City of FRESNO

REPORT TO THE PLANNING COMMISSION

AGENDA ITEM NO. VIII.C.
COMMISSION MEETING 09/05/12
APPROVED BY
DEPARTMENT DIRECTOR for M. Scott

September 05, 2012

FROM: MIKE SANCHEZ, Planning Manager
Development Services Division

BY: WILL TACKETT, Planner III
Development Services Division

SUBJECT: CONSIDERATION OF AN APPEAL OF THE DIRECTOR'S ACTION ON AUGUST 03, 2012 TO APPROVE CONDITIONAL USE PERMIT APPLICATION NO. C-11-167; AND, RELATED ENVIRONMENTAL ASSESSMENT NO. C-11-167.

RECOMMENDATION

Staff recommends that the Planning Commission take the following actions:

1. APPROVE the finding that the proposed project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15303/Class 3, 15311/Class 11, 15314/Class 14 and 15332/Class 32 of the CEQA Guidelines.

2. DENY the appeal and UPHOLD the Director's Action to approve Conditional Use Permit Application No. C-11-167, subject to the findings included within the Staff Report to the Planning Commission dated September 05, 2012; and, compliance with the Conditions of Approval dated August 03, 2012.

EXECUTIVE SUMMARY

The Faith Baptist Church & Academy of Fresno has filed Conditional Use Permit Application No. C-11-167 pertaining to approximately 0.53 acres of property located on the southwest corner of the intersection of East Shields and North Palm Avenues.

Conditional Use Permit Application No. C-11-167 requests authorization for the development and incorporation of a new off-street parking area and fenced game (basketball/volleyball) court and playground area on the subject property for use by, and in conjunction, with the existing private/parochial school (Faith Baptist Academy), which is located on the adjacent property to the west of the subject property along the East Shields Avenue frontage.

The subject property is currently zoned under the C-1 (*Neighborhood Shopping Center*) zone district classification. The subject property is located within the boundaries of the 2025 Fresno General Plan, Fresno High-Roeding Community Plan, and Tower District Specific Plan, which designate the subject property for Neighborhood Commercial planned land uses. Pursuant to Figure 8-2 (Planned Land Use/ Zoning Consistency Matrix) of the Tower District Specific Plan and Section 12-403-B-1 (Zone District Consistency Table) of the FMC, the existing C-1 zone district classification may be found consistent with the Neighborhood Commercial planned land use designation for the subject property.

Based upon staff's analysis of the conditional use permit application and subject to the applicant's compliance with all of the conditions of approval noted, staff concludes that: (1) The development and use of the subject property pursuant to Conditional Use Permit Application No. C-11-167 conforms to the goals, objectives, and policies of the 2025 Fresno General Plan, Fresno High-Roeding Community Plan and Tower District Specific Plan; (2) The project complies with all applicable provisions of the Fresno Municipal Code (FMC); and, (3) The findings required pursuant to Section 12-405-A-2 of the FMC (included herein below) can be made.

PROJECT INFORMATION

PROJECT	Conditional Use Permit Application No. C-11-167 requests authorization for the development and incorporation of a new off-street parking area and fenced game (basketball/volleyball) court and playground area on the subject property for use by, and in conjunction with the Faith Baptist Academy
APPLICANT	Faith Baptist Church & Academy of Fresno
LOCATION	Southwest corner of the intersection of East Shields and North Palm Avenues. **(Council District 1, Councilmember Xiong)**
SITE SIZE	Approximately 0.53 acres
PLANNED LAND USE	Existing & Proposed - Neighborhood Commercial (*Tower District Specific Plan*)
ZONING	Existing & Proposed - C-1 (*Neighborhood Shopping Center District)*
PLAN DESIGNATION AND CONSISTENCY	Pursuant to Figure 8-2 (Planned Land Use/ Zoning Consistency Matrix) of the Tower District Specific Plan and Section 12-403-B-1 (Zone District Consistency Table) of the FMC, the existing C-1 zone district classification may be found consistent with the Neighborhood Commercial planned land use designation for the subject property.
PLAN COMMITTEE RECOMMENDATION	The Tower District Design Review Committee reviewed and approved the development of the subject property on August 21, 2007.
ENVIRONMENTAL FINDING	Findings of Categorical Exemption pursuant to Sections 15303/Class 3, 15311/Class 11, 15314/Class 14 and 15332/Class 32 of the CEQA Guidelines and dated July 12, 2012.
STAFF RECOMMENDATION	Recommend Approval (by the Planning Commission) of: (1) The findings of Categorical Exemption prepared for Environmental Assessment No. C-11-167 and dated July 12, 2012; and, (2) Conditional Use Permit Application No. C-11-167 subject to compliance with the Conditions of Approval dated August 03, 2012.

BORDERING PROPERTY INFORMATION

	Planned Land Use	Existing Zoning	Existing Land Use
North	Neighborhood Commercial	**C-1** *Neighborhood Shopping Center District*	Retail Commercial
East	Neighborhood Commercial (*Tower District*)	**C-1 & C-5** *Neighborhood Shopping Center & General Commercial Districts* & **R-1** *Single Family Residential*	Retail Commercial & Single Family Residential
South	Residential, Medium Density (*Tower District*)	**R-1** *Single Family Residential*	Single Family Residential
West	General Office (*Tower District*)	**C-P** *Administrative and Professional Office District*	Faith Baptist Academy

ENVIRONMENTAL FINDING

The City of Fresno Development and Resource Management Department has evaluated the proposed project with consideration as to whether the project may have any potential to have a significant effect on the environment. Based upon this evaluation and commentary from responsible City of Fresno Departments and independent agencies, it has been determined that the proposed project will not have a significant effect on the environment and falls within the Categorical Exemptions set forth in Sections 15303/Class 3, 15311/Class 11, 15314/Class 14 and 15332/Class 32 of the California Environmental Quality Act (CEQA) Guidelines.

Section 21084 of the Public Resources Code requires that the CEQA Guidelines to include a list of "classes" of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of CEQA. In response to the mandate, the Secretary for Resources has found that the classes of projects listed in Article 19 of the CEQA Guidelines do not have a significant effect on the environment, and they are declared to be categorically exempt from the requirement for the preparation of environmental documents.

Section 15303 (Class 3/New Construction or Conversion of Small Structures) of the CEQA Guidelines exempts from the provisions of CEQA, projects consisting of the installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made to the structure. Examples of this exemption include, but are not limited to accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

Section 15311 (Class 11/Accessory Structures) of the CEQA Guidelines exempts from the provisions of CEQA, projects consisting of construction, or placement of minor structures accessory to (appurtenant

to) existing commercial, industrial, or institutional facilities and also includes, but is not limited to, small parking lots.

Section 15314 (Class 14/Minor Additions to Schools) of the CEQA Guidelines exempts from the provisions of CEQA, projects consisting of minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more than 25% or ten classrooms, whichever is less. The addition of portable classrooms is included in this exemption.

Section 15332/Class 32 of the CEQA Guidelines exempts from the provision of CEQA projects characterized as in-fill development, wherein: (1) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (2) Proposed development occurs within City limits on a project site of no more than five acres substantially surrounded by urban uses; (3) The project site has no value as habitat for endangered, rare or threatened species; (4) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and, (5) The site can be adequately served by all required utilities and public services.

The subject property has been proposed to be developed with facilities at an intensity and scale that is permitted by the existing Neighborhood Commercial planned land use designation of the Tower District Specific Plan and the existing C-1 (*Neighborhood Shopping Center*) zone district classification for the subject site. Thus, the development of the subject property in accordance with Conditional Use Permit Application No. C-11-167 will not facilitate an additional intensification of uses beyond that which already exists with respect to the private parochial school or would be allowed by the above-noted planned land use designation. Moreover, the development will not adversely impact existing city service systems or the traffic circulation system that serves the subject property. These infrastructure findings have been verified by the Public Works and Public Utilities Departments.

Therefore, the following findings can be made: (1) There is not a reasonable possibility that the proposed project will have a project-specific, significant effect on the environment due to unusual circumstances; (2) No substantial changes with respect to the circumstances under which the project is being undertaken that are related to the project have occurred since community-level environmental review was certified or adopted; and, (3) No new information has become available regarding the circumstances under which the project is being undertaken that is related to the project, that was not known, and could not have been known, at the time that community-level environmental review was certified or adopted.

Furthermore, it has been found that none of the exceptions to categorical exemptions pursuant to Section 15300.2 of CEQA Guidelines apply to the proposed project. Cumulative impacts of successive projects in the vicinity over time are not significant and no activity will occur as a result of the proposed project, where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. The project will not result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. There are no known existing hazardous material conditions related to the site and the subject property is not located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Finally, the project has no potential to cause a substantial adverse change in the significance of a historical resource.

A Categorical Exemption under Classes 3, 11, 14 and 32 of the CEQA Guidelines was prepared on July 12, 2012 for purposes of Conditional Use Permit Application No. C-11-167.

BACKGROUND / ANALYSIS

Project Description and Context

The Faith Baptist Church & Academy of Fresno has filed Conditional Use Permit Application No. C-11-167 pertaining to approximately 0.53 acres of property located on the southwest corner of the intersection of East Shields and North Palm Avenues.

Conditional Use Permit Application No. C-11-167 requests authorization for the development and incorporation of a new off-street parking area and fenced game (basketball/volleyball) court and playground area on the subject property for use by, and in conjunction with the existing church and private/parochial school (Faith Baptist Church & Academy).

The Faith Baptist Church and Academy of Fresno owns and occupies three parcels on the south side of East Shields Avenue between North Harrison and North Palm Avenues. The subject property is located on the southwest corner of the intersection of East Shields and North Palm Avenues. The main and principal facilities for the Faith Baptist Academy are located on adjacent property immediately to the west of the subject property along the East Shields Avenue frontage. The Faith Baptist Church is located at the opposite end of the city block on the southeast corner of the intersection of East Shields and North Harrison Avenues. Three single family residential properties along the East Shields Avenue frontage separate the Faith Baptist Church and Faith Baptist Academy facilities. Properties to the rear of those along East Shields Avenue have all been developed with single family residential uses fronting onto East Simpson Avenue on the opposite side of the city block.

The Operational Statement submitted with the conditional use permit application and dated November 07, 2011 (see attached), provides that the Faith Baptist Academy meets between 8:30 a.m. to 3:00 p.m. Tuesday through Friday. Current enrollment includes 35 total students from grades kindergarten through high school. Parents drop off their children as early as 8:00 a.m. and most are picked up by 3:30 p.m. Five full-time staff members are on-hand regularly and pastoral staff from the church are involved on a limited basis for physical education, music, drama and Bible study classes.

The subject property is also proposed to be utilized occasionally for church functions including recreational activities and as an overflow area for specific activities such as potluck meals. As both the school and church properties have available off-street parking, the church does not currently utilize or need the off-street parking area proposed for the subject property on Sundays or during Wednesday night Bible study. However, the children's ministry or teen department will sometimes use the recreational area on Wednesday evenings between 7:00 p.m. and 8:00 p.m. The school is not in operation during the summer months but the Youth Group may occasionally use the property for an activity.

The representations made within the Operational Statement for Conditional Use Permit Application No. C-11-167 are material to the issuance of the special permit. The use of the subject property has been conditioned upon compliance with the Operational Statement and failure to operate in accordance with the conditions and requirements can potentially result in revocation of the special permit or any other enforcement remedy available under law.

On August 03, 2012, City of Fresno Development and Resource Management Department staff mailed a Notice of Granting of Conditional Use Permit Application No. C-11-167 to property owners within 350 feet of the subject property in accordance with the requirements of Section 12-406 of the FMC; initiating a 15 day appeal period.

On August 09, 2012, the Development and Resource Management Department received the attached letter dated August 04, 2012 with signatures appended from property owners and residents representing nine total properties within the same City block. It should be noted that staff also subsequently received the attached correspondence from two signatories of the letter (representing one property) on August 26, 2012 rescinding their signature from any respective complaints or appeals. Issues of concern iterated in the August 04th letter included: (1) Excessive noise; (2) Light pollution; (3) Garbage; (4) Protection of privacy; (5) Security; (6) Bus noise and pollution; and, (7) Pruning over property lines.

The August 04th letter specifically requested that the Director of the Development and Resource Management Department exercise discretion pursuant to Section 12-306-H-3-d to allow an increased height of any *required* fence, hedge, or wall to a maximum of seven feet along shared property lines between residential and both church and academy properties.

