

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2009-04

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO CALVARY BAPTIST CHURCH TO ALLOW DEVELOPMENT OF ADDITIONAL PARKING LOTS AND A NEW MONUMENT SIGN FOR THE EXISTING CHURCH LOCATED AT 1732 MILLER AVENUE

WHEREAS, on May 25, 1972, by Resolution No. 437, the Board of Zoning Adjustment granted a Conditional Use Permit to the Calvary Baptist Church to allow construction of a large multipurpose building at the rear of the church site which fronts on Miller Avenue west of Conejo Avenue; and

WHEREAS, on November 29, 1973, by Resolution No. 499, the Board of Zoning Adjustment amended Resolution No. 437 to allow development of additional off-street parking on property located on the south side of Miller Avenue on the west side of Conejo Avenue; and

WHEREAS, on March 26, 1981, by Resolution No. 971, the Board of Zoning Adjustment granted a Conditional Use Permit to the Calvary Baptist church for construction of a new sanctuary and classroom building; and

WHEREAS, an application for a Conditional Use Permit to allow development of additional parking lots and a new monument sign for the existing church located at the southwest corner of Miller and Conejo Avenues, was filed by Calvary Baptist Church; and

WHEREAS, Sections 10-1.202(a) and 10-2.2503 of the Municipal Code authorize the Board of Zoning Adjustment to grant Conditional Use Permits; and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on August 27, 2009, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the proposed project is categorically exempt from CEQA, in accordance with Guidelines Section 15311, because it involves construction, or replacement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to: (b) Small parking lots; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Adjustment that it finds and determines as follows:

1. The proposed project is consistent with the Modesto Urban Area General because the use is consistent with the Residential & Commercial General Plan Land Use designations, which provides for uses such as churches.
2. The proposed project is categorically exempt from CEQA, in accordance with Guidelines Section 15311, because it involves development of small parking lots within an urbanized area. The proposed church parking lots are located within the City of Modesto's Baseline Developed area and surrounded by an existing residential and commercial development. The project does not involve the use of significant amounts of hazardous

substances, all necessary public services and facilities are available, and the surrounding area is not environmentally sensitive.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit for 1732 Miller Avenue be granted subject to the following conditions:

1. All development shall conform to the Plot Plan titled "Grading Plan-A.P.N. 116-004-063, Calvary Baptist Church, 1732 Miller Avenue, Modesto, California" stamped, approved by the Board of Zoning Adjustment on August 27, 2009.
2. Prior to the issuance of a Building Permit, the applicant shall submit plans to the satisfaction of the Community & Economic Development Director, showing that the parking lot additions meet all required setback requirements per City of Modesto Municipal Code.
3. Prior to the issuance of a Building Permit, the applicant shall show that the proposed expansion of the parking lot shall be designed to contain the additional run-off on-site.
4. Prior to the issuance of a Building Permit, all applicable water & sewer connection, wastewater capacity and plan check fees shall be paid in full to the City of Modesto as acceptable to the City Engineer. Fees will be determined at the time of plan site design and/or plan approval.
5. As part of the submittal of improvement plans for Phase One, the applicant shall submit plans showing the restriping and slurry seal of the southern unapproved parking lot per City of Modesto Standard Specifications.
6. As part of the submittal of improvement plans for Phase One, the applicant shall show that the southern driveway along Conejo Avenue is to be constructed per City of Modesto Standard Specification Detail No. 1009 for two lane driveways.
7. As part of the submittal of improvement plans for Phase One, the applicant shall provide permanent post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first ½ inch of stormwater run-off from all new areas of parking lot.
8. Prior to approval of improvement plans for Phase One, the applicant shall provide an irrevocable offer of dedication along Conejo Avenue and Miller Avenue per City of Modesto Standard Specifications.
9. As part of the submittal of improvement plans for Phase Two, street improvements will be required along Conejo Avenue immediately adjacent to the Phase Two parcels in accordance with improvement plans as acceptable to the City Engineer or designee. Street improvements shall include, but not be limited to street pavement, curb, gutter, sidewalk and street lights. The improvements shall be located in their ultimate location in conformance with Standard Specifications, with a short transition to the existing improvements north of the Phase Two

area. When any further development of the site occurs beyond Phase Two, the existing improvements north of Phase Two shall be required to be relocated to conform to the Standard Specifications.

