

Table of Contents

Agenda	2
May 2, 2016 submitted for approval	
Minutes	4
Subject: Public Hearing to consider Resolution Approving Conditional Use Permit (16-03) To Allow Kerman Baptist Church to occupy a site in and (M-2) Industrial Zone located at 15260 W. Church Avenue	
Staff Report - Baptist Church	7



AGENDA
KERMAN PLANNING COMMISSION
REGULAR MEETING
Kerman City Hall
Monday, June 13, 2016
6:30 PM

AGENDA PACKET AVAILABLE FOR
REVIEW 72 HOURS PRIOR TO
THE PLANNING COMMISSION
MEETING AT THE PLANNING DEPT.
AND ON THE CITY WEBSITE
ITEMS RECEIVED AT THE
MEETING WILL BE AVAILABLE
FOR REVIEW AT THE CITY
PLANNING OFFICE

Chairman Robert Epperson, Vice-Chairman (vacant seat)
Commissioners Robert Bandy, Leopoldo Espino, Charlie Jones, Mario Nunez, Katie Wettlaufer

ALL MEETING ATTENDEES ARE ADVISED THAT ALL PAGERS, CELLULAR TELEPHONES AND ANY OTHER COMMUNICATION
DEVICES SHOULD BE POWERED OFF UPON ENTERING THE COUNCIL CHAMBERS,
AS THESE DEVICES INTERFERE WITH OUR AUDIO EQUIPMENT.

OPENING CEREMONIES

Call to Order – Chairman, Robert D. Epperson

Roll Call – Secretary, Olivia Pimentel

Pledge of Allegiance

AGENDA APPROVAL/ADDITIONS/DELETIONS

1. PRESENTATIONS - None Offered

REQUEST TO ADDRESS THE COMMISSION

This portion of the meeting is reserved for members of the public to address the Commission on items of interest that are not on the Agenda and are within the subject matter jurisdiction of the Commission. Speakers shall be limited to (3) three minutes. It is requested that no comments be made during this period on items on the Agenda. Members of the public wishing to address the Commission on items on the Agenda should notify the Chairman when that Agenda item is called, and the Chairman will recognize your discussion at that time. It should be noted that the Commission is prohibited by law from taking any action on matters discussed that are not on the Agenda. Speakers are asked to please use the microphone, and provide their name and address.

2. APPROVAL OF MINUTES

A. May 2, 2016 submitted for approval

3. PUBLIC HEARING

A. Subject: Public Hearing to consider Resolution Approving Conditional Use Permit (16-03) To Allow Kerman Baptist Church to occupy a site in and (M-2) Industrial Zone located at 15260 W. Church Avenue

Recommendation: Staff Recommends that the Kerman Planning Commission, receive staff's report, open public hearing, take public comments, close public hearing and adopt resolution approving Conditional Use Permit (16-03), Kerman Baptist Church at 15260 W. Church Avenue, including conditions of approval.

4. PETITIONS/RESOLUTIONS None Offered

5. ADMINISTRATIVE REPORTS

A. Subject: Kevin Nehring, Vice-Chairman has been appointed to the City Council effective May 18th. Mr. Nehring will fill the vacant seat of Nathan Fox until his term ends December 2016.

Recommendation: Informational only

COMMUNICATIONS

ADJOURNMENT

compliance with the American with Disabilities Act (ADA), if you need special assistance to participate at this meeting, please contact the City Clerk at (559) 846-9380. Notification of 48 hours prior to the meeting will enable the City Clerk to make reasonable arrangement to ensure accessibility to this meeting. Pursuant to the ADA, the meeting room is accessible to the physically handicapped.

AGENDA POSTING CERTIFICATION

I, OLIVIA G. PIMENTEL, Planning Secretary for the City of Kerman, do hereby declare under penalty of perjury that I caused the above agenda to be posted at City of Kerman Planning & Development office at 850 So. Madera Avenue, and at Kerman Community/Teen Center, 15100 Kearney Plaza, and emailed to interested parties on Thursday June 9, 2016.

/s/ Olivia G. Pimentel
Secretary to the Planning Commission



MINUTES
KERMAN PLANNING COMMISSION
Regular Meeting Kerman City Hall 850 S. Madera Avenue
Monday, May 2, 2016, 6:30 PM

Chairman Robert Epperson, Vice-Chairman Kevin Nehring
Commissioners Robert Bandy, Charlie Jones, Leopoldo Espino, Mario Nunez, Katie Wettlaufer

OPENING CEREMONIES

Call to Order – Chairman, Robert D. Epperson called meeting to order at 6:35p.m.

Roll Call – Secretary, Olivia Pimentel

Commissioners Present: Bandy, Epperson, Wettlaufer, Nunez, Jones, Espino, Nehring (arrived 6:40pm)

Commissioners Absent: None

Pledge of Allegiance: Performed

AGENDA APPROVAL/ADDITIONS/DELETIONS: C/Epperson made a request to move agenda item 3.B before agenda item 3.A –public hearings. C/Jones made a motion, second C/Wettlaufer, unanimously approved. Agenda approved as amended.

