

CITY OF MERCED
Planning & Permitting Division

STAFF REPORT: #11-12

AGENDA ITEM: 4.1

FROM: Kim Espinosa,
Planning Manager

PLANNING COMMISSION
MEETING DATE: Aug. 17, 2011

PREPARED BY: Julie Nelson,
Planner

SUBJECT: **Conditional Use Permit (CUP) #1161**, initiated by Rachel James, applicant for Dekker Gaestel and Janet Grager, property owners. This application involves a request to allow a church (New Harvest Christian Fellowship Church) to locate within an existing building at 644 W. Main Street, generally located on the south side of West Main Street between M and N Streets within a Central Commercial (C-C) zone. *PUBLIC HEARING*

ACTION: Approve/Disapprove/Modify

- 1) Environmental Review #11-24 (Categorical Exemption)
- 2) Conditional Use Permit #1161

SUMMARY

The New Harvest Christian Fellowship Church is requesting to locate within an existing building at 644 W. Main Street (Attachments A and B). The church currently has a congregation of approximately 25 people and does community outreach (handing out invitations to their church) in City parks and throughout different neighborhoods within the City. They will hold services at the following times:

- Sunday – 2:00 p.m. to 5:00 p.m.
- Tuesday – 6:00 p.m. to 9:00 p.m.
- Friday – 6:00 p.m. to 7:30 p.m.

Staff doesn't expect any negative impacts on businesses or residential uses in the downtown area and is recommending approval subject to the conditions included in this staff report.

RECOMMENDATION

Planning staff recommends that the Planning Commission approve Environmental Review #11-24 (Categorical Exemption) and Conditional Use Permit #1161 (including the adoption of the Resolution at Attachment E) subject to the following conditions:

- *1) The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) - Attachment C, except as modified by the conditions.
- *2) All conditions contained in Resolution #1249 ("Standard Conditional Use Permit Conditions) shall apply.

- *3) The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
- *4) All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
- *5) The developer/applicant shall indemnify, protect, defend (with Counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant's project is subject to that other governmental entity's approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.
- *6) The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
- *7) Prior to occupying the building, the applicant shall submit to the Inspection Services Department a floor plan with clearly marked dimensions identifying what each area of the building is to be used for to allow the evaluation of the allowable occupant load. The owner shall comply with all applicable requirements of the Building and Fire Codes for the occupant loads determined from this evaluation.
- *8) The project shall comply with all Building and Fire Codes including those for assembly-type uses.
- *9) If exterior changes are made to the building, they shall be subject to Design Review approval (either staff level or by the Design Review Commission as determined by staff).
- *10) All signage for the building shall comply with the Redevelopment Area and General Regulations sections of the Sign Ordinance. All temporary signing shall be approved by Planning Staff. No free-standing temporary signs (i.e., A-frame or sandwich board signs) shall be allowed.
- 11) All Church activities at this location shall be conducted within the building space.

- 12) The noise from music or other service activities shall be kept to a minimum so as not to disturb the surrounding neighborhood.

(*) Denotes non-discretionary conditions.

PROJECT DESCRIPTION

The applicant is requesting to locate a church within the existing building at 644 W. Main Street. They currently have a congregation of approximately 25 members and will hold services on Sundays, Tuesdays, and Fridays as described on page one of this report. They do not have a live band performing during their services. Music will be provided via a computer and speakers.

*Surrounding Uses
(Attachment A)*

Surrounding Land	Existing Use of Land	City Zoning Designation	City General Plan Land Use Designation
North	Various Commercial Uses (across Main Street)	C-C	Regional/Community Commercial (RC)
South	Various Commercial Uses/ City Parking Lot (across the alley)	C-C	Regional/Community Commercial (RC)
East	Various Commercial Uses	C-C	Regional/Community Commercial (RC)
West	Various Commercial Uses	C-C	Regional/Community Commercial (RC)

BACKGROUND

The building has been used for different office-type uses in the past. Most recently, it was used by the American Red Cross. There have been minor interior alterations throughout the years, but no major changes to the building. The building has access from Main Street as well as the alley. The building has two separate tenant spaces (Attachment C). The church will be occupying the westerly space.