Pursuant to the Fresno Municipal Code (FMC) walls are *required* in the following circumstances: (1) Along property lines which are a district boundary between a residential and non-residential zone district (6-foot height requirement pursuant to FMC § 12-306-H-2-b[1]); (2) Where a parking area for motor vehicles adjoins a residential district (5' min. - 6' max. height requirement pursuant to FMC § 12-306-I-3-b; and, (3) along the perimeter of all areas, considered by the Council or Planning Commission to be dangerous to the public health and safety (no specific requirements for height or type of fence or wall pursuant to FMC § 12-306-3-c).

While the Development and Resource Management Department would support an *allowance* for an increased height of any required fence or wall to a maximum of seven feet along any such area of the church or academy properties required by the FMC, it should be noted that Conditional Use Permit Application No. C-11-167 has been filed only for purpose of the improvement and use of the approximately 0.53 acres of property located on the southwest corner of East Shields and North Palm Avenues (Assessor's Parcel Number [APN] 443-052-35). Therefore, staff would not support a *requirement* for an increase in the wall height on the pre-existing church or academy properties as a condition of approval of the subject entitlement application. Furthermore, the City has not received any evidence to date that would constitute a dangerous circumstance to the public health and safety for purposes of the provisions of Section 12-306-3-c of the FMC.

The site plan exhibit for Conditional Use Permit Application No. C-11-167 identifies an existing six-foot high masonry wall along the property line/zone district boundary of the subject property and the abutting residential zoned properties located to the south of the subject property. A second pre-existing eight-foot high wall is identified on the site plan along the southerly perimeter of the playground and game court area, extending the entire width of the subject property. Furthermore, a 30-foot wide unimproved area exists between the southerly perimeter of the playground and game court area and the two easternmost residential properties which abut the vast majority of the southern property line of the subject property; contributing to the provision of an additional buffer for the residential properties from playground activities.

The neighboring residents and property owners have raised concerns related to excessive noise from buses and church or academy related activities. Section 10-105 of the FMC provides that excessive noise is prohibited and that no person shall make, cause, or suffer or permit to be made or cause upon any premises or upon any public street, alley, or place within the city, any sound or noise which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing or working in the area, unless such noise or sound is specifically authorized by or in accordance with the FMC. The 2025 Fresno General Plan identifies acceptable noise exposure for residential properties to be 60 db DNL for outdoor activity areas and 45 dB DNL for interior living spaces. The FMC defines ambient noise levels associated with a given environment based upon an average measurement of noise over a period of 15 minutes. Under the provisions and policies of the FMC and 2025 Fresno General Plan, excessive noise

is generally considered to be an increase in ambient noise levels by 5 dB or more. The decibel scale is logarithmic, which means that for every 5db increase the perceived level of sound doubles (i.e., a $5dB_A$ increase would equal a 100% increase in perceived noise). No such increase in ambient noise levels is expected to occur as a result of the proposed use of the subject property pursuant to Conditional Use Permit Application No. C-11-167.

The neighboring property owners and residents have also requested that outdoor lighting be modified to comply with existing city codes. The installation of outdoor electric lighting fixtures is regulated pursuant to Section 12-405-B-9 of the FMC, which provides that any outdoor lighting fixture installed shall be hooded and so arranged or controlled as not to cause an annoyance or nuisance to highway traffic or to adjacent properties. All lighting is subject to review and approval by the Building Official. After approval, in addition to all other remedies provided in the Zoning Ordinance and the Code, violation of these lighting requirements may be enforced as a public nuisance under Subsection 10-605 of the FMC. Pursuant to Subsection 10-605 of the FMC, it is unlawful for any person, corporation or other entity owning, leasing, occupying, directly controlling or having charge of any property in the City to keep, maintain or deposit on said property any public nuisances. The City Council has declared that violations of the zoning ordinance and/or any violation of the FMC are to be considered a public nuisance for purposes of enforcement of the FMC. The conditions of approval prepared for Conditional Use Permit Application No. C-11-167 include the standard requirement that any new lighting proposed for installation to illuminate the subject property shall be hooded and so arranged and controlled so as not to cause a nuisance either to vehicular traffic or to the living environment. In addition, lighting is required to be oriented away, shielded, and not so excessively intense so as to impact neighboring properties. Lighting is required to be depicted on the site plan for review and approval prior to installation. No outdoor lighting is currently depicted as being proposed with Conditional Use Permit Application No. C-11-167.

With respect to any existing lighting which may have been installed on either of the Academy or Church properties, staff has no evidence that any existing outdoor lighting fixtures are not compliant with existing codes. If adjacent property owners are of the opinion that any existing lighting is not compliant with the provisions of the FMC or may be a public nuisance on those properties, then a complaint may be filed with the Downtown and Community Revitalization Department (Code Enforcement) and staff will research records related to the issuance of permits and may conduct a site visit with instrumentation to determine whether the amount of light emanating from any such fixtures is not compliant with code allowances.

In response to these and other issues of concern raised by neighboring property owners and residents within the August 04, 2012 appeal letter, Pastor Chuck Miller, as applicant on behalf of Faith Baptist Church and Academy of Fresno, provided the attached letter dated August 23, 2012 to all signatories of the appeal letter and subsequently provided additional correspondence to the Development and Resource Management Department, which is also attached hereto; receipt stamp dated August 24, 2012. The August 24, 2012 letter provides comments and additional information respective to each of the seven areas of concern represented in the appeal letter including those more civil in nature.

It should also be noted that while there is a code enforcement history for the subject and Academy properties no code enforcement cases have ever been filed for the Church property and that no formal code enforcement cases are currently considered open or active with respect to any of the three church owned properties; any/all previous cases are determined to have been resolved.

Land Use Plans and Policies

The Goals of the 2025 Fresno General Plan include the provision of quality open space, park and recreational facilities and programs to support the projected population.

Objective C-14 of the 2025 Fresno General Plan directs the City to support the establishment of public facilities and institutions to meet needs for services in a manner consistent with general plan policies; and, that such facilities be sited and developed in a manner which protects the integrity of surrounding neighborhoods.

Policy C-20-d provides that development projects shall be designed with appropriate layouts that provide sufficient areas for all proposed activities, for support functions, and for efficient and safe vehicular and pedestrian access. Supporting measures recommend the provision of appropriate and sufficient space for proposed activities and support functions with safe vehicular, bicycle and internal pedestrian access.

Objective C-22 of the 2025 Fresno General Plan directs the City to focus efforts on maintaining and improving area health, safety, quality of life, image, and attractiveness through programs which prevent and abate blighting influences.

Policy C-21-e recommends the design of pedestrian and vehicular entrances, walkways, parking areas, open spaces, common facilities, structures and fencing to inhibit uncontrolled access by nonresidents and facilitate surveillance by residents, property managers and law enforcement or security personnel.

The Faith Baptist Church and Academy provides a valuable public service through its operation and through the provision of institutional programs to support Fresno's population. It is acknowledged that the pre-existing constraints of these facilities present interface issues that are commonly witnessed between residential and non-residential properties. However, it should also be acknowledged that the approval of the proposed use of the subject property provides greater potential to relieve some of those pressures resulting from regular operations associated with providing the communal support functions and services of the Church and Academy. Furthermore, the proposed use of the subject property provides opportunity to expand programs contributing to quality of life in a manner which provides safe and sufficient areas for all associated activities while also protecting the integrity of the surrounding residential neighborhood.

The goals, objectives and policies of the Tower District Specific Plan include recommendations to restrict opportunities for development of suburban-style, strip commercial uses which the plan implies have little value to nearby residences and bear no relationship to the distinctive character of the Tower District. All three opposing corners of the subject property intersection are currently similarly zoned for neighborhood commercial or general strip commercial use.

For purposes of protecting surrounding residential uses and environment, the FMC provides that the minimum area required for a C-1 (*Neighborhood Shopping Center*) zone district is one acre in size. The subject property is approximately 0.53 acres in area. The size of the subject property with respect to consideration of whether the required findings for approval of a special permit include whether a property is adequate in size and shape to accommodate a use severely limits any potential for development of the subject property as a true neighborhood shopping center. Therefore, the proposed and permitted use of the subject property is considered an appropriate alternative for use of property that would otherwise be a prime candidate for strip commercial development.

The Tower District Specific Plan also suggests security measures to facilitate both daytime and nighttime activities. After dark activities are encouraged and the Plan also acknowledges that areas where people can see each other are safer places. The Plan stipulates that public areas, parking lots, and structures are to be adequately illuminated but also provides that open visibility from the street and residences is considered a more critical factor than is the level or intensity of light. Additional policies

encourage the provision of streetscape elements, plazas, and open spaces to engender public activities and functions.

Therefore it is staff's opinion that the proposed project is consistent with respective general, community and specific plan goals, objectives and policies.

Conditional Use Permit Findings

Based upon analysis of the conditional use permit application and subject to the applicant's compliance with all of the conditions of approval noted, staff concludes that the following required findings of Section 12-405-A-2 of the Fresno Municipal Code (FMC) can be made.

FINDINGS PER FRESNO MUNICIPAL CODE SECTION 12-405-A-2.	
a. All applicable provisions of this Code are complied with and the site of the proposed use is adequate in size and shape to accommodate said use, and accommodate all yards, spaces, walls and fences, parking, loading, recycling areas, landscaping, and other required features; and,	
Finding a:	The area of the subject property is approximately 0.53 acres in size. The subject site has been proposed to be developed with 12 off-street parking spaces, a children's playground area, and a fenced game (basketball/volleyball) court. Multi-department/agency review of the proposed development plan (Conditional Use Permit Application No. C-11-167) has demonstrated that there is adequate space to meet all applicable requirements of the Code as established in the Special Permit conditions of approval dated August 03, 2012; including but not limited to required yards and spaces, walls, parking, landscaping and other required features such as public and right-of-way improvements.
b. The site for the proposed use relates to streets and highways adequate in width and pavement type to carry the quantity and kind of traffic generated by the proposed use; and,	
Finding b:	Staff from the Public Works Department, Transportation Planning section has determined that the proposed development will not generate new vehicle trips. The proposed use of the subject property can be accommodated by the adjacent streets subject to the respective requirements for dedications and improvement of adjacent portions of East Shields and North Palm Avenues in accordance with the Department of Public Works requirements included within the project conditions of approval.
c. The proposed use will not be detrimental to the public welfare or injurious to property or improvements in the area in which the property is located. The third finding shall not apply to uses which are subject to the provision of Section 12-306-N-30 of this Code.	
Finding c:	Based upon staff's review of the proposed project, its surrounding environment and based upon the evidence provided herein above it may be determined that the proposed use will not be detrimental to the public welfare or be injurious to property or improvements in the area in which the property is located if developed and operated in accordance with the various conditions/requirements established through the related conditional use permit application review process. Sufficient provisions and requirements have been incorporated within the conditions of approval dated August 03, 2012 to assure compliance with the applicable provisions of the Fresno Municipal Code and the goals, objectives and policies of all applicable general, community and specific plans.

Conclusion

Action by the Planning Commission regarding the conditional use permit is final unless appealed in accordance with Section 12-406 of the Fresno Municipal Code.

Unless the Planning Commission decision respective to the conditional use permit is set for hearing to the Council in accordance with Section 12-406-J of the FMC, the decision of the Commission shall be final and effective at 12:01 a.m. on the sixteenth day after the date of the decision, subject to writ of administrative mandamus under 1094.6 of the Code of Civil Procedures.

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the 2025 Fresno General Plan, the Fresno High-Roeding Community Plan, and the Tower District Specific Plan; its compatibility with surrounding existing or proposed uses; and its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon consideration of this evaluation, it can be concluded that Conditional Use Permit Application No. C-11-167 is appropriate for the project site.

Attachments:
- Vicinity Map
- 2011 Aerial Photograph
- 2011 Street-Level Photographs
- Public Hearing Notice Mailing List Vicinity Map
- Tower District Specific Plan Planned Land Use Map
- Exhibits for Conditional Use Permit Application No. C-11-167
- Conditions of Approval for Conditional Use Permit Application No. C-11-167 dated August 03, 2012.
- Associated memoranda from responsible or commenting agencies respective to Conditions of Approval for Conditional Use Permit Application No. C-11-167.
- Environmental Assessment No. C-11-167 dated July 12, 2012.
- Correspondence Received in Response to the Notice of Granting and Notice of Public Hearing for Conditional Use Permit Application No. C-11-167 dated August 03, 2012 and August 24, 2012, respectively.