1. PRESENTATIONS – None Offered

REQUEST TO ADDRESS THE COMMISSION: None offered

2. APPROVAL OF MINUTES

A. April 11, 2016, minutes, C/Jones made a motion to approve minutes as presented, second C/Bandy, unanimously approved as presented (7/0/0)

3. PUBLIC HEARING

B. Subject: Public Hearing for Gateway Villas – 61 Unit, Income Qualified, Apartment Complex, General Plan Amendment No 16-02, Zone Change Amendment No. 16-01, Mitigated Negative Declaration No. 16-02 and Conditional Use Permit No. 16-02

Staff gave a brief overview of the staff report, project, and attachments. On April 11, 2016 as required by the Kerman Municipal Ordinance a petition of amendment was filed by city planner and approved. A public hearing was scheduled for this evening, May 2, 2016.

Gateway Villas Apartment proposed project is a (61) unit income qualified apartment complex that will consists of one (1) manager’s office unit, thirty (30) two-bedroom/two bath units, and thirty (30) three-bedroom/two bath units. The sixty-one (61) unit project will be two-story. The proposed project includes a clubhouse, children’s playground, pool, lanai, barbeque area, and laundry room. Staff explained the project will require several entitlements: General Plan Amendment, Rezone and Conditional Use Permit.

Staff reported that a Mitigated Negative Declaration has been circulated for the required 20 days per CEQA guidelines and a public notice had been published and property owners within 300 feet had been duly noticed. Staff did not receive any comments to date.

Staff reported that there has been no commercial interest for this site for over a decade primarily because the commercial interest was on the east side of town or in downtown. While the site has received no interest for commercial development, there is an interest and a demand for property designated High Density Residential (HDR). This was evidenced by the recently adopted 2015-2023 Housing Element that determined the City of Kerman was deficient (approximately eight acres) in property designated High Density Residential (HDR).

Opened Public Hearing: 6:42 P.M.

Mr. Davis Slajchert, developer of the proposed project, addressed the Commission in support of the project. He noted that the need in Kerman for affordable housing is self-evident with the long waiting list (approximately 168 in Hacienda Heights). He was proud and pleased with the previous projects he has developed in Kerman; Hacienda Heights affordable housing, Kearney Palms I, II, & III senior housing projects.

He noted that the type of housing he is proposing is of the highest quality that will not only meet the standards of Hacienda Heights; but in many cases surpass them. Mr. Davis noted that most of the tenants are working class, families not financially able to afford to buy a house or pay the market rate higher rents. Tax credit projects like this one and Hacienda Heights and give those families an opportunity to pay less to save up to buy a home one day. The project will be market rate with restrictions. To qualify the applicant must be at 40 – 70% of Medium Income levels set by the State. The apartment complex will work along with Police Department and provide an afterschool program.

Mr. Bob Davidson, the architect for the project spoke in support of the project and gave some details of the architectural and site plans. He noted that spoke regarding parking and requested clarification on the parking ratio, he felt that with the type of housing project that two (2) parking stalls per unit was more than adequate because most tenants only have one car or none at all. Staff informed them that the Council would have to approve any variance from the parking standards.

Closed Public Hearing: 7:30 P.M.

C/Jones, spoke in support of the project, was very impressed with Hacienda Heights and other projects. He did inquire of the summer program and who paid for it. Davis responded that Willow Partners pays for this service as part of the an incentive, this project is very strictly regulated and audited annually by Home Funds to be in compliance.

C/Nehring, spoke in support of the project, very impressed with well-maintained existing project at Hacienda Heights

C/Bandy, spoke in support, inquired about tax credits and deadlines. Davis responded gave dates and also noted that the loss of RDA funding has made it challenging, since often the tie breaker for these types of projects is to get some type of ‘soft money’ support from the city to show that the city and community it serves is supportive of the project.

C/Epperson, spoke in support of the project, very impressed with the Hacienda Heights project.

C/ Nehring, made a motion to recommend that the City Council initiate and adopt the actions listed below, for Gateway Villas – 61 Unit, Income Qualified, Apartment Complex, on property located on the southeast corner of State Route 180 / Whitesbridge Avenue and Siskiyou Avenue, for following entitlements:

General Plan Amendment No. 16-02
Zone Change Amendment No. 16-01
Mitigated Negative Declaration 16-02
Conditional Use Permit No. 16-02

Second C/Jones, as amended to reflect the changes to conditional use permit.
Unanimously approved by following vote:

Ayes: Epperson, Bandy, Nehring, Wettlaufer, Nunez, Espino, Jones

Noes: None

Absent: None

Abstain: None

- A.** Subject: Public Hearing to Initiate Zone Ordinance Amendment 16-03, to the Kerman Municipal Code Title 17, Chapters 17.40 Single Family and Chapter 17.42 Multi-Family Residential Zone Districts to Add Cottage Food Operations to Permitted Uses in the Single Family and Multi-Family Residential Zone Districts in compliance with California AB 1616.

Staff report was summarized and reviewed with Commission, this is an ordinance clean up item that is intended to update the ordinance with current law requirements relating to Food Cottage Operations that were adopted in 2013 that allow these types of uses in the residential zone districts by right only requiring a business license and approvals from Fresno County Health Department.

Open Public Hearing: 7:43 p.m.

Close Public Hearing: 7:44 p.m.

