

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2009-03

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO
MINISTÉRIO JESUCRISTO PAN DE VIDA FOR A CHURCH FACILITY IN AN
EXISTING COMMERCIAL BUILDING LOCATED AT 121 N SANTA CRUZ
AVENUE

WHEREAS, an application for a Conditional Use Permit for a church in an existing commercial building located at 121 N Santa Cruz, was filed by Ministério Jesucristo Pan de Vida on January 6, 2009; 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 March 26, 2009, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, this project is Categorically Exempt under Section 15332 of the CEQA Guidelines which pertains to In-Fill Development Projects, which states: Class 32 consists of projects characterized as in-fill development meeting the conditions described in this section.

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 C-1 and C-2, Commercial Zone, which provides for uses such as churches.
2. The proposed project is categorically exempt from CEQA, in accordance with Guidelines Section 15332, because it involves the in-fill development project within an urbanized area. The church building is located on a project site of no more than five acres within the City of Modesto's Baseline Developed area and surrounded by existing residential and commercial. 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 121 N Santa Cruz be granted subject to the following conditions:

1. All development shall conform to the Plot Plan titled "Proposed Parking Layout and Preliminary Landscape Plan" stamped, approved by the Board of Zoning Adjustment on March 26, 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 the elimination of the parking spaces located adjacent to the west side of the building along the alley, as marked in red on the stamped and approved plans.

3. Prior to the issuance of a Building Permit, all applicable 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.
4. Prior to the issuance of a Building Permit, the developer shall install a two-inch Reduced Pressure Backflow Assembly above ground per City of Modesto Standard Specifications.
5. Prior to the issuance of a Building Permit, the developer shall cap any unused sewer laterals on site, as acceptable to the City Engineer.
6. Prior to the issuance of a Grading or Building Permit, developer shall remove all drain-to-gutter connections, rerouting them to pervious landscape features in the project design wherever possible, per City Standards.
7. Prior to the issuance of a Grading or Building Permit, developer shall provide plans for trash enclosure(s):
 - a. To be sufficiently elevated to prevent stormwater run-on from parking lot, and;
 - b. To be graded to drain to adjacent landscape area(s).
8. Prior to the issuance of a Building Permit, applicant shall submit plans to Land Development Engineering for the removal of the existing northernmost driveway along Santa Cruz Avenue and the narrowing on the southernmost driveway, closest to Shopping Way, to 16-ft. The developer shall reconstruct sidewalk as per City of Modesto Standard, and as acceptable to the City Engineer.
9. For all work within the public right-of-way, applicant shall obtain an Encroachment Permit.
10. Prior to the issuance of a Building Permit, the developer shall submit plans to the Land Development Engineering Department for the reconstruction of a City of Modesto tree well along Santa Cruz Avenue, as per City of Modesto Standards, and as acceptable to the City Engineer.
11. Prior to occupancy, an automatic fire sprinkler system shall be provided.
12. Prior to occupancy, the building shall be painted in a color scheme as approved by the Community and Economic Development Director or designee.
13. Prior to the issuance of a Building Permit, the developer 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. If at that time it is determined that a fire hydrant is needed, the developer shall install a single fire hydrant along Santa Cruz Avenue at a location to be determined by the Fire Chief.

14. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
15. 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 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 March 26, 2009, by Ryan Swehla, who moved its adoption, which motion was seconded by Will Grover and carried by the following vote:

Ayes:	Brandvold, Grover, Neumann, Saxton and Swehla
Noes:	Pollard
Absent:	Bergman

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

Original, signed copy on file in CEDD

Patrick Kelly, Secretary