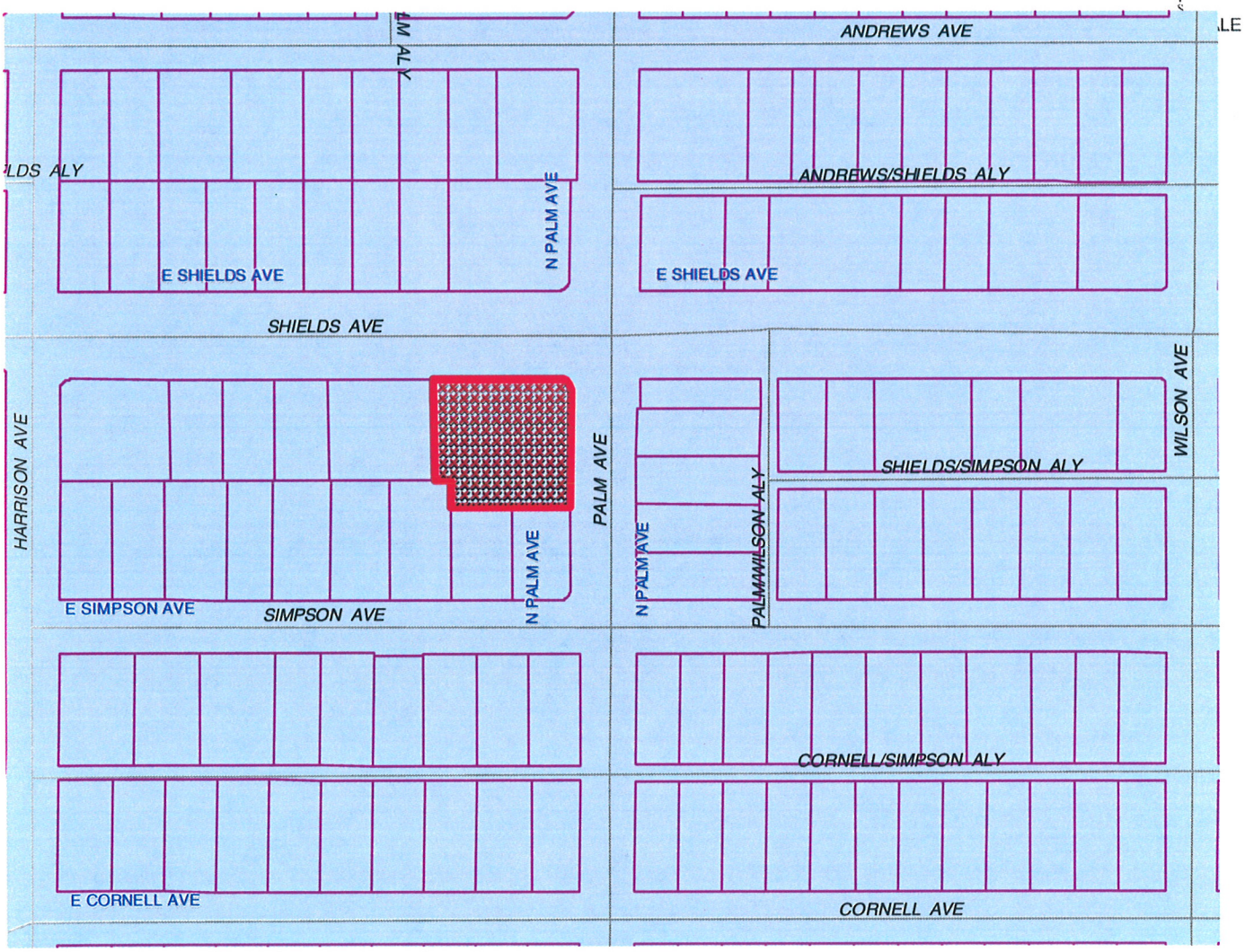
City of
FRESNO W. TACKETT
PLANNING & DEVELOPMENT DEPARTMENT
2600 FRESNO STREET
FRESNO, CA. 93721-3604

THIS IS A LEGAL NOTICE

Conditional Use Permit Application No. C-11-167

SW Corner of E. Shields and N. Palm Aves.

VICINITY MAP



LEGEND

Subject Property

N Harrison Ave
E Shields A
3133 N Pal n Ave, Fre
Data SIO, NOAA, U.S. Navy, NGA, GEBCO
© 2012 Google
Google
36°46'44.01" N 119°48'34.42" W
Apr 26, 2011
Eye alt 612 ft

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Address is approximate
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© 2012 Google
Report a problem
Image Date: July 2011

3131 North Palm Avenue, Fresno, California, United States
Address is approximate
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© 2012 Google
Report a problem
Image Date: January 2011

Request ID: C-11-167
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E SHIELDS AVE
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E SIMPSON AVE
E CORNELL AVE
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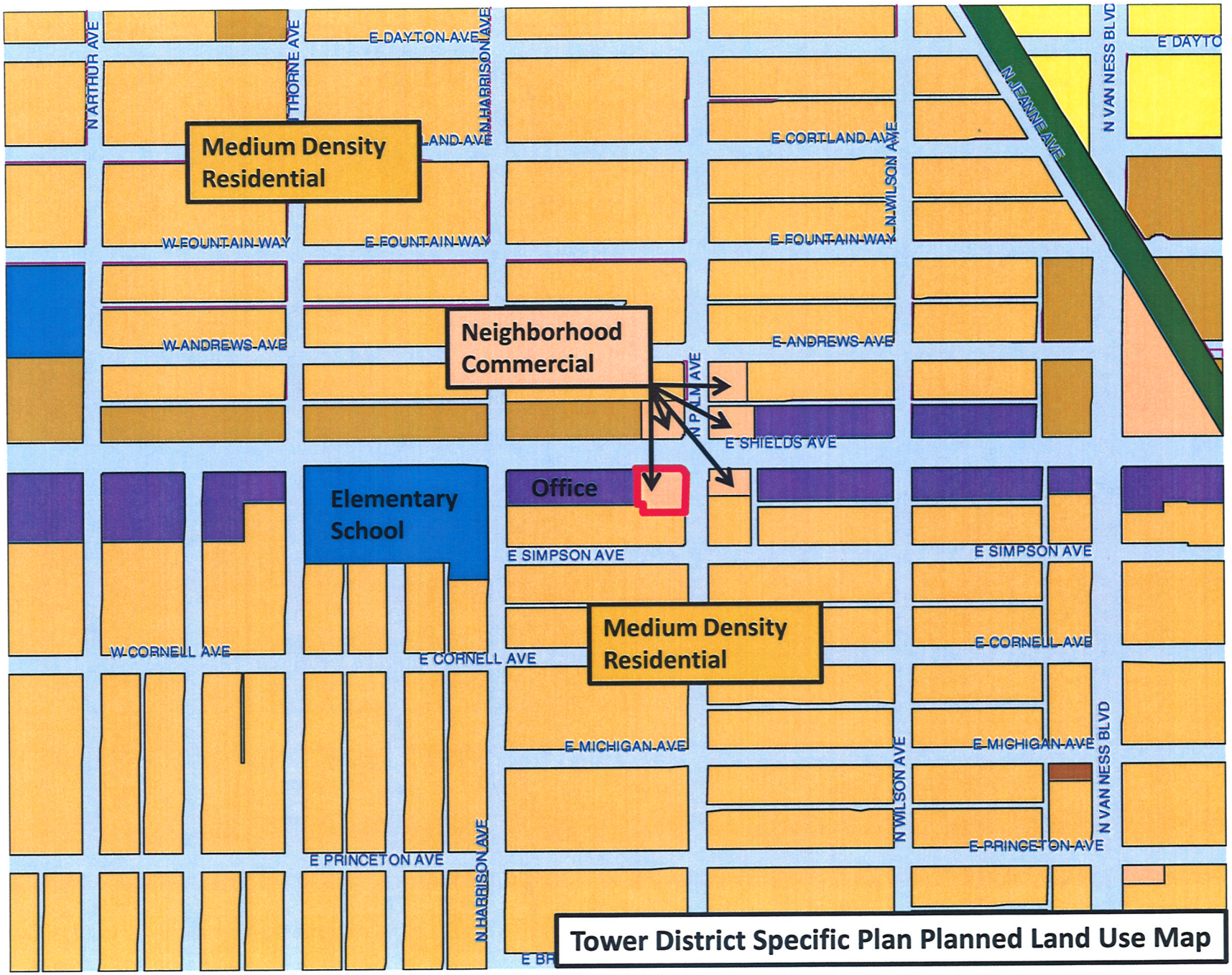
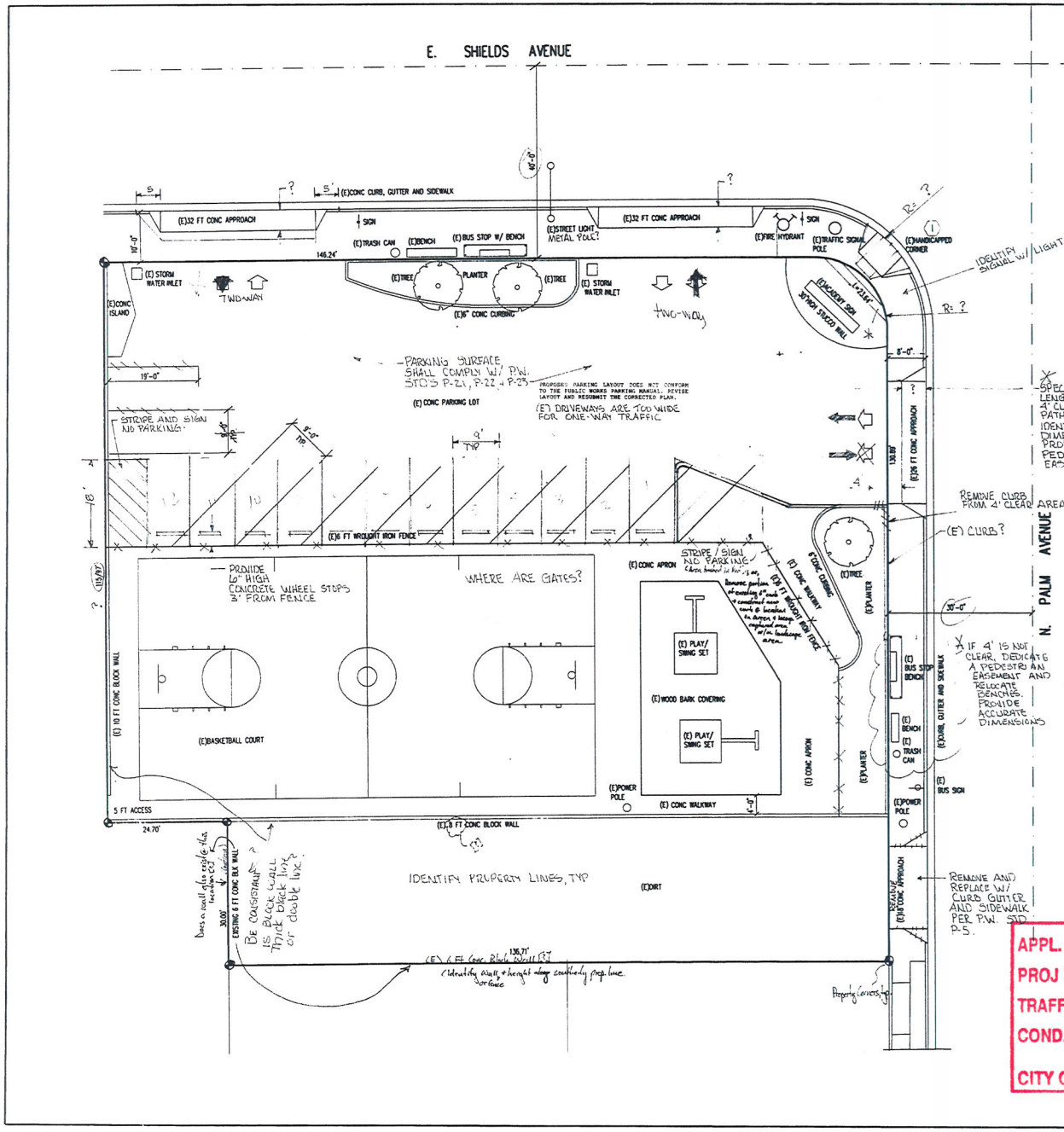


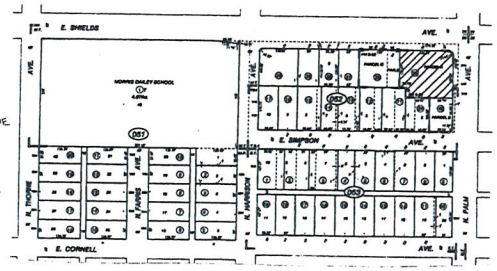
Tower District Specific Plan Planned Land Use Map



* ① CONSTRUCT HANDICAP RAMP PER PUBLIC WORKS STD. P-28, OR MODIFY EXISTING STREET DEDICATION REQ'D TO MEET CURRENT STD'S.

