

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2014-08

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO MODESTO COVENANT CHURCH TO ALLOW FOR THE REPLACEMENT OF EXISTING CHURCH BUILDINGS WITH A NEW TWO-STORY CLASSROOM AND MULTI-PURPOSE BUILDING AND THE ADDITION OF A FOYER TO THE CHURCH SANCTUARY BUILDING, LOCATED AT 913 FLOYD AVENUE (MODESTO COVENANT CHURCH)

WHEREAS, on March 26, 1964 by Resolution No. 243, the Board granted a Conditional Use Permit to Modesto Covenant Church for the construction of church buildings at 913 Floyd Avenue; and

WHEREAS, on April 24, 1980 by Resolution No. 921, the Board granted a Conditional Use Permit Amendment to the Modesto Covenant Church for a two-story education building on the north side of Floyd Avenue, opposite Newport Drive; and

WHEREAS, on December 19, 2002 by Resolution No. 2002-24, the Board granted a Conditional Use Permit to the Modesto Covenant Church for the expansion of the church's parking area by thirty-six spaces and the addition of a storage building onto the northeast corner of property located on Floyd Avenue, opposite Newport Drive; and

WHEREAS, an application for a Conditional Use Permit for the replacement of existing church buildings with a new two-story classroom and multi-purpose building and the addition of a foyer to the church sanctuary building, located at 913 Floyd Avenue, was filed by the Modesto Covenant Church on May 15, 2014; and

WHEREAS, Section 10-9.102 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 28, 2014, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the project is Categorical Exempt from CEQA under Section 15332 of the CEQA Guidelines, which exempts in-fill development where the site is within city limits, is less than five acres in size, is substantially surrounded by urban uses, has no value as a habitat for threatened species, is adequately serviced by utilities and public services, and is consistent with applicable General Plan land use designations and Zoning regulations.

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

1. The proposed conditional use permit is consistent with the objectives and requirements of Title 10 (Zoning Regulations) because churches are allowed in the Residential Zones of the City per Title 10, Table 3.1-1 of the Modesto Municipal Code upon securing a Conditional Use Permit from

the Board of Zoning Adjustment, and adherence with all applicable site development standards, regulations and conditions will ensure that the proposed church expansion will result in an orderly, planned use of land resources.

2. The proposed conditional use and the conditions under which it will operate is consistent with the General Plan because the General Plan land use designation for the property is Residential, which allows for uses as permitted within the R-1, R-2 and R-3 Residential Zones. As churches are allowed within the R-1 Zone with a Conditional Use Permit, the church expansion is therefore consistent with the General Plan.
3. The proposed conditional use will not be detrimental to the public health, safety, or welfare or materially injurious to uses, properties or improvements in the vicinity because the expansion of the church will be required to meet all applicable Zoning, Building and Fire Code standards.
4. The proposed conditions of approval will ensure compatibility with the surrounding uses because the expansion of the existing church sanctuary and replacement of older existing buildings will occur on church grounds with no impact to existing parking areas, and provide improvements to the design of the buildings, landscaping and vehicle access.
5. The project is Categorically Exempt from CEQA under Section 15332 of the CEQA Guidelines, which exempts in-fill development where the site is within city limits, is less than five acres in size, is substantially surrounded by urban uses, has no value as a habitat for threatened species, is adequately serviced by utilities and public services, and is consistent with applicable General Plan land use designations and Zoning regulations.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit for the replacement of existing church buildings with a new two-story classroom and multi-purpose building and the addition of a foyer to the church sanctuary building, located at Modesto Covenant Church, 913 Floyd Avenue, be granted subject to the following conditions:

PLANNING

1. Prior to the issuance of a building permit, all development shall conform to the development plan and building elevations titled "Modesto Covenant Church", stamped approved by the Board of Zoning Adjustment on August 28, 2014.
2. Prior to issuance of a building permit, any variation from the approved site plan or building elevations on file with the City must be reviewed and approved by the Director of Community and Economic Development.
3. All construction documentation shall be coordinated for consistency, including but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, utility and street improvement plans. All

such plans shall be consistent with the approved entitlement plans on file with the Planning Department.

4. Parking lot shade trees shall be provided in all new parking areas to meet current parking lot shading requirements (1 tree per 8 stalls, 50% coverage within 10 years). This requirement shall also apply for any future expansion of the parking lot.
5. Because the expansion is adding 30% or more floor space, a trash enclosure that meets all current City Standards shall be required.
6. Prior to issuance of a building permit, trash enclosures shall be designed using building materials, colors and finishes which are consistent or compatible with those used in the major buildings of the development, as approved by the Community and Economic Development Director.
7. All refuse and recyclable material bin enclosures should be screened with landscaping on all sides, with the exception of the gate area. All sides of the enclosure, with the exception of the gate area, should be surrounded by a minimum 18" wide planter area for the purpose of providing landscape material to the satisfaction of the Community and Economic Development Director.
8. All signs shall comply with the sign requirements of the R-1 Zone.
9. Prior to issuance of a sign permit, individual sign plans for the project shall be submitted for separate review and approval prior to installation.
10. Exterior building elevations showing building wall materials, roof types, exterior colors and appropriate vertical dimensions shall be included in the development construction drawings.
11. Construction drawings shall demonstrate that all building drainage gutters, down spouts, vents, etc. located on exterior walls, are be completely concealed from public view or designed to be architecturally compatible (decorative) with the exterior building design and color to the satisfaction of the Director of Community and Economic Development.
12. Construction drawings shall demonstrate that new ladders for roof access are mounted on the inside of the building to the satisfaction of the Director of Community and Economic Development.