C/Jones, made a motion to recommend the City Council Initiate Zone Ordinance Amendment 16-03, to the Kerman Municipal Code Title 17, Chapters 17.40 Single Family and Chapter 17.42 Multi-Family Residential Zone Districts to Add Cottage Food Operations to Permitted Uses in the Single Family and Multi-Family Residential Zone Districts in compliance with California AB 1616, second C/Wettlaufer, approved unanimously by following vote:

Ayes: Epperson, Bandy, Nehring, Wettlaufer, Nunez, Espino, Jones

Noes: None

Absent: None

Abstain: None

4. PETITIONS/RESOLUTIONS - None

5. ADMINISTRATIVE REPORTS - None

COMMUNICATIONS - None

ADJOURNMENT: Adjourn at 7:55pm

Olivia G. Pimentel
Secretary to the Planning Commission



City of Kerman

"Where Community Comes First"

CHAIRMAN **VICE-CHAIR**
Robert Epperson vacant
COMMISSIONERS
Robert Bandy Leopoldo Espino Charlie Jones
Mario Nunez Katie Wettlaufer

DEPARTMENT: PLANNING & DEVELOPMENT
STAFF REPORT
PLANNING COMMISSION
COMMISSION MEETING DATE: JUNE 13, 2016

To: Chairman and Commissioners
From: Olivia Pimentel, Planning Technician, Dave Brletic, Planning Consultant
Subject: Conditional Use Permit 16-03, Kerman Baptist Church

RECOMMENDATION

Staff recommends the Planning Commission receive staff's report, open the public hearing, take public comments, close the public hearing, and consider adoption of resolution approving Conditional Use Permit 16-03 including Conditions of Approval.

EXECUTIVE SUMMARY

The Planning & Development staff received a request from Tom Boonstra, Pastor of Kerman Baptist Church, for a conditional use permit to occupy an existing vacant building on the northwest corner of Church and Industrial Way in Kerman's Industrial Park. Staff met with Pastor Boonstra and informed him that these types of uses are not consistent with and often not compatible in the industrial zone district and if he chose to proceed, it would be up to the Planning Commission to determine whether to allow this type of use in the industrial zone district. This request is being presented to the Commission for a determination on whether to allow or deny the request.

The applicant, Tom Boonstra, Pastor of Kerman Baptist Church, has applied for a conditional use permit in the hopes of securing a location to establish a church. Pastor Boonstra has on several occasions inquired of other sites that have failed for one reason or another and this is another potential site for his proposed church.

The subject property is a 1.26 acre lot with an existing vacant 5,000 s.f. industrial building on the southwest corner of Church Avenue and Industrial Way. The proposed site has an existing building that has been vacant for several years.

The site is not the typical use allowed in the M-2 zone district. From a land use perspective, staff is not in favor of this type of use that could potentially change the dynamics and integrity of the district; however, the applicant has produced some photos of existing churches allowed in Fresno Industrial zones that are permitted with conditional use permit. Churches on average operate during the evening and on weekends (Sunday) when most commercial and industrial operations are closed, so the vehicular traffic would not impact neighboring businesses. Moreover, as explained below federal legislation called Religious Land Use and Institutionalized persons Act (RLUIPA) protects religious institutions against unduly burdensome and discriminatory land use regulations. This legislation preempts local law.

DISCUSSION

According to the Kerman Municipal Code (KMC), the site is zoned Industrial (M-2) and designated Industrial (M-2) on the land use map which allows for a mix of uses consistent with the zone such as Agriculture, General Contractors yards offices, Wholesale Sales and allows other uses by way of a conditional use permit such as Auto Dismantling, Food Packing Facilities, and states Plus All uses in the light industrial (M-1) and Service Commercial (SC) zone district. In the (SC) zone it has permitted uses and conditional uses and also adds Plus All uses in the General Commercial (CG) zone district (which allows churches with a conditional use permit) see attached chart

Kerman Baptist Church is proposing to occupy a vacant commercial/industrial building to start a small Church with plans for growth in a few years and eventually building a new church on the remaining portion of the property. The Church is initially anticipating a congregation ranging from 20 to 50 members (20 adults and 30 children). The proposed site has a capacity of 23 in the sanctuary and 30 in various classrooms for children on Sunday mornings.

As reflected in the aerial photograph in Attachment A, Kerman Baptist Church site is proposed on the northwest corner of Church Avenue and Industrial Way. The church property site is on 1.26 acres, the vacant building (as shown on the site plan) is approximately 5,000 square feet; however an overhang of approximately 305 feet not shown on the plans. The proposed church would initially make some minor interior tenant improvements to the building to accommodate the small church site consisting of a main sanctuary, meeting area, pastor's office, classrooms and two restrooms. The building is currently about half built out to office spaces/storage, with the other half being warehouse. The office spaces are basic 8' walls with dropped ceiling, while the roof is supported by the steel frame. The plan would initially be to use just the improved office space, moving or removing only a couple of the non-load bearing walls. The building comes with 24 parking spaces, with one handicapped stall and substantial on-street parking. The church is initially expecting a small attendance of approximately 20 adults with seating for up to 30 Children's classes in other rooms. The proposed initial Services will be held: Sunday AM and PM possibly on Wednesday PM.

For the most part the Church will be closed during the week and open only on Sundays and evening when the church would meet. The Church plans on congregating on Sunday mornings and evenings as well as on Wednesday evenings at 7:00 p.m., typically when surrounding businesses are closed and traffic is at a minimum, thus there is no impact to surrounding properties.

The building code however requires life safety and ADA upgrades. Permits are required to complete these changes however do not trigger sprinklers since they do not alter the structure or footprint of the existing building. The church use is more involved and a heavier use than manufacturing/industrial. A complete plan addressing the entire square footage and use of the building and accurate occupancy loads must be reviewed to establish egress, paths of travel, parking, exiting, and other code related items.