PLANNER:
1. WHERE IS SOLID WASTE PICK-UP? → Not Record / Applicable to Subject Property (Office memo dated 12/08/11)
COMMERCIAL DRIVEWAYS ARE REQ'D IF NOT EXISTING.
2. WILL THERE BE ADD'L LANDSCAPING? ~ Recommended as noted; none req'd.
3. WILL AN ADA STALL BE REQ'D? → Yes. Provide one designated van accessible stall/parking space pursuant to building code reqts. (Depict on site plan)

* DED(S) OF EASEMENT(S) FOR THE REQUIRED DEDICATION(S) SHALL BE PREPARED BY THE OWNER/DEVELOPER'S ENGINEER AND SUBMITTED TO THE CITY WITH VERIFICATION OF OWNERSHIP PRIOR TO ISSUANCE OF BUILDING PERMITS



VICINITY MAP
NTS

SITE PLAN
SCALE: 1"=10'-0"

LEGAL DESCRIPTION
PARCEL A OF PARCEL MAP 72-95 RECORDED IN BOOK 5 OF PARCEL MAPS AT PAGE 80 FRESNO COUNTY RECORDS

A.P.N. 443-052-35

ADDRESS: 3141 N. PALM AVENUE

ADD NOTES:

1. ANY SURVEY MONUMENTS WITHIN THE AREA OF CONSTRUCTION SHALL BE PRESERVED OR RESET BY A PERSON LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF CALIFORNIA.

2. REPAIR ALL DAMAGED AND/OR OFF-GRADE CONCRETE STREET IMPROVEMENTS AS DETERMINED BY THE CONSTRUCTION MANAGEMENT ENGINEER PRIOR TO OCCUPANCY.

3. 2 WORKING DAYS BEFORE COMMENCING EXCAVATION OPERATIONS WITHIN THE STREET RIGHT-OF-WAY AND/OR UTILITY EASEMENTS, ALL EXISTING UNDERGROUND FACILITIES SHALL HAVE BEEN LOCATED BY UNDERGROUND SERVICES ALERT (USA). CALL 1-800-642-2444

4. UNDERGROUND ALL EXISTING OFFSITE OVERHEAD UTILITIES WITHIN THE LIMITS OF THIS SITEMAP AS PER FMC SECTION 12-1011, [redacted] AND RES. NO. 78-522/88-229.

PLANNER:
COORDINATE FAX AND TRAFFIC COMMENTS

APPL. NO. C-11-167 EXHIBIT 4 DATE 11/07/11
PROJ ENG. _____ DATE _____
TRAFFIC ENG. _____ DATE _____
COND. APPROVED BY _____ DATE _____
CITY OF FRESNO PLANNING & DEVELOPMENT DEPT

Rec'd 11-5-11 C-11-167 A 11-7-11
Echo 12-1-11 Resubmit
C.P.1

REVISIONS	BY

AIA BID MEMBER OF AMERICAN INSTITUTE OF BUILDING DESIGN

RESIDENTIAL DESIGN
CAD DRAFTING
TITLE 24 CALCULATIONS
REMODELS AND ADDITIONS
TENANT IMPROVEMENTS

PROJECT: FAITH BABTIST CHURCH ACADEMY

DESCRIPTION: SITE PLAN

john ford drafting and design
certified professional building designer american institute of building design
635 BARSTOW AVENUE, STE 20, CLOVIS, CA 93612
PHONE (559)323-4375 EMAIL JFDRAW@AOL.COM

FILE
DRAWN JF
DATE
SCALE AS NOTED
SHEET NO. A1

OPERATIONAL STATEMENT

The application for a Minor Amendment Permit is being submitted by Pastor Chuck Miller on behalf of the Faith Baptist Church & Academy of Fresno, California. It pertains to approximately .6 acres of property located at 3133 N. Palm Avenue in Fresno. The parcel number is 443-052-35 and the property is currently zoned C-1.

We are asking for a permit which will allow us to utilize the property for a playground and parking area for our private school. Currently, no new development is planned for the site. The area consists of a basketball/volleyball court and children's playground area, surrounded by a wrought iron fence approximately 6 feet tall. On the outside of the fence is a parking area consisting of 11 stalls.

Faith Baptist Academy meets between 8:30 am to 3:00 pm Tuesday through Friday. Parents drop off their children as early as 8:00 am and most are picked up by 3:30 pm. We currently have 35 Kindergarten through high school students and 5 full-time staff members, including a secretary. The pastoral staff at our church is involved on a limited basis as well with electives including P.E., music, drama, and Bible classes. The Academy is located at 208 E. Shields Ave. and is just to the west of the project site.

The property is also used occasionally for church functions including recreational activities and an overflow area for potluck meals. On Wednesday evenings, our children's ministry or teen department will sometimes use the recreational area between 7:00 and 8:00 pm for a brief time. During the summer, our school is not in operation but the Youth group may occasionally use the property for an activity. Since parking is available at our two other locations, the church does not need this property for parking on Sundays or during our Wednesday night Bible study at present.

APPL. NO. C-11-167 EXHIBIT O DATE 11/07/11
PROJ. ENG. _____ DATE _____
TRAFFIC ENG. _____ DATE _____
COND. APPROVED BY _____ DATE
CITY OF FRESNO DEVELOPMENT DEPARTMENT

City of
FRESNO

Development and Resource Management Department

2600 Fresno Street - Third Floor
Fresno, California 93721-3604
(559) 621-8277 FAX (559) 498-1026

Mark Scott
Interim Director

August 03, 2012

Please reply to:
Will Tackett
(559) 621-8063

Pastor Chuck Miller
Faith Baptist Church and Academy of Fresno
106 East Shields Avenue
Fresno, CA 93704

SUBJECT: CONDITIONAL USE PERMIT APPLICATION NO. C-11-167 REQUESTING AUTHORIZATION TO DEVELOP AND INCORPORATE A NEW OFF-STREET PARKING AREA AND FENCED GAME COURT AND PLAYGROUND AREA ON PROPERTY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF EAST SHIELDS AND NORTH PALM AVENUES. (APN[S]: 443-052-35)

The Development and Resource Management Department on August 03, 2012 approved the subject Conditional Use Permit Application C-11-167 authorizing the development and incorporation of a new off-street parking area and fenced basketball/volleyball court and playground area on the subject property for use by, and in conjunction with, the existing church and private school (Faith Baptist Church and Academy), which is located on adjacent property.

CONDITION(S) OF APPROVAL

1. Comply with Exhibit "A" dated November 07, 2011.

   a) Transfer any red line notes, etc., shown on Exhibit(s) "A" dated November 07, 2011, to the final plans. Corrections shall include all those listed in this document (or referenced memoranda) and those listed in the correction list provided by the plan check process.

      - NOTE: Any proposed deviations from the development plan approved for the subject property pursuant to Exhibit(s) "A" of Conditional Use Permit Application No. C-11-167 will require a revised special permit application in accordance with Development and Resource Management Department policies.

2. This special permit is granted, and the conditions imposed, based upon the Operation Statement provided by the applicant attached hereto as Exhibit(s) "O" of Conditional Use Permit Application No. C-11-167 dated November 07, 2011.

   a) The Operation Statement is material to the issuance of this special permit. Unless the conditions of approval specifically require operation inconsistent with the Operation Statement, a new or revised special permit is required if the operation of this establishment changes or becomes inconsistent with the Operation Statement.

      - NOTE: Failure to operate in accordance with the conditions and requirements imposed may result in revocation of the special permit or any other enforcement remedy available under law.

3. Any and all existing conditions, which may generally apply to the operations of the existing church and private school on adjacent property shall be applicable to the proposed use of the subject property and its operation and are included herein by reference.

4. Provide and maintain vehicular and/or pedestrian access as noted on Exhibit(s) "A" dated November 07, 2011.

   a) Vehicular and/or pedestrian access shall be maintained and remain clear at all times.

5. Provide and maintain parking spaces and parking space needs on-site in accordance with Exhibit(s) "A" dated November 07, 2011.

   a) No parking area or parking space, which is provided for the purpose of complying with the provisions of the zoning ordinance, shall hereafter be relinquished, reduced or altered in any manner below the requirement established herein, unless equivalent facilities are provided elsewhere, the location of which is approved by the Development & Resource Management Department.

6. Any new lighting proposed for installation to illuminate parking areas, pathways, or signage shall be hooded and so arranged and controlled so as not to cause a nuisance either to vehicular traffic or to the living environment. Lighting to illuminate parking areas shall be depicted on the site plan for review and approval and shall be provided according to the standards of the Department of Public Works. (*Include this note on the site plan.*)

   - NOTE: Lighting shall be oriented away, shielded, and shall not be excessively intense so as to impact neighboring properties nor passing traffic on adjacent streets.

7. Provide a minimum of one medium sized tree on the subject property for every two parking spaces provided.

   - NOTE: One medium size tree is defined as attaining a height of 30-60 feet at maturity. Two small size trees, up to 30 feet high at maturity may be substituted for one medium size tree.

   a) Trees shall be planted in any required landscaped areas along the periphery of the development in order to buffer, shade and/or enhance adjacent property and public rights-of-way.

   b) All vegetation shall be provided with an adequate, permanent and nearby source of water by means of installed on-site irrigation systems.

      i) Areas designated for landscape and open space purposes shall be landscaped and maintained in accordance with Section 12-306-N-24 of the FMC.

      ii) All landscaped areas (including those designated for open space purposes) shall comply with the water efficient landscape standards in accordance with Section 12-306-N-23 of the FMC.

   c) Trees on the subject property shall be maintained in good health. Trees may not be trimmed or pruned to reduce the natural height or overall crown of the tree, except as necessary for the health of the tree and public safety; or as may otherwise be approved by the Development and Resource Management Department. (*Include this note on the site plan*

and landscape plan.)

d) All vegetation on the subject property shall be maintained free of physical damage or injury from lack of water, excess chemical fertilizer or other toxic chemical, blight, or disease, and any such vegetation which shows signs of such damage or injury at any time shall be replaced by the same, similar, or substitute vegetation of a size, form, and character, which will be comparable at full growth.

e) Landscaping on the subject property shall be kept free from weeds and undesirable grasses.

8. Any/all future proposed fences, hedges and walls, etc. shall be reviewed and approved prior to installation by the City of Fresno, Development and Resource Management Department. (Include this note on the site plan.)

   a) Clearly depict any proposed/existing fences, hedges and walls on Exhibit(s) "A". Note that all proposed/existing fences, hedges and walls must comply with all policies, ordinances, regulations, etc. of the City of Fresno, Development and Resource Management Department.

      - NOTE: Only those fences, hedges and walls as shown on the site plan shall be reviewed for approval.

      - NOTE: Fences or structures over six feet in height, which are proposed to enclose courts or game areas may be permitted subject to approval of a revised conditional use permit by the Director of the Development and Resource Management Department. Any such fence or structure over six feet in height must be composed of wire mesh capable of admitting at least 90% of light as measured on a reputable light meter.

9. Signs, *other than directional signs, if applicable*, are not approved for installation as part of this special permit. Submit for a separate Master Sign Program or Sign Review Application. Applications and requirements for submittal are available at the Development Services (Planning) Division's Public Front Counter. (*Include this note on the site plan*).

10. Comply with all requirements included within the attached Public Works Department, Traffic and Engineering Division memorandum dated November 22, 2011; and, any requirements noted on Exhibit(s) "A" of Conditional Use Permit Application No. C-11-167.

      - NOTE: The revised (final corrected) site plan exhibit(s) shall incorporate all dedications, parking lot geometrics and improvements required as conditions of approval for the proposed development of the subject property, and shall be provided to the Public Works Department, Traffic and Engineering Division for review prior to approval of final drawings.

11. Comply with all of the requirements included within the attached Department of Public Utilities, Planning and Engineering Division (Sewer) memorandum dated November 28, 2011.

   a) Depict the locations and widths for all existing and proposed easements for drainage, sewerage, private and public water lines, public utilities, and other purposes on Exhibit(s) "A" of Conditional Use Permit Application No. C-11-167.