10. As part of the submittal of improvement plans for Phase Two, if existing houses remain and are turned into classrooms, access to these buildings are to come from the parking lot and access from Conejo Avenue is to be eliminated.
11. As part of the submittal of improvement plans for Phase Two, additional requirements may be required based on the type of improvements proposed at the time of application.
12. Prior to the issuance of a Grading or Building Permit, the applicant shall provide an Erosion & Sediment Control Plan for the proposed parking lot.
13. Prior to issuance of a Grading and/or Building Permit, property owner to provide signed and notarized Stormwater Treatment Device Access and Maintenance agreement to Land Development Engineering, Stormwater for recording.
14. If Rockwells are proposed to handle the new parking lot they are to be designed per City of Modesto Standard Specifications Chapter 4, Section H and follow City Standard Details.
15. Prior to the issuance of a Building Permit, applicant shall submit plans showing the location of trash enclosures. Trash enclosures shall be of a size and design to permit the storage and removal of required recyclable material receptacles, or a separate enclosure of the collection for recyclable materials shall be provided as approved by the Public Works Director or designee.
16. For all work within the public right a way, the applicant shall obtain an Encroachment Permit. Prior to the issuance of this permit, all improvement plans shall be designed to Current City of Modesto Standard Specifications acceptable to the City Engineer.
17. All improvement plans shall be prepared, stamped and signed by a California Licensed Civil Engineer, acceptable to the City Engineer.
18. Prior to the issuance of a Building Permit for future development, the applicant shall submit plans to the City of Modesto Fire Department for conformance with the City of Modesto Fire Code and the 2007 California Fire Code showing hydrant spacing and distribution for this use at 300 ft on center, not to exceed 150 ft on a street frontage from a hydrant. Added onsite and offsite fire hydrants may be needed.
19. Prior to the issuance of a building permit for parking lot development, applicant shall provide 24" box trees for proposed parking areas. Planter boxes to be located in existing planter areas or at proposed swales areas, as shown on submitted plans.

20. Prior to the issuance of a building permit for parking lot development, applicant shall provide landscape screening along Miller Avenue frontage, including the planter area that wraps around to Conejo Avenue in order to screen the proposed new parking lot. Screen landscaping is to meet current Municipal Code requirements for parking lot shading and screening. A landscaping and irrigation plan shall be submitted and approved by the Director of Parks, Recreation & Neighborhoods or designee.
21. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
22. All out door lighting shall be shielded from adjacent residential properties as required by the Chief Building Official.
23. All conditions of the Board of Zoning Adjustment Resolution Nos. 437, 499, and 971, which are not in conflict herewith shall remain in full force and effect.
24. One freestanding monument church identification sign shall be permitted on the Miller Avenue frontage. The sign shall not exceed 40 square feet in area and 5 feet in height. All other signs shall comply with the sign requirements of the R-1 Zone.
25. Prior to issuance of a building permit, the applicant shall dedicate public utility easements as required by the utility companies and the City Engineer or designee.
26. Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this conditional use permit shall be based on the rates in effect at time of issuance of the building permit.
27. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
28. The applicant shall record a "Notice of Conditions" in the Stanislaus County Clerk-Recorder's Office on a form available in the Community & Economic Development Department.

Failure to comply with any of the above conditions is unlawful and will constitute grounds for revocation of the conditional use permit.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that Phase I, as shown on the stamped-approved plan, shall commence on or before August 27, 2011

and that Phase II, as shown on the stamped-approved plan, shall commence on or before August 27, 2014.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that the Secretary of the Board is directed to file with the Stanislaus County Clerk a Notice of Determination in regard to the environmental impact of the proposed conditional use permit.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on August 27, 2009, by Amy Neumann, who moved its adoption, which motion was seconded by Will Grover and carried by the following vote:

Ayes: Bergman, Brandvold, Grover, Neumann, Saxton
Noes: None
Absent: Pollard, Swehla

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MODESTO.

Original, signed copy on file in CEDD
Patrick Kelly, Secretary