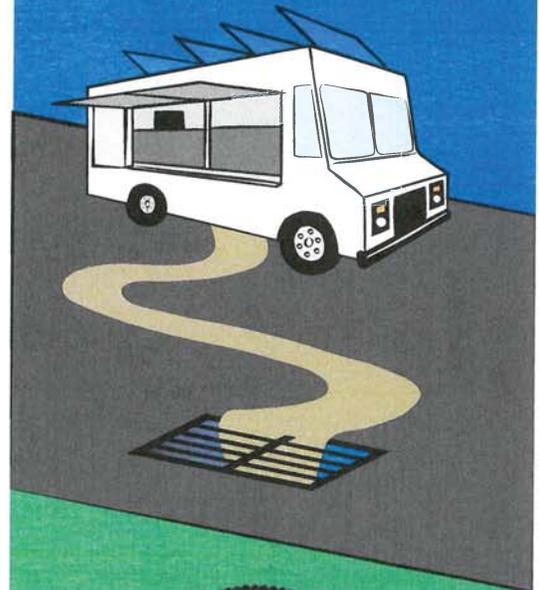
City of 
Merced
Gateway to Yosemite



For further information, please contact our office at:

City of Merced
Water Quality Control Division
1776 Grogan Avenue
Merced, CA 95341
(209) 385-6204
www.cityofmerced.org

**FOOD TRUCKS
AND
STORM WATER**



The City of Merced is promoting storm water pollution prevention through public outreach and the Storm Water Ordinance. The Merced Municipal Code 15.50.020 - Purpose and Intent states,

A. The purpose of this chapter is to protect and promote the health, safety, and general welfare of the citizens of City of Merced by controlling non-storm water discharges to the storm water conveyance system from spills, dumping, or disposal of materials other than storm water, and by reducing pollutants in urban storm water discharges to the maximum extent practicable.

B. This chapter is intended to assist in the protection and enhancement of the water quality of watercourses, water bodies, and wetlands in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. Sections 1251 et seq.) and any subsequent amendments thereto, by reducing pollutants in storm water discharges to the maximum extent practicable and by prohibiting non-storm water discharges into the storm drain system.



Anything that spills or lands on the ground of areas such as streets, sidewalks, drainage channels, or parking lots of the City of Merced eventually becomes storm water pollution. Everything that flows into a storm drain, goes directly to our creeks and rivers, untreated. This means aquatic life can die off and areas for water recreation become unsafe for human enjoyment.

Mobile Food Trucks play a major role in minimizing storm water pollution, because of the mobile aspect of the business. The following are important responsibilities of Food Trucks to aid in the protection of our environment, as well as, the health, safety and general welfare of the citizens of Merced:

DO'S

Visit commissary DAILY for disposing of fats, oils and grease - keep logs



Clean spills using dry methods, like absorbents



Clean kitchen equipment indoors or at wash facility with an oil separator or a grease interceptor



Clean mobile food truck at an approved wash facility



DON'TS

Do not dispose of waste fats, oils and grease in storm drains or drainage ditches



Do not use water to clean up spills



Do not clean kitchen equipment outdoors where wastewater could impact the storm drain



Do not clean mobile food truck at place of residence





ATTACHMENT G

NOTICE OF EXEMPTION

To: _____ Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

From: (Public Agency)
City of Merced
678 West 18th St.
Merced, CA 95340

X County Clerk
County of Merced
2222 M Street
Merced, CA 95340

Project Title: CUP #1224 (Environmental Review #18-08)

Project Applicant: Ramon Sandoval

Project Location (Specific): 1220 W. 9th Street **APN:** 032-121-004

Project Location - City: Merced **Project Location - County:** Merced

Description of Nature, Purpose, and Beneficiaries of Project:

Name of Public Agency Approving Project: City of Merced

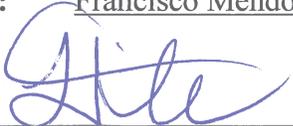
Name of Person or Agency Carrying Out Project: Ramon Sandoval

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State Type and Section Number: 15301 (a)
- Statutory Exemptions. State Code Number: _____.
- General Rule (Sec. 15061 (b)(3))

Reasons why Project is Exempt: As defined under the above referenced Section, the proposed project consists of minor interior/exterior alterations, such as operating a food truck within a developed commercial site, which are considered to be exempt under the CEQA Guidelines per Section 15301 (a).

Lead Agency: City of Merced
Contact Person: Francisco Mendoza-Gonzalez **Area Code/Telephone:** (209) 385-6858

Signature:  **Date:** 2-13-2018 **Title:** Planner

Signed by Lead Agency **Date Received for Filing at OPR:** _____
(If applicable)

Authority Cited: Sections 21083 and 21110. Public Resources Code
Reference: Sections 21108, 21152, and 21152.1. Public Resources Code

CITY OF MERCED
Planning Commission

Resolution #3091

WHEREAS, the Merced City Planning Commission at its regular meeting of March 7, 2018, held a public hearing and considered **Conditional Use Permit #1224**, initiated by Ramon Sandoval on behalf of Taher Murshed and Nakhlah Dabwan, property owners. This application involves a request to operate a food truck within the Best Buy Market parking lot, generally located on the southwest corner of 9th Street and S Street (1220 W. 9th Street), within Neighborhood Commercial (C-N) Zone; also known as Assessor's Parcel Number 032-121-004; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through I of Staff Report #18-06; 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 #18-08, and approve Conditional Use Permit #1224, subject to the Conditions set forth in Exhibit A attached hereto and incorporated herein by this 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)

PLANNING COMMISSION RESOLUTION #3091

Page 2

March 7, 2018

Adopted this 7th day of March 2018

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:

Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions: CUP#1224 Food Truck (1220 W 9th Street)

Conditions of Approval
Planning Commission Resolution # 3091
Conditional Use Permit #1224

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (photos) - Attachments B and C of Staff Report #18-06, 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, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any

agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

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.
9. At least two 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 business shall close at sundown.
12. If the business owner wishes to extend the business hours in the future, he 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.
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 F, or as otherwise required by the WQCD.

EXHIBIT A
OF PLANNING COMMISSION RESOLUTION #3091

15. If problems arise as a result of this business that may require excessive Police Department service calls 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, 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. The food truck shall not block the driving aisle or access to the alley.
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. The parking spaces used by the food truck shall be replaced with new parking spaces on the western portion of the property. The new parking spaces shall be designed to meet Zoning requirements and the City's Engineering Standards.
23. Food truck activities shall in no way interfere with the operation of existing businesses on the lot, or nearby businesses, including noise,

litter, loitering, and traffic circulation, and public safety must be a high priority.

24. 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.
25. The sale of alcohol is prohibited.
26. Approval of this permit constitutes approval of interface review.
27. Illegal signs advertising alcohol on the outside of the Best Buy Market or Laundry World shall be removed before issuing a business license to the food truck.
28. "No Loitering" signs shall be posted on the food truck and grocery market at specific locations approved by the City Police Department.

n:shared:planning:PC Resolutions: CUP #1224 Exhibit A