The change in occupancy and any improvements to the existing structure (except for ADA compliant improvements) triggers installation of required fire sprinklers, the ordinance was designed to protect the community from moving churches, restaurants and other uses that are more hazardous to human life to move into an existing building not designed for that use per model code.

Note: the Planning Commission cannot override the requirements of the ordinance or can the commission waive fire code life safety requirements or Accessibility requirements. The commission can only approve the change of use per state law, not waive the fore-mentioned requirements.

At some point the church will be required to make modifications to the existing building which will require permits to enable them to use the building in a way that will accommodate their desired use for an A-3 occupancy. Part of the remodel will be making the restrooms ADA compliant. They will be required to install illuminated exit and egress

lighting with battery back-up (not normally installed in offices or warehouses), doors will be required to swing in the direction of egress with panic hardware etc. They will also have an issue with the exiting from the sanctuary as currently proposed which fire will address at time of plan submittal, this will require permits. All of those items will require the issuance of a building permit and follow-up inspections to insure code compliance, so there is no way the church use can turn this existing building designed for use as a commercial warehouse and office into a church legally keeping the safety of their church members in mind without a single building permit. Once a building permit is issued the fire sprinklers will be required.

The plans as submitted didn't accurately reflect occupant loads for either the proposed sanctuary use or the other areas as they didn't use the entire room square footage or the correct occupant load factors for that use. The commission cannot waive the fire sprinklers requirement; however, as the ordinance currently reads any alterations to the building, once the church moves a wall here or there (they are showing a lot of building area as storage, easily converted into assembly areas, fellowship halls, etc.) the potential for future occupant loads well over 300-500 would be easy to see in this facility being used as a church.

In order to grant any conditional use permit, the Planning Commission must find, based upon the application and evidence provided that:

- (1) That the proposed establishment, maintenance, operations of the use applied for will not be detrimental to the public health, safety, welfare, morals of the persons residing or working in the neighborhood of such proposed use, or whether it will be injurious or detrimental to property and improvements in the neighborhood or the city;
- (2) That the proposed use is consistent with the Kerman general plan;
- (3) That the environmental document prepared as per the California Environmental Quality Act (CEQA) has been considered prior to a decision;
- (4) That the site for the proposed use is adequate in size, shape and location to accommodate the use as it relates to the district for which the use is proposed.

Congress enacted the Religious Land Use and Institutional Persons Act of 2000 (RLUIPA) (42 USC §2000cc *et seq.*). RLUIPA prohibits land use regulations that either:

- Impose a substantial burden on an exercise of religious unless the government shows that it used the least restrictive means of furthering a compelling government interest (42 USC §2000cc(a)); or
- Treat a religious assembly on "less than equal" terms than a nonreligious assembly (42 USC §2000cc(b)).

Under RLUIPA, government agencies may not impose a land use regulation in a manner that imposes significant restriction or burden on any exercise of religion unless the government can demonstrate that the burden is:

- In furtherance of a compelling government interest, and
- The least restrictive means of furthering that compelling government interest.

Considering the "substantial burden" prong of RLUIPA, the Ninth Circuit has held that a county violated RLUIPA because it denied two successive applications for a conditional use permit (CUP) for a temple, when:

- The county's broad reasons for its two denials (noise and traffic) could easily apply to all future applications by the temple; and

- The temple agreed to the mitigation measures imposed by the county’s planning department, but the county found this insufficient without explanation.

According to the Department of Justice (DOJ), when a city takes one of the following actions, it may constitute a substantial burden.

- Effectively barring the use of a particular property for religious activity;
- Imposing a significantly great restriction on religious use of a property; or
- Creating significant delay, uncertainty, or expense in constructing or expanding a place of worship, religious school, or other religious facility.

OUTSTANDING ISSUES

One outstanding issue relating to the conditions of approval requiring installation of fire sprinklers that is being required by Fire Department, the requirement is based on the Kerman Municipal Code section 15.04.075 and the building code. The applicant is requesting relief from this requirement by offering to use the building ‘as is’ and make no improvements or tenant improvements, etc.; however any modification to exterior or interior of the existing building will require fire sprinklers.

The Building Code defines occupancy. The Planning Department and Planning Commission have no authority over Building Code requirements. The Building Official makes the determination regarding the change in occupancy and the associated requirements. Our position before the Planning Commission is to convey and support the determination of the Building Official.

PROJECT INFORMATION

Project site location: The project site is located on the southwest corner of Church Avenue and Industrial Way (Assessor’s Parcel Number 023-060-37s), as shown I Figure 1 below.

Figure 1

“Site Location”



Site Description

The site plan shows a 5,000 s.f. industrial/commercial building that is partially build out, with a 23 occupant load. The applicants are intending to make minor tenant improvements to accommodate the church with a meeting area (345 sq.ft), two Lobbies, Pastor’s office, storage rooms (for proposed classrooms), two (2) restrooms and remaining for storage/future growth.

A site plan review was distributed to the site plan review committee, there were concerns from the staff including;

No accessible paths are required, as there are no sidewalks in industrial areas, no accessible path to a “public walkway” is necessary in an industrial zone. A church is not a common use in industrial areas. Industrial areas are typically not very “pedestrian friendly” with no sidewalks, curb ramps, etc. for pedestrian use. For patrons who park on the street, there are no sidewalks or marked crossings to provide a route for them to walk to the building.

Land Use and Zoning

The subject property is currently zoned General Industrial (M2) and designated General Industrial (M2) on the land use map which allows for a mix of wholesale, heavy commercial and light industrial uses. Churches are allowed within the M2 and CS Zone Districts by way of a conditional use permit.