12. Comply with all of the requirements included within the attached Fresno Metropolitan Flood Control District memorandum dated November 16, 2011.

13. Approval of this special permit may become null and void in the event of failure by the applicant and/or authorized representative, architect, engineer, or designer to disclose and delineate all facts and information relating to the subject property and the proposed development.

14. Approval of this special permit may become null and void in the event that operations and development is not conducted or completed in accordance with all conditions and requirements imposed on this special permit, the Zoning Ordinance, and all Public Works Standards and Specifications. The Development and Resource Management Department shall not assume responsibility for any deletions or omissions resulting from the special permit review process or for additions or alterations to construction plan not specifically submitted and reviewed and approved pursuant to this special permit or subsequent amendments or revisions. *(Include this note on the site plan.)*

15. No uses of land, buildings, or structures other than those specifically approved pursuant to this site plan shall be permitted. (*Include this note on the site plan.*)

Please be advised that this project may be subject to a variety of discretionary conditions of approval. These include conditions based on adopted City plans and policies, those determined through site plan review and environmental assessment essential to mitigate adverse effects on the health, safety and welfare of the community, and recommended conditions for development that would on the whole enhance the project and its relationship to the neighborhood and environment.

Discretionary conditions of approval may be appealed. All code requirements, however, are mandatory and may only be modified by variance, provided the findings pursuant to Section 12-405.A of the Fresno Municipal Code can be made.

Discretionary conditions of approval will ultimately be deemed mandatory unless appealed in writing to the Director within 15 days.

In the event you wish to appeal the Department's decision, you may do so by filing a written appeal with the Director. The appeal shall include the appellant's interest in or relationship to the subject property, the decision or action appealed and specific reasons why the appellant believes the decision or action appealed should not be upheld. Appeals must be filed by August 20, 2012.

If any appeal is filed, the matter will be set for public hearing before the Planning Commission. If no appeal is filed you may obtain any necessary permits and proceed with the development of the project or operations on the subject property in accordance with the conditions noted above.

In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedication, reservations or exactions for this project are subject to protest by the project applicant at the time of approval or conditional approval of the development or within 90 days after the date of imposition of fees, dedications, reservation, or exactions imposed on the development project.

This notice does not apply to those fees, dedications, reservations, or exactions which were previously imposed and duly noticed; or, where no notice was previously required under the provisions of Government Code Section 66020(d)(1) in effect before January 1, 1997.

EXPIRATION DATES

The exercise of rights granted by this special permit must be commenced by August 03, 2016 (four years from the date of approval). There is no extension.

Copies of the final approved site plan wet-stamped by the Development Services (Planning) Division **must be substituted for unstamped copies of the same in each set of construction plans submitted for plan check related to the issuance of any required building permits.**

On-site inspections will not be authorized unless the final wet-stamped approved site plan is included in the plan check field copy.

Should you need further assistance or have any questions, please contact me at the telephone number listed above or via e-mail at Will.Tackett@fresno.gov.

Sincerely,
DEVELOPMENT SERVICES DIVISION

Will Tackett
Planner
Development & Resource Management Department

Enclosures: Exhibit(s) "A" & "O" dated November 07, 2011

Public Works Department, Traffic and Engineering Division memorandum dated November 22, 2011

Department of Public Utilities, Planning and Engineering Division (Sewer) memorandum dated November 28, 2011

Fresno Metropolitan Flood Control District memorandum dated November 16, 2011

City of
FRESNO

DATE: November 22, 2011

TO: Robert Berend
Development and Resource Management Department

FROM: Louise Gilio, Supervising Engineering Technician
Public Works Department, Traffic and Engineering Services Division

SUBJECT: Conditions of Approval for **C-11-167**
APN: 443-052-35
ADDRESS: 3133 North Palm Avenue

SITE PLAN REQUIREMENTS: This site plan is incomplete. Please provide the following information prior to Building Permits:

A. General Requirements
   1. **Legend:** Provide line type and utility symbols
   2. **Property Lines:** Identify and dimension existing and proposed property lines.
   3. **Easements:** Identify and dimension all existing and proposed easements.

B. Offsite Information:
   1. **Section and Center Lines:** Identify all section and center lines.
   2. **Dedications:** Identify all existing and proposed dedications. Provide a dimension from the section and center lines to the existing and proposed property lines.
   3. **Street Improvements:** Identify existing ADA ramps (provide radius), street lights (specify if wood or metal pole).
   4. **Median Islands:** Identify and specify if existing to remain, proposed or to be modified.

C. Onsite Information:
   1. **Parking Lots:** (existing and proposed)
      a. **Stalls:** Provide length and width. Identify disability parking stalls, if required. Identify the 3' vehicular overhang adjacent to continuous curbing. No obstructions shall be within the 3' overhang.
      b. ~~**Wheel Stops:** 6" high~~
      c. **Circulation Aisles:** provide widths
      d. **Directional flow of traffic:** Identify proposed directional arrows
      e. **Lighting:** Identify the location (not to be within the 3' vehicular overhang)
      f. **Disability parking, ramps, signage:** provide details

PUBLIC IMPROVEMENT REQUIREMENTS

The following requirements are based on city records and the accuracy of the existing and proposed on-site and off-site conditions depicted on the exhibits submitted. Requirements not addressed due to omission or misrepresentation of information, on which this review process is dependent, will be imposed whenever such conditions are disclosed.

Questions relative to dedications, street improvements or off-street parking geometrics may be directed to Louise Gilio at (559) 621-8678 / Louise.Gilio@fresno.gov, in the Public Works Department, Traffic and Engineering Services Division.

Submit the following, as applicable, in a single package to the City of Fresno Public Works Department Traffic and Engineering Services Division (559-621-8650), for review and approval, **prior** to issuance of building and street work permits: Street Improvement Plans, Signing and Striping Plans, Street Lighting Plans and Signal Plans.

When preparing Street Plans and/or Traffic Control Plans for projects in the City of Fresno contact the Traffic and Engineering Services Division (Randy Schrey) in advance to make sure that sidewalks or an approved accessible path remain open during construction.

Underground all existing off-site overhead utilities within the limits of this site/map as per FMC Section 12-1011 and Resolution No. 78-522/88-229.

If not existing, street work on major streets shall be designed to include Intelligent Transportation Systems (ITS) conduit in accordance with the Public Works ITS specifications.

Survey Monuments and Parcel Configuration

All survey monuments within the area of construction shall be preserved or reset by a person licensed to practice Land Surveying in the State of California.

Street Dedications, Vacations and Encroachment Permits

Identify all street furniture, e.g.: public utility poles and boxes, guy wires, signs, fire hydrants, bus stop benches, mail boxes, news stands, trash receptacles, tree wells, etc. within the public right of way. Also, identify the required **4'** minimum path of travel along the public sidewalk directly in front of property, as required by the California Administration Code (Title 24). **A pedestrian easement may be required if Title 24 requirements cannot be met.**

Shields Avenue: Arterial

1. Dedicate a corner cut for public street purposes at the intersection of Shields and Palm or provide accurate detailed information identifying that it is already existing.

Palm Avenue: Arterial

1. Dedicate **up to 4'** of property for pedestrian purposes behind all driveway approaches to provide for a minimum of a **4'** clear path. Provide dimensions identifying the ramp length and flat surface behind the ramped concrete. See site plan.
2. If 4' is not clear for ADA purposes, dedicate 2' of property for pedestrian purposes to provide ADA clearance at the bus bench location. (The benches may need to be relocated. Provide accurate dimensions.)

Deed documents for the required dedications must conform to the format specified by the city and shall be prepared the applicant's engineer. The cost of deed document processing and recordation fee must be paid at the time of deed submittal and submitted with verification of ownership **prior** to the issuance of building permits. For information regarding the format or submittal requirements contact the City of Fresno Public Works Department, Traffic and Engineering Services Division (559) 621-8694.

The construction of any overhead, surface or sub-surface structures and appurtenances in the public rights-of-way is prohibited unless an encroachment permit is approved by the City of Fresno Public Works Department, Traffic and Engineering Services Division,(559) 621-8693. Encroachment permits must be approved **prior** to issuance of building permits.

Street Improvements

All improvements shall be constructed in accordance with the Standard Specifications and Standard Drawings of the City of Fresno, Public Works Department. Dedication shall be sufficient to accommodate additional paving and any other grading or transitions as necessary based on a **45** MPH design speed for Collectors and **55** MPH for Arterials. Utility poles, street lights, signals, etc. shall be relocated as determined by the City Engineer. The performance of any work within the public street rights-of-way (including pedestrian and utility easements) requires a **STREET WORK PERMIT** **prior** to commencement of work. Contact the City of Fresno Public Works Department, Traffic and Engineering Services Division at (559) 621-8686 for detailed information. All required street improvements must be completed and accepted by the city **prior** to occupancy.

Repair all damaged and/or off grade off-site concrete street improvements as determined by the City of Fresno Public Works Department, Construction Management Division, (559) 621-5600. Pedestrian paths of travel must also meet current ADA regulations. All existing sidewalks in excess of 2% maximum cross slope must be brought into compliance **prior** to acceptance by Public Works.

Shields Avenue: Arterial

1. If not constructed to current standards modify or replace the existing ramp to meet current Public Works Standards, as determined by the Construction Management engineer **PRIOR to occupancy. "Detectable Warning Devices" are required, if not** existing. Reference Public Works Standards **P-28, P-31** and **P-32.**
2. Construct an underground street lighting system to Public Works Standard **E-1** within the limits of this application. Spacing and design shall conform to Public Works Standard **E-7** for Arterial Streets. **-OR-** show the existing street light locations on the plans, **-AND-** that they are constructed per current City of Fresno Public Works Standards.

Palm Avenue: Arterial

1. Construct a concrete pedestrian walkway behind all driveway approaches as **identified on Exhibit "A". Asphalt concrete paving per City of Fresno Public Works** Standard Drawing **P-21** may be substituted for concrete. (Refer to City of Fresno Public Works Standard Drawings **P-1** thru **P-4** for additional information.)
2. If not existing, construct a bus bay curb and gutter to Public Works Standard **P-73**, complete with a **10'** monolithic sidewalk. A **2'** pedestrian easement is required.
3. Construct an underground street lighting system to Public Works Standard **E-1** within the limits of this application. Spacing and design shall conform to Public Works Standard **E-7** for Arterial Streets. **-OR-** show that the existing street light locations on the plans, **-AND-** that they are constructed per current City of Fresno Public Works Standards.
4. All existing driveway approaches which no longer provide access to approved vehicle parking areas shall be removed unless otherwise approved by the City

Engineer. Such areas shall be reconstructed with curb, gutter, and sidewalk to match existing adjacent street improvements. This work shall be completed and accepted before a Permit of Occupancy is issued or the building is occupied per Fresno Municipal Code (FMC) 11-209.

Off-Street Parking Facilities and Geometrics

1. Off-Street parking facilities and geometrics shall conform to the City of Fresno Public Works Department, Parking Manual and Standard Drawing(s) **P-21, P-22, P-23.**
2. Provide parking space needs, circulation, access, directional signs (e.g. "Entrance," "Exit," "Right Turn Only," "One Way" signs, etc.) as noted on **Exhibit "A".**

Traffic Impact Study

This development will not generate new trips. A Traffic Impact **Study is not required.**

Traffic Signal Mitigation Impact (TSMI) Fee:

This project shall pay all applicable TSMI Fees **at the time of building permit** based on the trip generation rate(s) as set forth in the latest edition of the ITE Generation Manual. Contact the Planning and Resource Management Department, Frank Saburit at (559)621-8077.

Fresno Major Street Impact (FMSI)Fees: This entitlement is in the **Infill Area**; therefore pay all applicable City-wide regional street impact fees. Contact the Planning and Resource Management Department, Frank Saburit at (559)621-8077.

Regional Transportation Mitigation Fee (RTMF): Pay all applicable **RTMF** fees to the Joint Powers Agency located at 2035 Tulare Street, Suite 201, Fresno, CA 93721; (559) 233-4148 ext. 200; www.fresnocog.org. Provide proof of payment or exemption **prior** to granting final occupancy.

