

**CITY OF MERCED**  
**Planning & Permitting Division**

**STAFF REPORT:** #18-13

**AGENDA ITEM:** 4.1

**FROM:** Kim Espinosa,  
Planning Manager

**PLANNING COMMISSION**  
**MEETING DATE: June 6, 2018**

**PREPARED BY:** Francisco Mendoza-Gonzalez,  
Planner

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**SUBJECT:** **Conditional Use Permit #1226**, initiated by Jana Nairn on behalf of Mark McAuley and Jeanne McAuley, Trustees, property owner. This application involves a request to establish a food truck parking area (for multiple food trucks with outdoor seating) within the parking lot at 825 W. Main Street, generally located on the north side of Main Street, approximately 150 feet west of O Street, within a Central Commercial (C-C) Zone. \*PUBLIC HEARING\*

**ACTION:** Approve/Disapprove/Modify

- 1) Environmental Review #18-47 (Categorical Exemption)
- 2) Conditional Use Permit #1226

**SUMMARY**

The Tri-Tipery is requesting approval to operate a food truck parking area for multiple food truck vendors with outdoor seating within the parking lot located at 825 W. Main Street (Attachment A). The 0.17-acre parking lot is located on the north side of Main Street, between O Street and P Street, within a Central Commercial (C-C) Zone. Food truck parking areas are considered a conditional use within a C-C Zone and require Planning Commission approval. City staff has reviewed this request and is recommending approval with conditions.

**RECOMMENDATION**

Planning staff recommends that the Planning Commission approve Environmental Review #18-47 (Categorical Exemption) and Conditional Use Permit #1226 (including the adoption of the Resolution at Attachment F) subject to the following conditions:

- \*1) The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (photos of food truck exterior) - 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in Resolution #1249-Amended ("Standard Conditional Use Permit Conditions"—except for Condition #16 which has been superseded by Code) shall apply.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 and all participating food truck vendors onsite shall comply with all City of Merced business licensing requirements and with all requirements of the Merced County Environmental Health Department. The applicant shall be responsible for ensuring that all food truck vendors meet this requirement.
- 8) At least two trash receptacles per food truck 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. Any permanent trash receptacles placed within the outdoor seating area shall be of the tamperproof variety.
- 9) 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 onsite. (Some of these signs may be allowed during the applicant's 30-day grand opening period only).
- 10) 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. If the applicant wishes to extend the business hours in the future, they must obtain approval from the Director of Development Services and the Police Chief, or if deemed necessary by the Director of Development Services, be referred back to the Planning Commission for action.

- 11) 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) Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility.
- 13) The applicant shall ensure that all food truck vendors onsite 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, or as otherwise required by the WQCD.
- 14) 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.
- 15) 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.
- 16) Food trucks shall be oriented in a manner that allows 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.
- 17) It shall be the applicant's responsibility to ensure all customers park in an orderly fashion and do not block the driveway entrances or interfere with other customers driving through the site to access the adjacent parcel to the east.
- 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) The applicant shall provide parking at a ratio of 2 parking stalls per food truck onsite or 1 parking stall per every 2.5 seats, whichever number is greater. The new parking spaces shall be designed to meet Zoning requirements and the City's Engineering Standards.
- 20) The parking stalls shall be striped with paint.
- 21) Food truck activities shall in no way interfere with the operation of nearby businesses, including noise, litter, loitering, and traffic circulation. Public safety must be a high priority.
- 22) 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.
- 23) The sale of alcohol is prohibited.

- 24) The applicant shall submit a design review application for the outdoor seating area prior to installing it.
  - 25) The applicant shall either install bollards around the outdoor fence or incorporate them into the fence, as required by the Building Department.
  - 26) Minor adjustments to the site plan may be reviewed and approved by the Director of Development Services, or if deemed necessary, be referred to the Planning Commission.
  - 27) Any music (live or played over outdoor speakers) shall be kept to a minimum noise level so as not to travel outside the immediate area and disturb the surrounding businesses. Music may be played anytime between the hours of 7:00 a.m. and 9:00 p.m.
  - 28) Any outdoor heating units used onsite shall be listed and approved by the Fire Department.
- (\*) Denotes non-discretionary conditions.