The building is located within the City’s Design Review Area and would be subject to Design Review approval of any exterior changes.

FINDINGS/CONSIDERATIONS:

General Plan Compliance and Policies Related to This Application

- A) The proposed project complies with the General Plan designation of Regional/Community Commercial (RC) and the zoning designation of Central Commercial (C-C).

The following General Plan Policies are applicable to the proposed church use:

Land Use – 2.8.a: Land Use – 2.8.a: Strengthen downtown cultural activities and focus on Merced’s cultural diversity.

Parking

- B) The project site is located within the Downtown Parking District. Therefore, the applicant is not required to provide off-street parking, but will be able to use the parking provided in the City-owned lots throughout downtown. One such lot is located directly behind this site (Attachment A). On-street parking along Main and N Streets is also available.

Public Improvements/City Services

- C) All necessary public improvements are currently in place.

Building/Site Design

- D) The applicant is not proposing any changes to the exterior of the building or to the site. At this time, the floor plan will remain as is (Attachment C). Small aesthetic changes may be needed on the interior. The interior of the building will be required to meet all Building and Fire Codes and permits would be required if any structural changes are made in the future.

If in the future the applicant decides to make exterior changes, those changes would be subject to Design Review approval (either staff level or by the Design Review Commission as determined by staff).

Neighborhood Impact/Interface

- E) Staff does not expect any significant conflict with nearby businesses or residential uses in the area. Service hours should not conflict with the other uses in the downtown area with the Sunday services being held in the afternoon and the weekday services held in the evening hours. All Church activities will be conducted within the building area and noise shall be kept to a minimum (see Conditions #11 and #12).

Signage

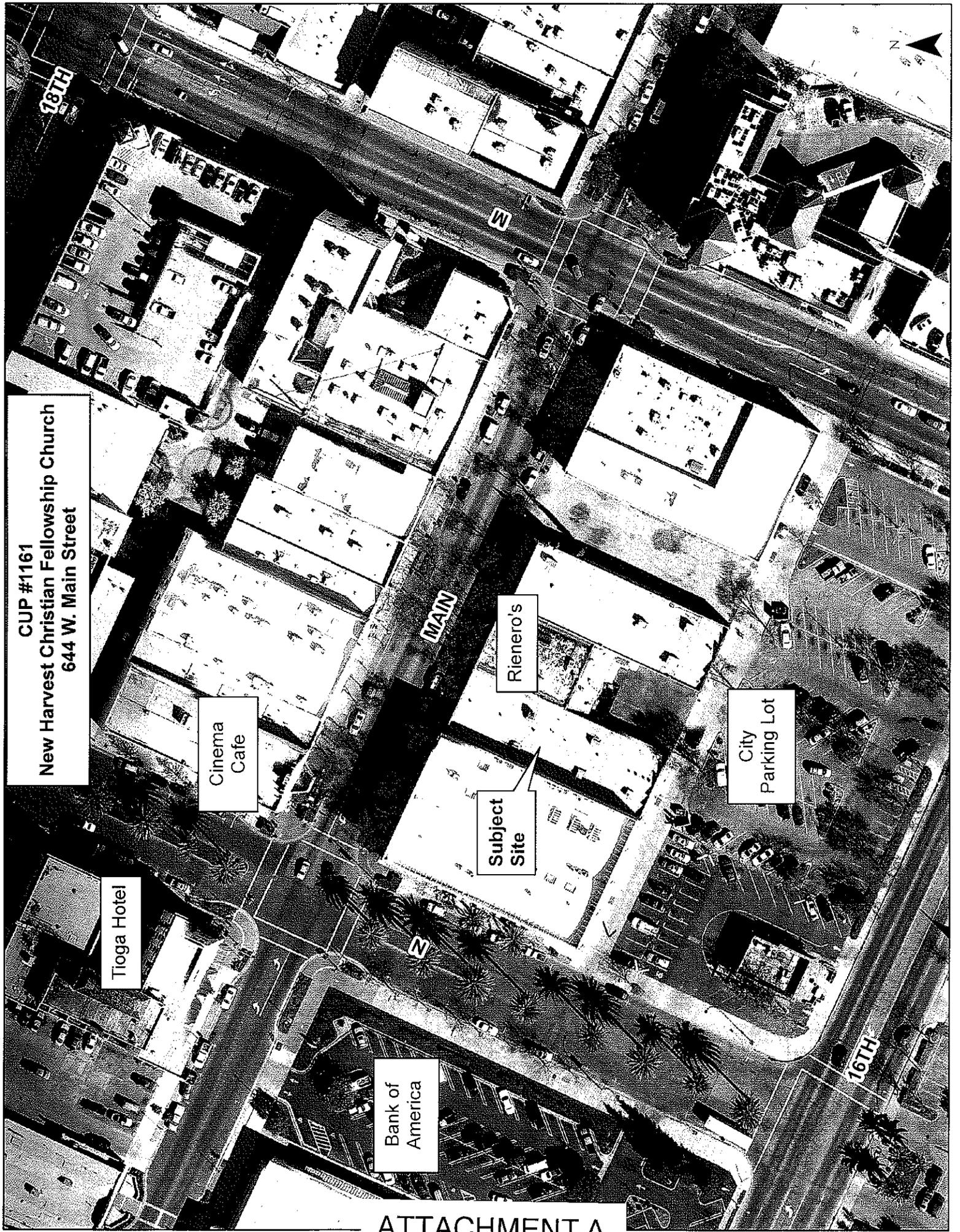
- F) The project site is located within the Redevelopment Project Area #1 and is subject the sign requirements for the Redevelopment Area and the General Regulations of the Sign Ordinance. As such, the use would be eligible for one square-foot of signing for each lineal foot of building frontage along Main Street. In addition, the use would be eligible for one-half square-foot of signing for each lineal foot of secondary building frontage along the alley.