City of
FRESNO

DEPARTMENT OF PUBLIC UTILITIES

WATER & CONSERVATION • SOLID WASTE & RECYCLING • WASTEWATER & RECLAMATION • DPU

Providing Life's Essential Services

Date: November 28, 2011

To: ROBERT BEREND
Planning and Development Department

From: GREG CONTRERAS, Senior Engineering Technician
Department of Public Utilities, Planning and Engineering Division

Subject: SEWER REQUIREMENTS FOR CONDITIONAL USE PERMIT C-11-167

General

C-11-167 was filed as a minor amendment by Chuck Miller of Faith Baptist Church and Academy of Fresno, and pertains to 0.529 acre of property located on the southwest corner of North Palm and East Shields Avenues, 3133 North Palm Avenue, APN 443-052-35. The applicant proposes an 11-stall parking area and fenced basketball-volleyball court and childrens playground area for use by the private school. The property is zoned C-1, Neighborhood Shopping Center.

Sanitary Sewer Requirements

A public sewer main exists in an easement along the south end of the property.

1. All sewer main easements shall be clear and unobstructed by buildings or other structures. No fencing or wall shall either enclose or be located above the sewer main. The planting plan, for any proposed landscape within the easement, shall be approved by the Department of Public Utilities. No Trees shall be located within 8 feet of the sewer main.

FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
NOTICE OF REQUIREMENTS

File No. 210.413

PUBLIC AGENCY
ROBERT BEREND
DEVELOPMENT SERVICES/PLANNING
CITY OF FRESNO
2600 FRESNO STREET, THIRD FLOOR
FRESNO, CA 93721-3604

DEVELOPER
CHUCK MILLER - FAITH BAPTIST CHURCH
106 E. SHIELDS AVE.
FRESNO, CA 93704

FR CUP No. 2011-167

PROJECT NO: **2011-167**
ADDRESS: **3133 N. PALM AVE.**
APN: **443-052-35**

SENT: 11/16/11

Drainage Area(s)	Preliminary Fee(s)
EE	$0.00

TOTAL FEE: $0.00

The proposed development will generate storm runoff which produces potentially significant environmental impacts and which must be properly discharged and mitigated pursuant to the California Environmental Quality Act and the National Environmental Policy Act. The District in cooperation with the City and County has developed and adopted the Storm Drainage and Flood Control Master Plan. Compliance with and implementation of this Master Plan by this development project will satisfy the drainage related CEQA/NEPA impact of the project mitigation requirements.
The proposed development shall pay drainage fees pursuant to the Drainage Fee Ordinance prior to issuance of a building permit at the rates in effect at the time of such issuance. The fee indicated above is valid through 2/28/12 based on the site plan submitted to the District on 11/15/11 Contact FMFCD for a revised fee in cases where changes are made in the proposed site plan which materially alter the proposed impervious area.

Considerations which may affect the fee obligation(s) or the timing or form of fee payment:

a.) Fees related to undeveloped or phased portions of the project may be deferrable.

b.) Fees may be calculated based on the actual percentage of runoff if different than that typical for the zone district under which the development is being undertaken and if permanent provisions are made to assure that the site remains in that configuration.

c.) Master Plan storm drainage facilities may be constructed, or required to be constructed in lieu of paying fees.

d.) The actual cost incurred in constructing Master Plan drainage system facilities is credited against the drainage fee obligation.

e.) When the actual costs incurred in constructing Master Plan facilities exceeds the drainage fee obligation, reimbursement will be made for the excess costs from future fees collected by the District from other development.

f.) Any request for a drainage fee refund requires the entitlement cancellation and a written request addressed to the General Manager of the District within 60 days from payment of the fee. A non refundable $300 Administration fee or 5% of the refund whichever is less will be retained without fee credit.

FRESNO METROPOLITAN FLOOD CONTROL DISTRICT
NOTICE OF REQUIREMENTS

Approval of this development shall be conditioned upon compliance with these District Requirements.

1. X a. Drainage from the site shall BE DIRECTED TO PALM AND/OR SHIELDS AVENUES
   ___ b. Grading and drainage patterns shall be as identified on Exhibit No.
   ___ c. The grading and drainage patterns shown on the site plan conform to the adopted Storm Drainage and Flood Control Master Plan.

2. The proposed development shall construct and/or dedicate Storm Drainage and Flood Control Master Plan facilities located within the development or necessitated by any off-site improvements required by the approving agency:

   ___ Developer shall construct facilities as shown on Exhibit No. 1 as "MASTER PLAN FACILITIES TO BE CONSTRUCTED BY DEVELOPER".
   X None required.

3. The following final improvement plans shall be submitted to the District for review prior to final development approval:

   ___ Grading Plan
   ___ Street Plan
   ___ Storm Drain Plan
   ___ Water & Sewer Plan
   ___ Final Map
   ___ Other
   X None Required

4. Availability of drainage facilities:

   X a. Permanent drainage service is available provided the developer can verify to the satisfaction of the City that runoff can be safely conveyed to the Master Plan inlet(s).
   ___ b. The construction of facilities required by Paragraph No. 2 hereof will provide permanent drainage service.
   ___ c. Permanent drainage service will not be available. The District recommends temporary facilities until permanent service is available. TEMPORARY SERVICE IS AVAILABLE THROUGH
   ___ d. See Exhibit No. 2.

5. The proposed development:

   ___ Appears to be located within a 100 year flood prone area as designated on the latest Flood Insurance Rate Maps available to the District, necessitating appropriate floodplain management action. (See attached Floodplain Policy.)
   X Does not appear to be located within a flood prone area.

6. ___ The subject site contains a portion of a canal or pipeline that is used to manage recharge, storm water, and/or flood flows. The existing capacity must be preserved as part of site development. Additionally, site development may not interfere with the ability to operate and maintain the canal or pipeline.

FR CUP No. 2011-167

5469 E. OLIVE - FRESNO, CA 93727 - (559) 456-3292 - FAX (559) 456-3194

7. The Federal Clean Water Act and the State General Permits for Storm Water Discharges Associated with Construction and Industrial Activities (State General Permits) require developers of construction projects disturbing one or more acres, and discharges associated with industrial activity not otherwise exempt from National Pollutant Discharge Elimination System (NPDES) permitting, to implement controls to reduce pollutants, prohibit the discharge of waters other than storm water to the municipal storm drain system, and meet water quality standards. These requirements apply both to pollutants generated during construction, and to those which may be generated by operations at the development after construction.

   a. State General Permit for Storm Water Discharges Associated with Construction Activities, approved August 1999, (modified December 2002) A State General Construction Permit is required for all clearing, grading, and disturbances to the ground that result in soil disturbance of at least one acre (or less than one acre\ if part of a larger common plan of development or sale). Permittees are required to: submit a Notice of Intent to be covered and must pay a permit fee to the State Water Resources Control Board (State Board), develop and implement a storm water pollution prevention plan, eliminate non-storm water discharges, conduct routine site inspections, train employees in permit compliance, and complete an annual certification of compliance.

   b. State General Permit for Storm Water Discharges Associated with Industrial Activities, April, 1997 (available at the District Office). A State General Industrial Permit is required for specific types of industries described in the NPDES regulations or by Standard Industrial Classification (SIC) code. The following categories of industries are generally required to secure an industrial permit: manufacturing; trucking; recycling; and waste and hazardous waste management. Specific exemptions exist for manufacturing activities which occur entirely indoors. Permittees are required to: submit a Notice of Intent to be covered and must pay a permit fee to the State Water Resources Control Board, develop and implement a storm water pollution prevention plan, eliminate non-storm water discharges, conduct routine site inspections, train employees in permit compliance, sample storm water runoff and test it for pollutant indicators, and annually submit a report to the State Board.

   c. The proposed development is encouraged to select and implement storm water quality controls recommended in the Fresno-Clovis Storm Water Quality Management Construction and Post-Construction Guidelines (available at the District Office) to meet the requirements of the State General Permits, eliminate the potential for non-storm water to enter the municipal storm drain system, and where possible minimize contact with materials which may contaminate storm water runoff.

8. A requirement of the District may be appealed by filing a written notice of appeal with the Secretary of the District within ten days of the date of this Notice of Requirements.

9. The District reserves the right to modify, reduce or add to these requirements, or revise fees, as necessary to accommodate changes made in the proposed development by the developer or requirements made by other agencies.

10. _____ See Exhibit No. 2 for additional comments, recommendations and requirements.

FR CUP No. 2011-167

Gerald E. Lakeman
District Engineer

Gary Chapman
Project Engineer

CC:

FR CUP No. 2011-167

CITY OF FRESNO
CATEGORICAL EXEMPTION
ENVIRONMENTAL ASSESSMENT NO. C-11-167

THE PROJECT DESCRIBED HEREIN IS DETERMINED TO BE CATEGORICALLY EXEMPT FROM THE PREPARATION OF ENVIRONMENTAL DOCUMENTS PURSUANT TO ARTICLE 19 OF THE STATE CEQA GUIDELINES.

APPLICANT: Faith Baptist Church and Academy of Fresno
106 East Shields Avenue
Fresno, CA 93704

PROJECT LOCATION: Southwest corner of the intersection of East Shields and North Palm Avenues.

PROJECT DESCRIPTION: Request for authorization to develop and incorporate a new off-street parking area and fenced game court and playground area on the subject property for use by, and in conjunction with, the exiting church and private school (Faith Baptist Church and Academy) located on adjacent property.

This project is exempt under 15303 (Class 3/New Construction or Conversion of Small Structures), 15311 (Class 11/Accessory Structures), 15314 (Class 14/Minor Additions to Schools) and 15332 (Class 32/In-fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines.

EXPLANATION: Section 15303 (Class 3/New Construction or Conversion of Small Structures) of the CEQA Guidelines exempts from the provisions of CEQA, projects consisting of the installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made to the structure. Examples of this exemption include, but are not limited to accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.

Section 15311 (Class 11/Accessory Structures) of the CEQA Guidelines exempts from the provisions of CEQA, projects consisting of construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities; including but not limited to small parking lots.

Section 15314 (Class 14/Minor Additions to Schools) of the CEQA Guidelines exempts from the provisions of CEQA, projects consisting of minor additions to existing schools within existing school grounds where the addition does not increase original student capacity by more than 25% or ten classrooms, whichever is less. The addition of portable classrooms is included in this exemption.

Section 15332 (Class 32/In-Fill Development Projects) of the CEQA Guidelines exempts from the provisions of CEQA, projects characterized as in-fill development wherein: (1) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; (2) The proposed development occurs within City limits on a project site of no more than five acres substantially surrounded by urban uses; (3) The project site has no value as habitat for endangered, rare or threatened species; (4) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and, (5) The site can be adequately served by all required utilities and public services.

None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to this project.

Prepared By: Will Tackett, Planner III Dated: July 12, 2012

Submitted by:

Will Tackett, Planner III
City of Fresno
Development & Resource Management Department
(559) 621-8277

Mark Scott
Interim Director
Development and Resource Management Department
Development and Services Division
2600 Fresno Street
Fresno, CA 93721-3604

August 4, 2012

RECEIVED
AUG 0 9 2012
DEVELOPMENT DEPARTMENT
CITY OF FRESNO

Dear Mr. Scott,

This is in response to your Notice Of Granting Of Special Permit, CUP Application C-11-167 for parcel 443-052-35 which was received today. Our understanding is that this would constitute approval for work that was completed, without permit, and out of compliance with the Fresno Municipal Code, over three years ago. The fact that we have had such a long time to see the effects on our property and the use of such, allows us to respond to this request for a CUP in a thoughtful and complete manner.

While not every concern applies to all property owners listed below, each concern is shared by no less than four of the nine properties. The following are problems enumerated by the neighbors:

Excessive noise: During the church's Bible Study time, which is held every Wednesday night, the children play outside on parcel 44305235, sometimes accompanied by loud music, until 10:00pm. The noise is so loud as to make it impossible to use our backyards, to conduct business inside, or to sleep. In addition, when the city changed the zoning of the property from business to allow a school to operate, the neighbors were not given the opportunity to address the noise issues this would cause during the daytime hours. It too, is excessive, prohibiting us from enjoying our yards, and in four cases, detrimentally affecting the practice of home-based businesses. During the weeklong vacation Bible school summer program, the number of children rises to between 75 and 100, exacerbating the noise pollution.

Light Pollution: In violation of Fresno Municipal Code Art.4, Sec.12-405, 3B-9, outdoor lighting was erected on both the church and school properties, which interfere with privacy and the ability to sleep. While minor modification has been made to the fixtures, this continues to pose a problem for five of the property owners. We trust that any additional outdoor lighting erected in the future would be in compliance with the city codes.

Garbage: Eight of the neighbors listed garbage dumped over the fence as a concern.