**PROJECT DESCRIPTION**

The Tri-Tipery is proposing to operate a food truck parking area for multiple food truck vendors with outdoor seating within the parking lot located at 825 W. Main Street. The proposed site plan includes a customer parking area on the southwest corner of the parcel and a food truck parking station with outdoor seating on the northwest corner of the parcel. The site plan would be designed in a manner that satisfies Engineering Standards and does not block any driving aisles or fire lanes (Conditions #16 and #19). The Tri-Tipery would begin operating the food truck parking area by themselves, but would eventually expand to add one or two more food truck vendors (as permitted by parking). The Tri-Tipery will initially operate only on Fridays between 11:00 a.m. and 2:00 p.m. They would subsequently adjust or expand their hours of operations based on customer demands. Food truck employee restrooms would be located across Main Street within JB Auto Wholesale, as allowed by the Merced County Environmental Health Department.

Surrounding Uses  
(Attachment A)

<b>Surrounding Land</b>	<b>Existing Use of Land</b>	<b>City Zoning Designation</b>	<b>City General Plan Land Use Designation</b>
North	Law Offices of Morse and Pfeiff (across the alley)	Central Commercial (C-C)	Regional/Community Commercial (RC)
South	JB Auto Wholesale (across Main Street)	Central Commercial (C-C)	Regional/Community Commercial (RC)
East	Parking Lot (0.17-Acres)	Central Commercial (C-C)	Regional/Community Commercial (RC)
West	Parking Lot (0.17-Acres)	Central Commercial (C-C)	Regional/Community Commercial (RC)

## **BACKGROUND**

Food truck parking areas are considered a fairly new land use option in Merced. In 2016, the City of Merced conducted a comprehensive amendment to the Zoning Ordinance for the first time in over 50 years. The revised Zoning Ordinance now allows food truck parking areas with a conditional use permit within most commercial and industrial zones. The Zoning Ordinance Focus Group modeled the food truck parking area concept after examples found throughout the Central Valley in communities like Modesto and Turlock. Food truck parking areas differ from the City's traditional food truck projects, as they allow for multiple food truck vendors with outdoor seating on one parcel. This proposal by the Tri-Tipery is the first food truck parking area to ever be reviewed by the Planning Commission.

## **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 designation of Central Commercial (C-C) with approval of this Conditional Use Permit. It should be noted that food trucks are not permitted within the "City Center" boundary as defined by the area between 19<sup>th</sup> and 16<sup>th</sup> Streets and O Street and Martin Luther King, Jr. Way, including properties fronting on either side of these streets. This parcel is close to, but outside the City Center boundary.

### **Traffic/Circulation**

- B) Vehicle access to the subject site is available from one 25-foot-wide driveway along Main Street. Customer and employee parking stalls would be located within the southwest portion of the parcel (Attachment B). The food truck parking station and outdoor seating area would be located within the northwest corner of the parcel. The customer parking area, food truck parking station, and outdoor seating area would be designed to satisfy the City's Engineering Standards for parking lots (Condition #19). The parking lot would be striped with a fresh coat of paint to accommodate the proposed site plan (Condition #20). The food truck parking station and outdoor seating area would be oriented and placed in manner that does not block any driving aisles, and provides ample space for customers to gather around the food trucks without backing into the driving aisles.

### **Parking**

- C) In the past, the subject site has been used to provide parking for nearby buildings. However, many of the buildings in the area, including those directly to the east and west of the subject site, are currently vacant so the demand for parking in the area has decreased. The subject site is currently not being used for parking purposes so the entire site could be devoted to the food trucks. Parking for the food trucks shall be provided at a ratio of 2 parking stalls per every food truck or 1 parking stall per every 2.5 outdoor seats, whichever number is greater (Condition #19). Initially, the applicant would like to provide 8 parking stalls on the southwest portion of the parcel, which would allow them to have a maximum of 4 food truck vendors or 20 outdoor seats for customers. Parking requirements would be reviewed by Planning staff as food truck vendors request business license approval to sell within the subject site. The adjacent vacant buildings, when occupied in the future, will still need to

provide required parking, which may require future modifications to the parking lot to accommodate more vehicles.