Environmental Clearance

- G) The Planning staff has conducted an environmental review of the project in accordance with the requirements of the California Environmental Quality Act (CEQA), and a Categorical Exemption (i.e., no significant adverse environmental effects have been found) is being recommended (Attachment D).

Attachments:

- A) Location Map
- B) Pictures of Site
- C) Floor Plan
- D) Categorical Exemption
- E) Draft Planning Commission Resolution



CUP #1161
New Harvest Christian Fellowship Church
644 W. Main Street

Cinema
Cafe

Tioga Hotel

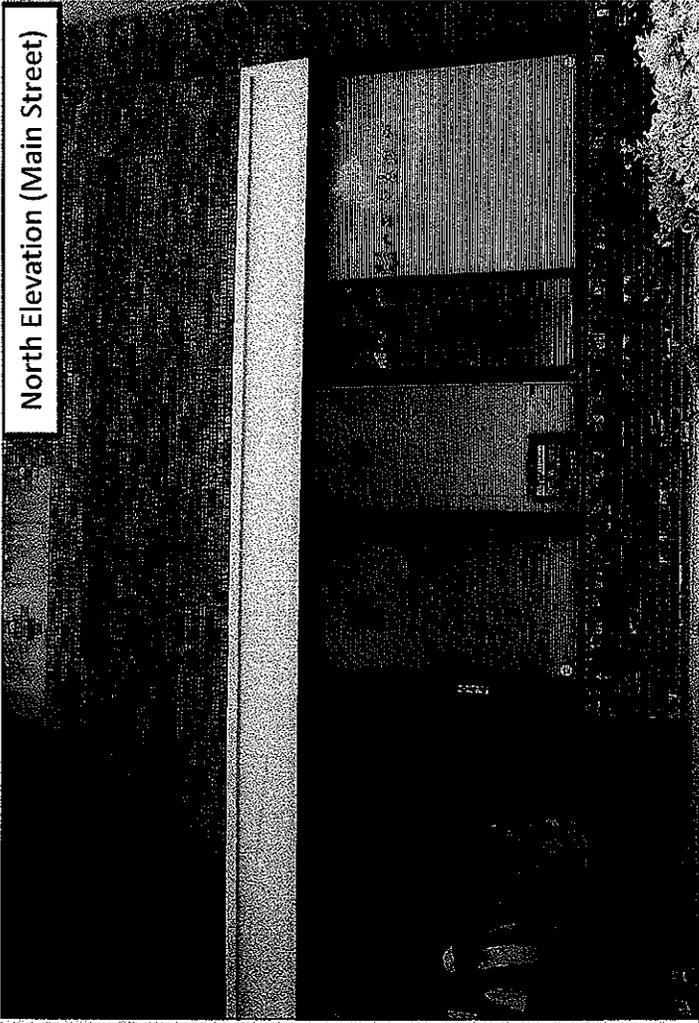
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America