Privacy: With the existing block wall at the church and school sites being inadequate to insure privacy, residents have stated that they have seen children and adults looking over the wall, allowing them to see into bedrooms, bathrooms, kitchens, and

other rooms located on the back of their properties. Six of the residents are quite disturbed by this invasion into their privacy, and their ability to feel secure in their homes.

Security: There have been three known instances of intruders accessing neighbor's property behind the school, by scaling the school wall, with one of the cases resulting in a burglary.

Bus noise and pollution: Despite acquiring new buses from a city-funded initiative, the church continues to idle their buses upon start, for approximately twenty minutes. This is no longer necessary with the new buses, yet the practice remains, causing excessive noise and fumes for the neighbors.

Pruning: Church volunteers have pruned over property lines, have pruned trees planted specifically to act as a visual and sound barrier (as recommended by city staff), have lopped off major limbs, and in two cases, have cut trees at the trunk line, a violation of city ordinance.

It appears that the number of yard sales has been reduced, in compliance with city regulations, and that this CUP may address our concern over the church's monopoly of our street parking.

We would ask that you take these issues under consideration as you make your decision. We specifically ask that you require the construction/completion of a solid block wall on the church and school property abutting all residential properties. According to the Fresno Municipal Code, Article 3, Sec. 12-306, H. 3. d., the Director, with good cause, may approve an increased height of any required wall to a maximum of seven feet. In addition, Article 3, Sec. 12-306, H. 3. a., states that when there is a grade separation between two or more adjoining properties, as there is in this case, between the school and the game court area, the height shall be measured from the highest grade. If the solid block wall were raised to a height of seven feet as measured from the highest grade, and continued along the entire south of the property of the school and church, as well as along the two residential properties abutting the church and school on Shields Avenue, this would go a long way in ameliorating the concerns of property owners over all of the aforementioned issues. Furthermore, we ask that outdoor lighting be modified to comply with existing city codes. Finally, we ask that the church and school show consideration for the neighborhood they moved into, by lowering the noise, particularly during evenings and weekends (perhaps the children could be amused by indoor activities during non-school hours), and instructing children to desist from trespassing across private property as they travel between the school and church. It is our hope that you can establish conditions of approval for the CUP that will give us some protection and security.

cc: Will Tackett

Sincerely,

Thomas & Leann Hobbs
117 East Simpson Avenue
Parcel #443305216

Benny & Kathleen West
125 East Simpson Avenue
Parcel #44305215

Jan Coyle
133 East Simpson Avenue
Parcel #44305214

Lorna, Bill & Bruce Wendt
141 East Simpson Avenue
Parcel #44305213

Rigoberto & Paulina Valadez
207 East Simpson Avenue
Parcel #44305212

Jeanne & Michael Antrim
221 East Simpson Avenue
Parcel #44305211

Carolyn Phillips
233 East Simpson Avenue
Parcel #44305221

Kathi Hargrove
245 East Simpson Avenue
Parcel #44305240

~~Richard & Roxana Lira~~
~~130 East Shields Avenue~~
~~Parcel #44305228~~

Thomas Hobbs
Leann Hobbs
Benny West
Kathleen West
Jan Coyle
Lorna Wendt
Bill Wendt
Bruce Wendt
Rigoberto Valadez
Paulina Valadez
Jeanne Antrim
Michael Antrim
Carolyn D Phillips
Kathi Hargrove

~~Richard Lira~~
~~Roxana Lira~~

Signatures rescinded (see attached emails dated 08/26/12)
08/26/12

SCALE 1 : 1,461

100 0 100 200 300

FEET

* Signatories to Appeal letter dated August 04, 2012

N

Will Tackett

From: Richard Lira [rrlira@hotmail.com]
Sent: Sunday, August 26, 2012 9:59 AM
To: Will Tackett
Subject: Rescind Faith Baptist Appeal

Mr. Tackett,

When I signed the complaint initiated by my neighbor near Faith Baptist Church, my complaints were about the noise on Wednesday nights; garbage on my front lawn and parishioners parking too close to my driveway that they blocked me from leaving my home. After signing the petition, my wife asked me what my concerns were and I told her. She angrily protested as follows:

1) The noise is for a few minutes (as the children are escorted from the church to the school). Their parents are in Bible study; I should be patient, as a man who has fathered and raised 5 noisy children himself. Therefore, She moved the television to our bedroom in the back part of my house where I will not be disturbed for 15 minutes before and after Bible study. **From this complaint, I rescind my signature**.

2) After confronting the gentleman about his parking habits, he has not since then repeated the offense. **From this complain, I rescind my signature**.

3) My wife and children attest that the garbage on my front lawn was not placed there by the children of Faith Baptist Church, but by the passersby of our busy street. For that matter, we have no recourse. Therefore; **from this complaint, I rescind my signature**.

Moving forward, I will resolve to bring any complaints/concerns I may have directly to the Pastor Chuck Miller personally. Pastor Miller, and his staff, have made a very positive impression upon my family and have not only been good neighbors, they are good stewards of our neighborhood as well.

Respectfully,

Richard Lira

Will Tackett

From: roxana lira [roxana_lira@hotmail.com]
Sent: Sunday, August 26, 2012 10:12 AM
To: Will Tackett
Subject: Rescind from Faith Baptist Church Complaint

Dear Mr. Tackett,

I would like to rescind my signature from the complaint against Faith Baptist Church at 106 E. Shields Ave, Fresno CA 93704. When I signed the complaint, I signed it without agreeing to the complaints, and I made clear that none of those complaints were mine. I signed because my husband told me to.

After discussing the issues at hand with my husband (Richard Lira 130 E. Shields Ave), he apologized and has since then written you, via email, to rescind his signature as well.

I have only good things to say about our neighbor, Faith Baptist Church. Pastor Chuck Miller is good man and a good leader. He always greets us and reminds us to call on him if we are ever in need. He watches over his parishioners like a father and keeps the church grounds clean and orderly. The children are well behaved and very respectful. None of my neighbors on Shields Ave signed the petition, or have any complaints.

Therefore, I rescind my signature from the said "Appeal."

Kindly,

Roxana E. Lira
130 E. Shields Ave
Fresno, CA 93704
(559) 709-4037

August 23, 2012

To the Immediate Neighbors of Faith Baptist Church & Academy:

I recently received some correspondence from the City of Fresno relative to our efforts to achieve a Conditional Use Permit for the corner property located on the S/W corner of Shields and Palm Avenues. Part of the process involved informing the neighbors and allowing them an opportunity to respond to the project. The City of Fresno informed me that some of our neighbors have initiated an "appeal", though it is unclear to me what concerns are implicitly addressed, and by whom.

I have pastored our church for over 22 years and we have been at our church address since October of 1996. I have worked hard to have a good working relationship with our neighbors, some of whom have lived on our block the entire time. Others of you have moved in more recently. I have met most of you and feel that I have a good relationship with almost all.

I learned that a petition of some sort was circulated by one of our neighbors and that signatures were gathered. I immediately approached some of our neighbors and found out that some refused to sign, others felt pressured and did so without knowing/agreeing to the grievances, and many of you did not even see the letter to which your signatures were attached, and which became a matter of public record. In other words, statements were made in the letter that the signers were not even aware of, nor in agreement to.

I thought it might be good to send each of you a copy of the original letter that your signatures were assigned to. There will be a public hearing to provide each of our neighbors an opportunity to express his/her concerns and to reach an amiable solution before a ruling is made. In the perfect world, I would have loved to hear of your concerns (assuming you had some) personally, and long before a list of grievances were made a public record. Nevertheless, I believe in the City's process and am looking forward to meeting some of you for the first time, renewing acquaintances with others, and hearing your concerns. Please make every effort to attend the hearing on Wednesday, September 5th, beginning at 6:00 pm. Mr. Will Tackett, the planner assigned to this project, will be sending you a letter of confirmation about this hearing and you should be getting it in the mail sometime soon.

*In the event that you read the letter, are not in agreement with its contents (since your signature **is** attached to it), and wish to rescind your appeal, please contact Will Tackett with the City of Fresno at 559.621-8063, or you may email him at Will.Tackett@fresno.gov. You may also have some additional concerns that were not addressed in the letter, or questions about the process. In any event, Mr. Tackett has made it clear that he is available to address your concerns.*

Thank-you for taking the time to read this letter. I look forward to seeing you at the public hearing on September 5th. Also, you are free to call me at 559.226-2222 if there is an immediate concern or problem you wish to address. I count it a privilege to have you as our neighbors and look forward to meeting in the days ahead.

Sincerely,

Pastor Chuck Miller

August 27, 2012

In Regards to:
Conditional Use Permit Application # C-11-167

Please, enter the copy of a letter that was received Saturday, August 25, 2012, by myself and our neighbors, into the file pertaining to the above CUP.

As per a meeting between myself and the neighbors listed on the enclosed signed list we all stand by our response previously submitted dated August 4, 2012. Meeting was held Saturday and Sunday. Aug. 25, 26, 2012

In Regards to the Notice of Public Hearing to be held Wed. Sept. 5, 2012. Would it be possible to postpone the hearing one week? We had planned to be out of town this next week.
Thank you for your consideration

Leann & Tom Hobbs
117 E. Simpson Ave.
Fresno, CA 93704
559 225-2808, 559 273-9155

Will Tackett, Planner
City of Fresno
Development & Resource Management Dept.
Development & Services Division
2600 Fresno Street
Fresno, CA 93721-3604

RECEIVED
AUG 24 2012
DEVELOPMENT DEPARTMENT
CITY OF FRESNO

Will:

Per our conversation in your department yesterday, please allow me to address some of the specific concerns related to our Conditional Use Permit process which may help you and your department prepare for the upcoming public hearing and hopefully shed some light on the situation.

I have since written a letter to all the signers of the "petition" and mentioned the September 5th meeting and encouraged all of them to come. I also left my own phone number if they had any questions/concerns relative to the CUP or anything else that may come up in the future. It is my hope that many/some of them will attend so that we might gain a more accurate picture of whether the concerns are shared by the neighbors, or just represent one family's effort to hinder the process.

I should start by saying that ***on my street***, Shields Avenue, two of the three residents refused to sign and the other (whom I spoke to) never saw a letter, didn't know what she was attaching her name to, and said that if she had any problems she would "speak to (me) directly". When I asked why she signed a "petition", she said that she felt pressured to do so. Also, it should be noted that five of the nine residents who signed the "petition" do not even live adjacent to either our school or the corner property. Two of the remaining four residents have a 30 foot wide alley separating our play area from their adjacent block wall and our children/staff have virtually no reason to go into the alley whatsoever. The point being, some of the complaints about garbage being dumped, people looking over the wall into their bedrooms, etc. are completely unfounded.

Having said that, allow me to briefly (and honestly) comment on the seven areas of concern:

1. "Excessive noise"

We do hold a teen and children's program most every Wednesday night, beginning at 7:00 pm. The children will often go to the recreation area for a short period. But the program ends at 8:00 pm and most of our people have cleared out by 8:30 pm. I can't imagine where the 10:00 pm dismissal comes from. That is just not so. Furthermore, we do not have any kinds of music performed at this site on Wednesday nights. The notation about "loud music" is just not true, unless it is coming from another neighbor. The residence just behind the school (207 E. Simpson) has sometimes played their music loud as they had gatherings in their back yard. But I have never heard this taking place late at night and to me, it didn't appear to be too loud. During our annual "Vacation Bible School", the children are mostly indoors at the school facility and again, do not play music.

2. "Light pollution"

In no case was lighting "erected" on either the church or school property that was not there when we moved in. Ironically, the lighting at the church has never been altered in any way and one of the lights mounted on the top of our school was intentionally disconnected after a neighbor complained that it produced the effect of a "full moon" in her back yard. Again, we didn't ***have*** to disconnect it, but did so in an attempt to keep on good terms with our neighbors. In other cases, shields were added to help accommodate the above referenced neighbor. I can't imagine why this would be a matter of complaint when we were within our legal rights, complied when not required, and have done everything short of living in the dark to accommodate her. The CUP property does not even have electrical hookups to produce lighting (though it would certainly be within our legal rights) so I don't

understand what the problem is. If "five of the property owners" are concerned about lighting, it must be someone else's lighting because we do not even have five neighbors living within the visibility of the corner lot, which is the subject of the CUP.

3. "Garbage"
This is an absurd and indefensible accusation. We don't even have eight neighbors living adjacent to our facilities and two of those have an alley separating us. When I asked two of those who live right next door to our facilities whether they have ever had "trash" (much less "garbage") thrown over the wall, both of them emphatically denied that this has ever happened in all the time they have lived there.