### **Public Improvements/City Services**

- D) The subject site is a developed parking lot and most public improvements are existing. The food trucks are 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 within Downtown Merced on the north side of Main Street, 150 feet west of O Street. The subject site is an unstriped parking lot on a rectangular 0.17-acre parcel that is 50 feet wide by 150 feet long. Vehicle access is available from a 25-foot-wide driveway along Main Street. Vehicle access could also be provided from the alley adjacent to the north, but this portion of the lot is currently blocked-off with a 5-foot-tall chain link fence. The existing driveway from Main Street leads directly to the customer/employee parking area. Food truck vendors (currently an undermined number of vendors, but would most likely be between 2-3 vendors) would park north of the customer parking area. The outdoor seating area would be located within the northwest corner of the parcel. The outdoor seating area has not officially been designed yet, but the applicant envisions an outdoor seating area of approximately 600 square feet with permanent benches, umbrellas, trash receptacles, and a 4-foot-tall perimeter fence with bollards strong enough to withstand the impacts of vehicle collisions (Condition #25). Because the subject site is located within the City's Design Review Boundary, the applicant shall submit a design review application for Planning staff to consider the design, color, and materials used for the outdoor seating area. (Condition #24). The site plan, parking stalls, and driving aisles shall be designed to meet the City's Engineering Standards for parking lots.

### **Neighborhood Impact/Interface**

- F) The subject site is surrounded by a variety of land uses. There are several offices and professional uses to the north of the subject site, across the adjacent alley. In addition, there are several auto-related uses to the south of the subject site, across Main Street. Directly to the east and west of the subject site are two vacant buildings that are approximately 7,500 s.f. and 5,500 s.f. respectively, which can be used for commercial purposes in the future. There are few single-family homes and restaurants in the neighborhood. The nearest restaurants are New Thai Cuisine, which is approximately 400 feet southwest of the subject site, and Cinema Café, which is approximately 750 feet east of the subject site. The majority of the uses in the neighborhood consist of businesses and a few high-density apartments. Given the lack of restaurants in the area, staff is of the opinion that the proposed food truck parking area fills a need in the western portion of Downtown that can conveniently sell food to employees working in the neighborhood.

### **Signage**

- G) Food trucks are not allowed any signs other than what is provided on the vehicle itself. Condition #9 prohibits the use of any A-frame signs, inflatable signs, feather signs, pennants, or other freestanding signs.

### **Truck Details/Operation**

- H) The Tri-Tipery would begin operating the food truck parking area by themselves, but would eventually expand to add one or two more food truck vendors (as permitted by parking). The Tri-Tipery's food truck is approximately 7 ½ feet wide by 23 feet long and approximately 7 ½ feet tall (Attachment C). The food truck was made in 2016 and has an auto body wrap that makes the exterior look like wooden planks. The exterior design is similar to the cabin-like design of the original Tri-Tipery located in Ballico. Initially, the Tri-Tipery would have limited hours of operation selling food only on Fridays between 11:00 a.m. and 2:00 p.m. The applicant may adjust or expand their hours of operation in the future depending on customer demands. The food truck would sell tri-tip sandwiches, hamburger, fries, salads, and similar meals. Trash receptacles would be provided to collect the disposable plates, eating utensils, aluminum foil, and paper bags that are typically used to serve their meals (Condition #8). The sale of alcohol is prohibited (Condition #23). Employee restrooms would be available across Main Street, inside JB Auto Wholesale as allowed by the Health Department and agreed upon by the property owner (Condition #22). Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility (Condition #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 at Attachment D, or as otherwise required by the WQCD (Condition #13).