Subject
Site

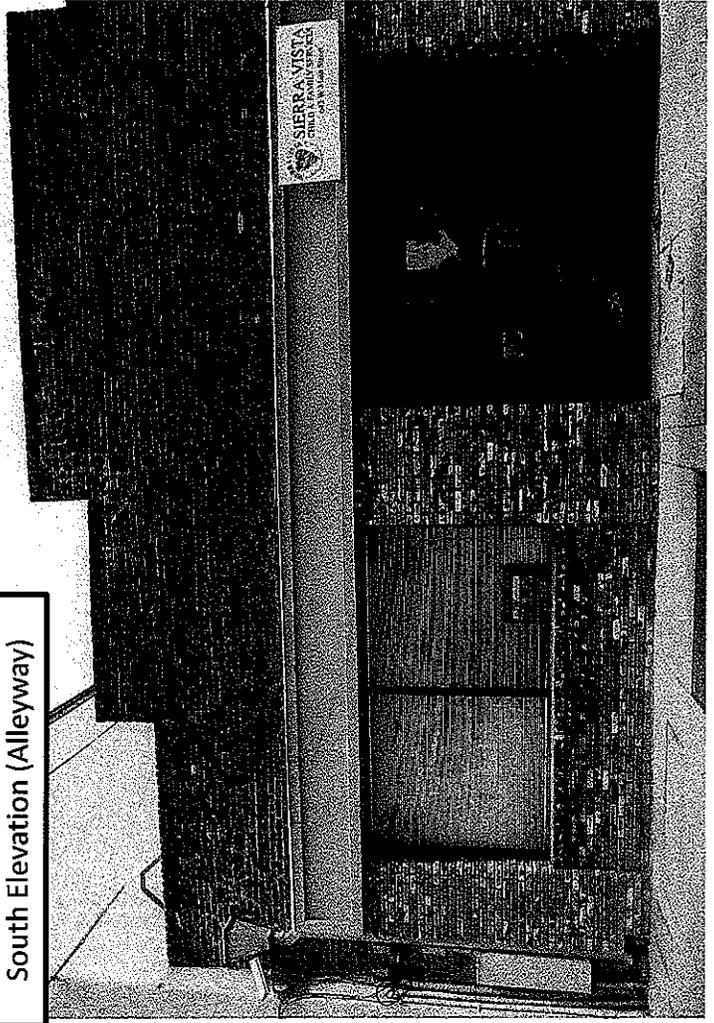
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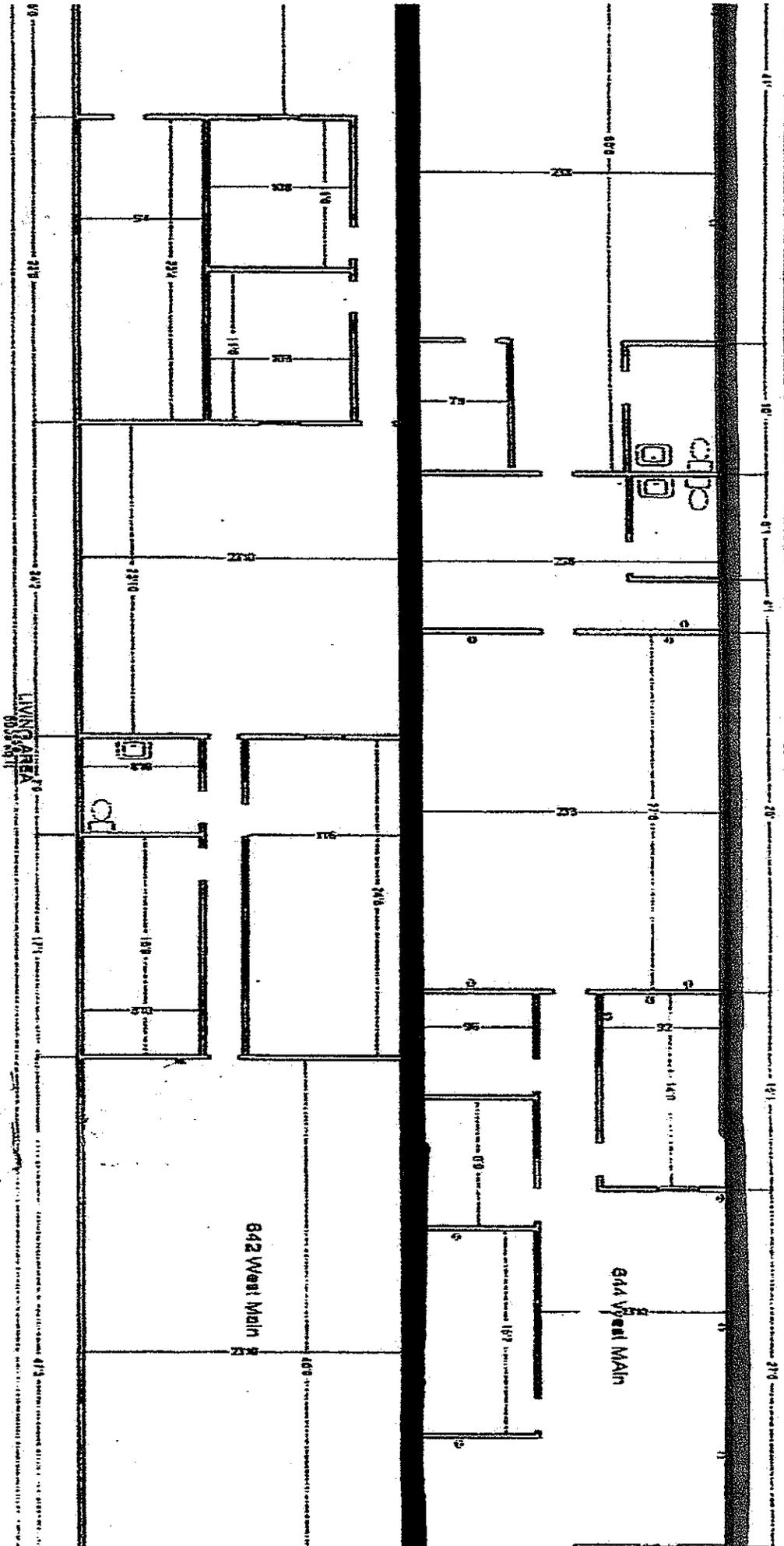
City
Parking Lot

North Elevation (Main Street)



South Elevation (Alleyway)





Subject

ATTACHMENT C

Floor Plan

NOTICE OF EXEMPTION

Appendix I

To: _____ Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

From: City of Merced
678 West 18th Street
Merced, CA 95340

X County Clerk
County of Merced



Project Title: Conditional Use Permit (CUP) #1161

Project Location: 644 W Main Street . **APN:** 031-134-002

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

Description of Project: The approval allows minor interior alterations to allow a church within an existing building.