BUILDING SAFETY

13. All aspects of this project to comply with City of Modesto Standards and also the California Building, Electrical, Mechanical, Plumbing, Energy, and Green codes adopted by the City of Modesto.

LAND DEVELOPMENT ENGINEERING

14. Any public improvements that are missing, damaged or not to current City standards shall be designed per City standards in accordance with City Code

(Article 7-1.701), standards and specifications, such improvements may include, but not be limited to curb & gutter, drive approach, sidewalk, ADA access ramps, fire hydrants and street lights. All public improvement plans shall be designed by a Registered Engineer, reviewed and approved by the City Engineer prior to issuance of an Encroachment permit.

15. Any additional storm water runoff generated from the new building addition, shall to be kept on-site in accordance to City of standards.
16. There are existing water and sewer connections to this site. It is recommended to utilize existing services for the new expansion. If additional connections or upsizes are needed, an encroachment permit issued by the City shall be obtained prior to any construction in the public right of way.

STORM WATER QUALITY

17. Prior to the issuance of a Grading or Building Permit, Developer shall prepare and submit a Water Pollution Control Plan (WPCP) or Local SWPPP to Land Development Engineering, Stormwater for review. The submittal shall include a description of all erosion, sediment, and pollution control BMPs to be used at the construction site to prevent sediment and other sources of pollution from entering the City storm drain system as well as a site plan showing their placement.
18. Prior to the issuance of a Grading or Building Permit, Developer shall provide improvement plans for project, conforming to the City of Modesto 2011 Guidance Manual for Development Stormwater Quality Control Measures.
19. Prior to the issuance of a Grading or Building Permit, Developer shall submit a plan to retain and infiltrate stormwater runoff on site, incorporating pervious landscape (Low Impact Development) features into the project design.
20. Prior to the issuance of a Grading or Building Permit, Developer shall submit a plan to provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first ½" of stormwater run-off from site.
21. Prior to the issuance of a Grading or Building Permit, property owner shall provide a signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Land Development Engineering, Stormwater for recording.

Additionally, any Construction or Demolition Activity that will result in land disturbance of greater than one acre, specifically adding the Alternative Parking Lot Expansion to the Church Expansion project will require the following:

22. Prior to the issuance of a Grading, Demolition, or Building Permit, Property Owner shall obtain coverage for project under the State Water Resources Control Board General Permit for Stormwater Discharges Associated with Construction Activity Order NO. 2009-0009-DWQ, NPDES NO. CAS000002.
23. The General Construction Permit requires the Property Owner to develop a

Stormwater Pollution Prevention Plan (SWPPP) for the project. Prior to issuance of a Grading, Demolition, or Building Permit, provide one copy of SWPPP to Land Development Engineering, Stormwater.

PARKS, RECREATION AND NEIGHBORHOODS

24. Prior to issuance of a building permit, applicant shall submit Landscape and Irrigation plans for review and approval by the Parks, Recreation and Neighborhoods Department Director or designee. L&I plans shall meet current State of California water requirements, MMC requirements and City of Modesto standards at time of submittal.
25. Applicant shall provide a landscape and irrigation design that does not allow storm water or irrigation water runoff on to hardscape; all water shall be contained on site.
26. Applicant shall provide Irrigation Plans that meet current State of California Model Water Use requirements for Maximum Applied Water Use.
27. Applicant shall provide parking lot screening between the new parking lot and Floyd Avenue, mounding of soil is not a recommended screening solution.
28. Applicant shall meet City of Modesto requirements for parking lot shading including percent of coverage and number of trees per parking stalls.

MODESTO FIRE DEPARTMENT

29. Hydrant spacing and distribution for this project is 300' on center. Fire hydrants shall be installed to meet fire flow requirements as stated in the California Fire Code (CFC) Table B105.1.
30. Automatic Fire Sprinklers in accordance to NFPA 13 shall be installed or extended as needed.
31. A fire hydrant shall be installed within 90' of a fire department connection (FDC) supplying the fire sprinkler system.
32. A fire alarm system shall be installed in accordance with the CFC, NFPA 72, and City of Modesto Ordinances.

GENERAL CONDITIONS

33. Existing utilities including existing overhead and underground electrical facilities within or adjacent to the project shall be protected, relocated or removed as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electrical utilities shall be granted as required.
34. A 15-foot Public Utility Easement shall be required adjacent to the existing 12kv overhead facilities along the easterly property line in order to protect the existing overhead electric facilities and maintain necessary safety clearances.

35. All department Conditions of Approval for the project shall be included with building plans and shall be continuously maintained on-site during project construction to the satisfaction of the Chief Building Official.
36. At the time of issuance of a building permit, the developer shall pay development impact fees at the established rate. Such fees may include but are not limited to, sewer and water connection fees, community facility fees, building permit and plan check fees.
37. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
38. 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.

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 that the conditions of project approval set forth herein include certain fees, dedication requirements, reservations requirements, and other exactions, and that pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions.

BE IT FURTHER RESOLVED that the applicant is hereby further notified that the ninety (90) days approval period in which a protest of these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a) can be filed, begins on August 28, 2014, and that if a protest is not filed within this ninety (90)-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that the Conditional Use Permit be null and void if not exercised within five years of the date of this approval. A time extension beyond said date may be applied for in accordance to Modesto Municipal Code Section 10-9.108(c).

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on August 28, 2014, by Hank Pollard, who moved its adoption, which motion was seconded by John Bergman and carried by the following vote:

Ayes: Bergman, Matas, Morris, Pollard

Noes: None
Absent: Rodriguez, Smith
Recused: None

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

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