### **Environmental Clearance**

- I) Planning staff 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 E).

#### **Attachments:**

- A) Location Map
- B) Site Plan
- C) Photographs of the Food Truck
- D) Water Quality Control Division Best Management Practices Brochure
- E) Categorical Exemption
- F) Draft Planning Commission Resolution



Vacant Building

Subject Site (Food Truck)

Vacant Building

Auto Resource



Parking

Food Trucks

Outdoor Seating

Separate Parcel  
(not part of  
subject site)



MAIN



**ATTACHMENT C**

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](http://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



**NOTICE OF EXEMPTION**

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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:** Conditional Use Permit (CUP) #1226 (Environmental Review #18-47)

**Project Applicant:** Jana Nairn

**Project Location (Specific):** 825 W. Main St. APN: 031-123-010

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

**Description of Nature, Purpose, and Beneficiaries of Project:** Food Truck Parking Area with Outdoor Seating

**Name of Public Agency Approving Project:** City of Merced

**Name of Person or Agency Carrying Out Project:** Jana Nairn

**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:** 5-8-2018 **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 #\_\_\_\_\_**

**WHEREAS**, the Merced City Planning Commission at its regular meeting of June 6, 2018, held a public hearing and considered **Conditional Use Permit #1226**, initiated by Jana Nairn on behalf of Mark McAuley and Jeanne McAuley, Trustees, property owner. This application involves a request to establish a food truck parking area (for multiple food trucks with outdoor seating) within the parking lot at 825 W. Main Street, generally located on the north side of Main Street, approximately 150 feet west of O Street, within a Central Commercial (C-C) Zone.; also known as Assessor’s Parcel Number 031-123-010; and,

**WHEREAS**, the Merced City Planning Commission concurs with Findings A through I of Staff Report #18-13; 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 #18-47, and approve Conditional Use Permit #1226, 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 # \_\_\_\_\_

Page 2

June 6, 2018

Adopted this 6<sup>th</sup> day of June 2018

\_\_\_\_\_  
Chairperson, Planning Commission of  
the City of Merced, California

ATTEST:

\_\_\_\_\_  
Secretary

Attachment:

Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions: CUP#1226 (Tri-Tipery food truck)

**Conditions of Approval**  
**Planning Commission Resolution # \_\_\_\_\_**  
**Conditional Use Permit #1226**

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (site plan) and Exhibit 2 (photos of food truck exterior) - Attachments B and C of Staff Report #18-13, 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 and all participating food truck vendors onsite shall comply with all City of Merced business licensing requirements and with all requirements of the Merced County Environmental Health Department. The applicant shall be responsible for ensuring that all food truck vendors meet this requirement.
8. At least two trash receptacles per food truck 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. Any permanent trash receptacles placed within the outdoor seating area shall be of the tamperproof variety.
9. 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 onsite. (Some of these signs may be allowed during the applicant's 30-day grand opening period only).
10. 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. If the applicant wishes to extend the business hours in the future, they must obtain approval from the Director of Development Services and the Police Chief, or if deemed necessary by the Director of Development Services, be referred back to the Planning Commission for action.
11. 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. Disposal of waste products shall be limited to a Merced County Environmental Health Department approved commissary or alternative approved facility.

13. The applicant shall ensure that all food truck vendors onsite 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, or as otherwise required by the WQCD.
14. 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.
15. 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.
16. Food trucks shall be oriented in a manner that allows 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.
17. It shall be the applicant's responsibility to ensure all customers park in an orderly fashion and do not block the driveway entrances or interfere with other customers driving through the site to access the adjacent parcel to the east.
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. The applicant shall provide parking at a ratio of 2 parking stalls per food truck onsite or 1 parking stall per every 2.5 seats, whichever number is greater. The new parking spaces shall be designed to meet Zoning requirements and the City's Engineering Standards.
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28. Any outdoor heating units used onsite shall be listed and approved by the Fire Department.

n:shared:planning:PC Resolutions: CUP #1226 Exhibit A