Development standards that are applied to the General Industrial (M2) zone district are;

- A. Minimum Lot Size. The minimum lot size for each building shall be one-half acre.
- B. Height Limitations. The maximum height of any structure shall be fifty-five feet.
- C. Yards.
 - 1. Front yard: Twenty-five feet (from property line).
 - 2. Side yard: none, except where the side yard abuts a residential district in which case, the setback distance shall be fifteen feet.
 - 3. Rear yard: none, except where the rear yard abuts a residential district in which case, the setback distance shall be fifteen feet.

Surrounding Uses

The surrounding uses are described as follows:

Location	Land Use	Zoning	Existing Uses
West	Agriculture	(Ag)Agriculture/Fresno Cty	Agriculture uses.
East	General Industrial	((M2) General Industrial	Zacky Farms Hatchery
North	General Industrial	(M-2) General Industrial	Allright Div.Services, Contractor bldg
South	General Industrial	(M2) General Industrial	Mid Valley DisposalWWTP uses

Conditional Use Permits must be evaluated to determine whether or not they would have a negative impact on surrounding uses that relate to the public health, safety, welfare, of the persons residing or working in the neighborhood of the proposed use, and will or will not be injurious or detrimental to property and improvements in the neighborhood of the city. Staff has reviewed some elements including:

- A. Noise

The Noise element is to be considered when determining whether or not to approve a conditional use permit. The subject site is in an industrial area, and a certain amount of noise is expected. For industrial properties, such as the subject property, the Kerman Municipal Code section 9.26.010 Prohibition of unreasonable noise states in part:

- A. It is unlawful for any person to willfully make or continue, or cause to be made or continued, any unreasonably loud, unnecessary, and unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area.

Because the nature and time of proposed use is during the evening hours, weekends on Sundays and the use will be held within the building when most businesses would be closed, the noise impact should be no impact, unless there were a special event in which case this could possibly have some impact.

The goals of the City of Kerman Noise Element are:

1. To protect the citizens of the City from the harmful and annoying effects of exposure to excessive noise.
2. To protect the economic base of the City by preventing incompatible land uses from encroaching upon existing or planned noise producing uses.
3. To preserve the tranquility of residential areas by preventing noise-producing uses from encroaching upon existing or planned noise-sensitive uses.
4. To educate the citizens of the City concerning the effects of exposure to excessive noise and the methods available from minimizing such exposure.

The Commission must determine whether this type of proposed use (church site) would be in line with the goals as listed above.

B. Parking

Section 17.74.050 (E) Schools and public facilities requirements

E. Churches. Churches and other places of worship, mortuaries or funeral homes shall provide at least one parking space for every four seats within the main chapel or assembly room, or one space per twenty square feet of floor space if seats are not fixed. The proposed church will have a 345 sq.ft meeting area. 345/20 would require at least 17 parking stalls. The site has 24 shown on site plan which will meet parking requirements.

Conditional Use Permits

Pursuant to section 17.12.040.C the Planning Commission may approve a conditional use permit as requested, or in a modified form, if on the basis of the application and testimony submitted, the Commission makes the following findings:

1. That the proposed establishment, maintenance, operations of the use applied for will not be detrimental to the public health, safety, welfare, morals of the persons residing or working in the neighborhood of such proposed use, or whether it will be injurious or detrimental to property and improvements in the neighborhood or the city;
2. That the proposed use in is consistent with the Kerman General Plan.
3. That an environmental review as conducted and a determination made that the proposed use is categorically exempt from the California Environmental Quality Act (CEQA) as an existing facility that involves no expansion of an existing use, with minor interior or exterior alterations involving such things as interior partitions, plumbing, ad electrical conveyances; (Section 15301, Class 1).

4. That the site for the proposed use is adequate in size, shape and location to accommodate the use as it relates to the district for which the use is proposed.

Fiscal Impact

None expected

Summary:

The proposed church will serve a small congregation that is looking for a place to establish its church home. The proposed church may be allowed by way of a conditional use permit. The proposed use is not typical to the industrial zone district; however more and more cities are allowing churches in industrial zones, as seen in attached photos. There appears to be minimal impact to surrounding properties or uses, with the church being open when other businesses are closed. Religious facilities and educational institutions have become a common use in and around business parks in other cities and they are typically regarded as “good neighbors.” The Planning Commission needs to determine whether this type of use would be allowed by way of a conditional use permit. This will be a precedent in this zone district that has been designated by the General Plan for industrial uses and compatible uses. However, based on the foregoing considerations and the overriding restrictions under RLUIPA, the CUP may be allowed, with conditions of approval.

Public Hearing:

A notice was posted in the Kerman News as well mailed to adjacent properties. To date no responses have been received.