4. "Privacy"
Again, the thought that our folks are peering over walls and looking into "bedrooms, bathrooms, kitchens, and other rooms" is absurd. I would hope that some of the "six residents....disturbed by this invasion into their privacy" would show up at the hearing so that I might hear their claims personally. There are only four neighbors signing the petition that share an adjoining wall where those hypothetical "peeping Toms" could "invade their privacy".

5. "Security"
Again, I don't understand what is being implied here. We have never seen any "intruders", have never had a break-in in the 16-plus years we have been here, and can't figure out how we would be responsible if someone ***did*** attempt to break into a neighbor's home. We have done nothing but SECURE our facilities to deter problems like this. We have erected fencing, locked our facilities, and put a lot of time and financial resources to curb crime in our area. To be implicated as ***contributors*** to criminal activity is ludicrous.

6. "Bus noise and pollution"
Several years ago, I received a call from "Code Enforcement" regarding a complaint (I believe from Mr. & Mrs. Hobbs at 117 E. Simpson) that our bus exhaust was posing a problem to them. Back then, our diesel buses were manufactured in the 1970's. (We have since replaced them.) I explained to the City official that our buses have an air brake system, that it takes several minutes before the air pressure is built up, and that the bus can not (nor should not) be moved until the brake system is fully charged. Furthermore, the State of California requires us to do a systems check and pre-trip inspection to make sure that children are safe when they are picked up for church. This was communicated to our neighbor, apparently resolved, but for some reason one or more of the neighbors wants to "resurrect" the issue again. It is out of our control, we have every right to comply with State requirements, and the person who wrote the letter knows that our newer buses do not even have the same exhaust issues anyway.

7. "Pruning"
Some of our adjoining neighbors have trees that grow over the property lines. When I called the City to ask about dealing with the issue, they informed me that a property owner has every right to trim branches that come on their side of the property line, as long as doing so does not result in the "death" of the tree. Again, keeping on good terms with our neighbors, I decided to write them to tell them that we would be trimming back the trees. Some were appreciative. Others were not. But I still wanted them to know that we would be pruning. One of the neighbors (who seems to be at the center of the "petition" initiative), asked that they be allowed to do their own pruning and tie back their trees on their own. I graciously complied, but we continued to have problems with their trees. (Olives fall in our side, the kids track them in, and destroy the carpets. When the leaves fall in the Winter, they are slippery and pose a safety issue for our Academy students. We end up cleaning leaves and debris for much of the Fall and some of the Winter. In short, we have to clean up somebody else's mess regularly.) We have never made it a policy to "prune over property lines" and I have no recollection of having pruning done that "cut trees to their trunk line".

The "yard sale" reference involves a situation which is perfectly within our rights. We stopped having them because one neighbor complained. We do not "monopolize" the parking. People come to the church and park where it is legally permitted. I would encourage you to check your records and you will find that the majority of complaints come from a very limited number of our neighbors. Again, I have worked hard to keep on good terms, made adjustments or decisions *in spite of our legal rights*, and would have hoped that these courtesies would have been respected and appreciated (*if not returned*) by all of our neighbors. Unfortunately, this is not always the case. One of the signers sent her child to our recent Summer children's outreach and when our workers walked her back around the block, the neighbor was grateful and kind. That is what we have grown to expect from the majority of the neighbors. We are a church ministry. We serve our community. We have done nothing but improve the properties....*all the properties*....on "our own nickel" since moving here in 1996. There is not a day I am at work where I do not stop to pick up trash from our neighbor's yards on our busy street as I walk between our facilities. That's what neighbors do. I have never once called "Code Enforcement" on our neighbors, either here or at my home residence. Meanwhile, I am seeking to impact our community for Jesus Christ.

If you have any further questions or concerns, please give me a call, Will. Thanks for your patience with us!

Sincerely,

Pastor Chuck Miller
Faith Baptist Church
559.226-2222

Will Tackett

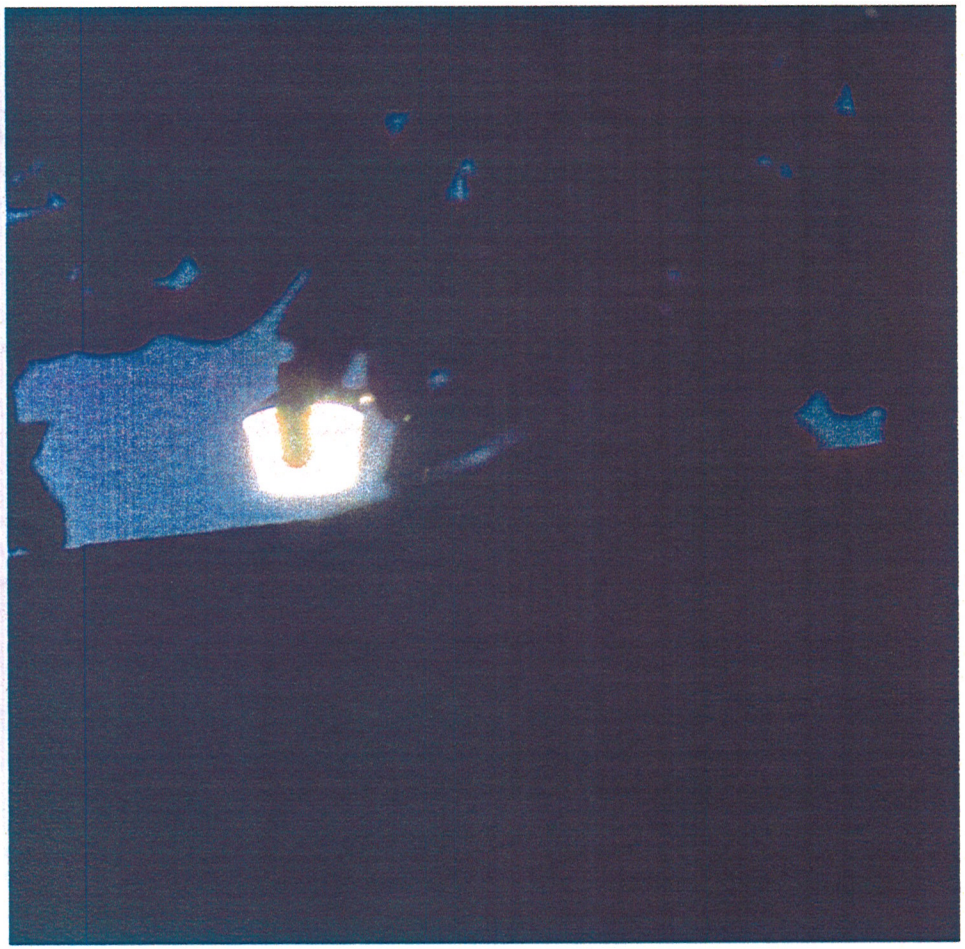
From: Jeanne Antrim [jeanneantrim@sbcglobal.net]
Sent: Tuesday, August 28, 2012 8:31 PM
To: Will Tackett
Subject: CUP Application C-11-167
Attachments: IMG_0649.JPG; IMG_0648.JPG; IMG_0652.JPG; IMG_0651.JPG; IMG_0659.JPG

Hi Will,

Attached are photos showing the block wall from our side, looking at the two sections that are significantly lower than the rest of the wall. Please note the electrical meter as an eye level reference point. The property now occupied by the church used to be the business of Harry Hunter, the man who built and lived in our home. He had a gate which connected the two properties, and had no need to consider privacy issues. The next two photos ate taken from the top of the block wall, looking into the master bedroom and bathroom. The final photo shows one of the outdoor lights which has been modified to lessen the coverage so that it does not shine directly into our eyes when we are in bed. While we now do not see the bulb, the light is still substantial. The height of the block wall at our neighbor's house is all at one level, the lowest level pictured in these photos. In order to protect their privacy, they sleep with the sliding door closed, the drapes drawn, and the air conditioner running.

Thanks for including these in the record, hope they make things clear.

Jeanne Antrim



Will Tackett

From: Thomas Hobbs [tom@retailcalifornia.com]
Sent: Thursday, August 30, 2012 3:36 PM
To: Will Tackett
Subject: URGENT: Protesting Director's Decision for Approval of CUP App. No. c-11-167 - Thomas Hobbs - Please add to the file

Attn: Mr. Will Tackett
City of Fresno Development & Resource Management Dept.
In Re: CUP Permit application # C-11-167 Faith Baptist Church

Dear Mr. Tackett,

With regard to the Notice of Public Hearing regarding the above CUP application, we will be unable to attend the meeting on Sept. 5, 2012 because of a scheduling conflict.

Therefore, I am entering the following statement into the record for the Development and Resource Management Division to review prior to their final review of the public response to CUP application No. C-11-167.

After receiving the City's notice of the granting of this permit in the mail, my wife Leann and I willingly signed a declaration, along with several of our other neighbors, responding unfavorably to the City's approval of this CUP application.

I and other residents of Simpson Avenue who are unfortunate enough to share their property line with Faith Baptist Church are in agreement that this church is not a good neighbor. It has never demonstrated any concern for us as immediate neighbors, nor has the church reached out to us for our thoughts or opinions.

I live at 117 E. Simpson Ave. which is directly behind the church, and my property line is shared with theirs. The entire length of my backyard fence is shared with the church's parking area and we have direct exposure to them anytime there is activity in their parking lot. My family has lived in the house since 1950 when it was built, and as far back as we can remember, we've never had these problems with the different churches that occupied the location behind our house until Faith Baptist Church began operating here.

Faith Baptist Church's operations continue to negatively impact the quiet enjoyment of our home. Our backyard is frequented with bus noise and fumes, the church's presence causes increased, bus traffic, automobile traffic, pedestrian traffic, excessive curbside parking on both Simpson Ave. and Harrison Ave., trash thrown into our yard, and even harassment of our dogs over the fence by unsupervised persons in the church parking lot. We experience a loss of privacy as people loading into multiple buses which are taller than the fence between our properties, board the vehicles and look out the windows over into our yard before the bus starts, and then idles until pulling out onto the street.

I have complained to the church and the Air Quality Board on more than one occasion in the past regarding noxious bus fumes and bus engines being started up at various times of the day, idling unnecessarily for well over 15 minutes or more before being moved out onto the street, and the incursion of those toxic fumes into our open windows literally permeating our entire home. We also have to smell and hear the buses as they back up to park after use. We have contacted City of Fresno Code Enforcement about the legality of the bus parking, and the street parking overflow of

parishioners which is regular and ongoing.

Our family has never been informed by the church that we should expect and be prepared for a large gathering of people and noise from planned church functions, such as weddings or vacation bible school where there are at least 50 children yelling and screaming in the parking area behind our back yard.

This CUP grant moves us, the property owners on Simpson Avenue, to demand that the City of Fresno provide all adjacent property line owners with a variance regarding the allowable height of the fence which separates them from church property to 8 feet or higher, AND, that the church should bear the cost of erecting an 8-foot or higher solid cinder block wall on adjacent property lines to serve as a sound barrier and to maintain the privacy of Simpson Ave residents as a condition of the CUP.

Also, Faith Baptist Church should be subject to the same standards with regard to City of Fresno ordinances and regulations, including State EPA and Air Quality Board regulations as are the rest of us. They need to be sensitive to evening outdoor lighting, residential privacy, parking lot requirements for churches, and noise regulations, just as the rest of us are.

The southwest corner of Palm and Shields is zoned for retail commercial use. We had hopes that we'd see a retail presence on this corner again one day. Our immediate area needs goods and services. I find it unconscionable that the City of Fresno would allow a CUP to go forward, especially after the fact that Faith Baptist Church violated zoning ordinances by pouring asphalt and cement to build off-street parking, a fenced game court and playground, complete with lighting and driveways on major arterials, without first obtaining proper permits from the city on the use of this land as prescribed by City Planners and engineers. This is exactly why we now have excessive traffic, noise, lighting, and privacy issues on Simpson Avenue which didn't exist before Faith Baptist's expansion of its presence here.

The strategy employed by the Faith Baptist Church to achieve its goals without deference to the City of Fresno for permit beforehand is a perfect example of how the church views its responsibility to its immediate neighbors and the community in general. They have not demonstrated good stewardship of the neighborhood, nor do they represent the values or sensitivity of Simpson Avenue residents who share the property line. They don't live here, we do.

Sincerely,

Thomas A. Hobbs, Property Owner
117 E. Simpson Ave.
Fresno, CA 93704