Name of Public Agency Approving Project: City of Merced Planning

Name of Person Carrying Out Project: Rachel James for New Harvest Christian Fellowship Church

Exempt Status: (check one)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- X **Categorical Exemption: Section 15301 (a)**
- Statutory Exemptions.

Reasons why Project is Exempt: The project consists of minor interior and exterior alterations only, such as partitions, electrical, and plumbing, which are considered to be exempt under the CEQA Guidelines per Section 15301 (a).

Lead Agency: City of Merced

Contact Person: Julie Nelson, Planner **Area Code/Telephone:** 209/385-6858

Signature: Julie Nelson
Planner

Date: July 20, 2011

X Signed by Lead Agency

**CITY OF MERCED
Planning Commission**

Resolution # _____

WHEREAS, the Merced City Planning Commission at its regular meeting of August 17, 2011, held a public hearing and considered **Conditional Use Permit (CUP) #1161**, initiated by Rachel James, applicant for Dekker Gaestel and Janet Grager, property owners. This application involves a request to allow a church (New Harvest Christian Fellowship Church) to locate within an existing building at 644 W. Main Street, generally located on the south side of West Main Street between M and N Streets within a Central Commercial (C-C) zone; also known as Assessor's Parcel No. 031-134-002; and,

WHEREAS, the Merced City Planning Commission concurs with Findings A through G of Staff Report #11-12; and,

WHEREAS, after reviewing the City's Draft Environmental Determination, and discussing all the issues, the Merced City Planning Commission does resolve to hereby adopt a Categorical Exemption regarding Environmental Review #11-24, and approve Conditional Use Permit #1161, subject to the Conditions set forth in Exhibit A attached hereto.

Upon motion by Commissioner _____, seconded by Commissioner _____, and carried by the following vote:

AYES: Commissioner(s)

NOES: Commissioner(s)

ABSENT: Commissioner(s)

ABSTAIN: Commissioner(s)

PLANNING COMMISSION RESOLUTION # _____

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August 17, 2011

Adopted this 17th day of August 2011

Chairperson, Planning Commission of
the City of Merced, California

ATTEST:

Secretary

Attachment:

Exhibit A – Conditions of Approval

n:shared:planning:PC Resolutions:CUP#1161 New Harvest Fellowship

Conditions of Approval
Planning Commission Resolution # _____
Conditional Use Permit #1161

1. The proposed project shall be constructed/designed as shown on Exhibit 1 (floor plan) - Attachment C of Staff Report #11-12, except as modified by the conditions.
2. All conditions contained in Resolution #1249 (“Standard Conditional Use Permit Conditions) shall apply.
3. The proposed project shall comply with all standard Municipal Code and Subdivision Map Act requirements as applied by the City Engineering Department.
4. All other applicable codes, ordinances, policies, etc., adopted by the City of Merced shall apply.
5. The developer/applicant shall indemnify, protect, defend (with Counsel selected by the City), and hold harmless the City, and any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the City, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the City, concerning the project and the approvals granted herein. Furthermore, developer/applicant shall indemnify, protect, defend, and hold harmless the City, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against any governmental entity in which developer/applicant’s project is subject to that other governmental entity’s approval and a condition of such approval is that the City indemnify and defend (with counsel selected by the City) such governmental entity. City shall promptly notify the developer/applicant of any claim, action, or proceeding. City shall further cooperate fully in the defense of the action. Should the City fail to either promptly notify or cooperate fully, the developer/applicant shall not thereafter be responsible to indemnify, defend, protect, or hold harmless the City, any agency or instrumentality thereof, or any of its officers, officials, employees, or agents.

6. The developer/applicant shall construct and operate the project in strict compliance with the approvals granted herein, City standards, laws, and ordinances, and in compliance with all State and Federal laws, regulations, and standards. In the event of a conflict between City laws and standards and a State or Federal law, regulation, or standard, the stricter or higher standard shall control.
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n:shared:planning:PC Resolutions:CUP#1161 Exhibit A