Attachments:

- A. Zoning Chart
- B. Letters from Tom Boonstra, Pastor of Kerman Baptist Church
- C. Photographs
- D. Resolution No. 16-09, approving/denying Conditional Use Permit (CUP 16-03) with conditions of approval.
With Exhibits

Attachment 'A'
Zoning Chart

Kerman Baptist Church: Proposed site in M2 zone district 15260 W. Church Avenue

General Industrial (M-2) zone district Section 17.54 Allowed Uses

M-2	<u>Open Uses:</u>	<u>Permitted with CUP:</u>
	Agriculture Hatchery General Contractor Machinery Metal Products Trucking Wholesale Sales	Auto Dismantling Pipe Manufacturing Food Packing Racetracks
Plus ALL Uses in Service Commercial (SC) zone district		
	<u>Open Uses:</u>	<u>Permitted with CUP:</u>
	Appliance Sales Bakeries Hardware's Food Lockers	Auction Houses Transit Stations Kennels RV Storage
Plus ALL Uses in General Commercial (CC) zone district		
	<u>Open Uses:</u>	<u>Permitted with CUP:</u>
	Offices Shoe Stores Clothing Stores Bakeries Barbers Restaurants Wedding Chapels	Auto Lease and Rental Auto Sales Bowling Alleys Cabinet Shops Churches

Attachment 'B'

Letter from Pastor Boonstra



KERMAN
BAPTIST CHURCH

Loving God • Loving People

Olivia Pimentel
Kerman City Hall
850 S Madera Ave
Kerman, CA 93630

Olivia,

Thank you for taking the time to meet with me this evening. I would like your thoughts on the best way that we could get a church into an industrial zone. I believe such an arrangement would work well for both the city and for us, for the following reasons:

- 1) In many ways, an industrial zone is much more suited for a church than a residential zone.
 - a. Industrial zones are quiet on Sundays and evenings, when churches are most active. The uses are complementary.
 - b. Industrial zones are prepared for the traffic that comes with church, while residential areas often are not. No one wants to back out of their driveway near a church on a busy Sunday morning, but the industrial areas are almost absent of traffic.
 - c. Noise is not a concern in industrial areas. We are not a loud church, but some are and can irritate neighbors.
 - d. The vast majority of people drive to church. Many older churches in residential areas don't have parking lots, but industrial areas do.
 - e. Industrial areas produce less property taxes than residential or commercial areas, and thus create a smaller exemption burden when used by churches.
- 2) Many other locales allow churches in industrial zones. I've included numerous photos of churches in the City of Fresno in industrial areas.
- 3) The Kerman Zoning Ordinance appears to allow churches in M-2 areas via a CUP, though I would appreciate the City Planner's opinion on the chart I provided.

Sincerely,

Tom Boonstra
Kerman Baptist Church

Attachment 'C'

Photos



Ambassador Baptist Church
4589 W Marty Ave, Fresno

Industrial Zone

Attachment 'C' continued

Photos



Celebration Church
4838 W Jacquelyn Ave, Fresno

Industrial Zone

Attachment 'C' continued

Photos



Victory Baptist Church
1717 N Gateway Blvd, Fresno

Industrial Zone

Attachment 'C' continued

Photos



The Current Church
1754 N Fine, Fresno

Industrial Zone

Attachment 'D'

Resolution

RESOLUTION NO. 16-09

**BEFORE THE PLANNING COMMISSION
CITY OF KERMAN, STATE OF CALIFORNIA**

A RESOLUTION APPROVING CONDITONAL USE PERMIT 16-03 TO ALLOW KERMAN BAPTIST CHURCH TO OCCUPY A SITE IN A (M-2) INDUSTRIAL ZONE DISTRICT ON PROPERTY LOCATED ON THE SOUTHWEST CORNER OF CHURCH AVENUE AND INDUSTRIAL WAY IN KERMAN, CALIFORNIA.

WHEREAS, at a regular meeting of the Planning Commission of the City of Kerman (the "Planning Commission") duly called and held on June 13, 2016, at 6:30 p.m., it was moved by Commission member _____ second by Commission member _____ and carried that the following resolution be adopted:

WHEREAS, the Planning Commission has received an application for a Conditional Use Permit to allow a church to occupy a vacant 5,000 sq. ft. industrial building on property located on the southwest corner of Church Avenue and Industrial Way; and

WHEREAS, the Planning Commission pursuant to chapter 17.12, Conditional Use Permits, section 17.12.040 conducted a duly noticed public hearing on June 13, 2016, to consider the Conditional Use Permit; and

WHEREAS, Planning Department staff presented a report and information regarding the proposed Conditional Use Permit; and

WHEREAS, the Planning Department has conducted an environmental review and a determination has been made that the proposed project involves negligible or no expansion of an existing use and is categorically exempt from the California Environmental Quality Act (CEQA); (CEQA Guidelines, Section 15301, Class 1).

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission, after considering all the evidence presented, determined the following findings were relevant in evaluating this Conditional Use Permit:

1. The proposed use will not be detrimental to the public health, safety, welfare, morals of the persons residing or working in the neighborhood of the proposed use, and will OR will not be injurious or detrimental to property and improvements in the neighborhood or the city.
2. The proposed use is consistent with the Kerman general plan.
3. The project is categorically exempt from CEQA as an existing facility (CEQA Guidelines, Section 15301, Class 1)

4. The site for the proposed use is adequate in size, shape and location to accommodate the use as it relates to the district for which the use is proposed.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Kerman hereby approves Conditional Use Permit No. 16-03 subject to the Conditions of Approval contained in Attachment "A".

The foregoing resolution was adopted at a regular meeting of the Kerman Planning Commission held on this 13rd day of June, by the following vote.

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED BY:

Chairman, Robert D. Epperson

Date

Secretary, Olivia Pimentel

Date

Attachment 'A' Conditions of Approval
Exhibits 'A' Site Plan
Exhibit 'B' Floor Plans

Attachment 'A'

CONDITIONS OF APPROVAL Conditional Use Permit 16-03

General Requirements

1. The site plan, building elevation and floor plan drawings prepared by Gary Rogers-Architect dated April 28, 2016 **are to be modified to show existing building 'as is' with no improvements** for the Kerman Baptist Church project as shown in Exhibit 'A', consisting of sheets Site Plan/SP1.0,/Unit Floor Plans A1.0/Unit Exterior Plans A2.0.
2. This Conditional Use Permit approval shall become null and void if all conditions have not been complied with and the occupancy, use and/or development of the land have not taken place within one (1) year of the date of approval. Extensions of time, not to exceed one (1) year may be granted upon written request with the appropriate fee. PLEASE NOTE: This will be the only notice given for the specified expiration date. The applicant is responsible for initiating an extension request.
3. Any alteration or expansion of these facilities or increase in the developed area of the site from that shown on the approved revised site plan may require submission of an additional land use application for review and approval and associated building permits
4. Any change in use or occupancy of the areas other than what is shown on revised site plans, will require review of occupancy loads and permits will be required for any improvements. Upon issuance of a building permit for improvements (except for ADA compliance permits) will require the installation of fire sprinklers pursuant to section 15.04.075. Random inspections will be made to ensure that there are no changes to the existing building and proposed use as shown on approved site plan without required building permits.
5. All of the conditions of this Conditional Use Permit are continuously in effect throughout the operative life of the project for the use approved. Failure of the property owner, tenant, applicant, developer or any operator to comply with any or all of the conditions at any time may result in a public hearing and possible revocation of the Conditional Use Permit. The County shall provide adequate notice, time and opportunity to the property owner or other interested party to correct the non-complying situation.
6. The property owner shall maintain all landscaping, fencing and structures regularly so that all facets of the development are kept in continual good repair, including but not limited to the removal of graffiti and the continued provision of healthy thriving landscaping. The property shall be maintained so that it is visually attractive and not dangerous to the health and welfare of the surrounding properties. Drought-resistant, fire retardant vegetation shall be used for any replacement landscaping and erosion control to reduce water consumption and promote slope stability (where applicable).
7. The site plan and building elevation drawings shall be revised as appropriate to reflect all conditions of approval and plans shall be resubmitted to the Planning Department for final review and approval by the Director of Planning and Development prior to the issuance of a grading permit. Full compliance with conditions of approval shall be achieved prior to issuance of any Certificates of Occupancy or as modified by the Director of Planning and Development.
8. Prior to the commencement of any work within the City of Kerman, the general contractor and all sub-contractors shall obtain a business license from the Planning & Development Services Department. For a business license application or for more information, contact Olivia Pimentel at (559) 846-6121.

9. Prior to issuance of certificate of occupancy by the Building Division, the applicant shall obtain a business license from the Planning & Development Services Department. For a business license application or for more information, contact Olivia Pimentel at (559) 846-6121.
10. No sign shall interfere with a driver's or pedestrian's view of public right-of-way or in any other manner impair public safety, or interfere with the safe operation of a motor vehicle on public streets. This includes, but is not limited to, the driver's view of approaching, merging or intersecting traffic.
11. Pursuant to Government Code Section 66474.9, the applicants (including any agent thereof) shall defend, indemnify, and hold harmless, the City of Kerman and its agents, officers and employees, from any claim, action, or proceeding against the City or its agents, officers or employees to attach, set aside, void, or annul the City's approval concerning this application, which action is brought within the time period provided for in Section 55499.37. The City will promptly notify the applicants of any such claim action or proceeding and cooperate fully in the defense.

Site Plan

12. All street lights shall be a nostalgic style, consistent with other street lights in Industrial Park
13. Provide sufficient pedestrian-scale lighting to achieve a minimum 0.5 foot candles at the walking surface along the walkway to the building.
14. Lighting sources should have cut off lenses and should be located to avoid light spillage and glare on adjacent properties and in private properties.
15. Install illuminated exit and egress lighting with battery back-up (not normally installed in offices or warehouses),
16. Doors will be required to swing in the direction of egress with panic hardware etc.
17. Entry doors shall be ADA compliant with the required 36' to 48' for wheelchair accessibility.
18. Provide bicycle rack(s) for the site. Bicycle rack(s) shall be located in highly visible and convenient areas).
19. Parking and pedestrian light fixtures shall be decorative and compatible with the architectural design of the building.
20. A complete plan addressing the entire square footage and use of the building and accurate occupancy loads must be reviewed to establish egress, paths of travel, parking, exiting, and other code related items.

Architecture

21. The building elevation drawings for the proposed building shall be substantially consistent with the elevations submitted for the proposed project. The use of awnings or similar treatment to the windows and doorways to make the building more appealing and interesting. The architectural elements for the buildings shall be consistent and integrated into the overall design of the building. Any modifications to the building elevations pursuant to these conditions of approval shall be submitted to the Planning Division for review and approval by the Director of Planning & Development prior to issuance of building permit.
22. Heating and air conditioning units or other mechanical equipment should be located on the ground away from private outdoor space such as porches and patios, and screened from public view through landscaping and/or screen walls.
23. Roof-mounted heating and air conditioning units or other mechanical equipment shall be set back from the roof edge, placed behind parapet or in a well so that they are not visible by motorists or pedestrians from Industrial Way. All roof-mounted mechanical equipment on the building shall be visually screened and

acoustically shielded. Screening for roof-mounted equipment shall be integrated into the building and roof design and use compatible materials, colors and forms. Wood lattice or fence like coverings is prohibited for screening.

24. All meters, valves, pipes and any other mechanical/plumbing/electrical appurtenances on the building exterior shall be painted and/or textured to match the building color.
25. Any above ground utilities including street lights, fire hydrants, postal boxes, etc. shall be installed behind sidewalks. If located adjacent to buildings, transformers and protective bollards shall be painted to match the building and all transformers shall be screened from public view by dense landscaping.

Construction

26. Construction debris shall be contained within an on-site trash bin and the project site shall be watered at all times for dust control during grading and construction.
27. Prior to issuance of a building permit, the applicant shall confirm with the Building Division if the project is subject to the Construction and Demolition Recycling Program. Construction and demolition projects exceeding \$100,000 in valuation are subject to the C&D Program and shall submit the appropriate Waste Reduction Recycling Plan, application fee, and security deposit. Building Department, at (559) 846-6121 for more information.
28. If applicable, the Developer shall be responsible for obtaining and complying with encroachment permits from the Building Division for any work performed within the street or alley right-of-ways. A performance bond in the amounts prescribed by the Building Official shall be submittal with encroachment permit application. Please contact Chris Kufis, Building Official, at (559) 842-2301 for more information.
29. The Developer shall use the City's exclusive franchise roll-off waste hauler for removal of construction debris. Contact Mid Valley Disposal, 15300 W. Jensen Avenue, Kerman, CA for bin information and pricing at (559) 846-2467.
30. All property not occupied by structures, paving or landscaping on the subject site shall be properly maintained for both health and aesthetic reasons. Grass, weeds and debris shall be abated as required by the Code Enforcement Division and Fire Department.
31. The construction contractor(s) shall implement dust suppression techniques to prevent fugitive dust from creating a nuisance off-site by:
 - a. Requiring all trucks hauling dirt, sand, soil, or other loose materials to be covered.
 - b. Reducing traffic speeds on all unpaved roads to 15 mph or less.
 - c. Washing trucks and any equipment prior to exiting unpaved roads onto paved roads.
 - d. Maintaining the site in as clean a condition as possible avoiding the tracking of dirt, mud and debris onto adjoining property and onto public streets.
32. Construction equipment shall be staged away from any surrounding residences.

Parking

33. The number of parking spaces shall comply with Section 17.74.020 of the Kerman Municipal Code for Churches. The provided parking spaces of 24 parking stalls as shown on site plan meet the required parking spaces for the project.
34. One handicap accessible parking space is shown on the site plan as required. Handicapped parking spaces shall be located as near as practical to the primary entrance or shall be located to provide for safety and optimum proximity to the entrances of the building. Handicap parking shall be designed in accordance with standard requirements and be ADA compliant.
35. Parking and on-site circulation requirements shall be maintained.
 - a. All markings to include parking spaces, directional designations, No Parking designations and Fire Lane designations shall be clearly defined (as required by the Fire Department) and said markings shall be maintained in good condition at all times.
 - b. Parking and site circulation surfaces shall be maintained in good condition at all times.
 - c. All parking stalls shall be clearly striped and permanently maintained

Trash Enclosure

36. Trash enclosures shall be constructed of durable materials and the color, texture and architectural detailing shall be consistent with the overall site and building design. Gates on the enclosures shall be constructed of metal or some other comparable material and shall be painted to match the enclosure. Use of chain link/wood for gates is prohibited.
37. A concrete pad inside enclosures should be included to prevent damage to ground surfaces from filled containers. The pad should extend 10 feet in front of gates.
38. All refuse generated at the premises shall at all times be stored in approved containers and shall be placed in a manner so that visual or other impacts and environmental public health nuisances are minimized and complies with Kerman Municipal Code Title 8.

Building Permit and Payment of Fees

39. The developer/property owner shall secure a building permit from the Kerman Building Division prior to construction and include the he following information at time of submittal of construction drawings (if applicable):
 - a. Completed and signed Building Permit Application and payment of fees.
 - b. Three (5) sets of construction drawings on 24" x 36" sheets
 - c. Two (2) sets of engineering calculations
 - d. Two (2) sets of energy calculations
 - e. Two (2) sets of truss calculations
 - f. Two (2) copies of soils report
40. Construction plans submitted for building permits shall be 24" by 36" with city standard title block for all required improvements. Building plans be based on the 2013 CBC, CED, CMC, CPC & Energy Code. Ensure that all notes and references on the construction drawings are in accordance with this code.

41. The construction plans shall also include any street, site utility, grading and drainage or other public improvement plans, as applicable. All construction plans shall be approved by the city and all other affected agencies prior to the issuance of the building permits.
42. The site will be designated seismic zone "D", unless proved to a lesser zone by a licensed soils engineer. Will load will be 85 miles per hour (mph) and exposure C.

Landscaping

43. The applicant shall provide three (3) copies of complete landscape and irrigation plans for the planting/re-planting and permanent irrigation system for the project. The plan shall show the type, size, and location of all plant material and utilize indigenous landscaping to minimize water consumption. The Landscape and Irrigation Plan shall be prepared by a licensed landscape architect and shall be prepared in compliance with the approved site plan and the City of Kerman's Water Efficiency Landscape Ordinance.
44. If none existing or maintained to City standards, landscaping shall incorporate shade and ornamental trees, shrubs and vines, groundcover and lawn. Drought tolerant landscaping and a drip irrigation watering system are encouraged in areas as appropriate.
 - a. Dense landscaping (vines, shrubs) shall be provided to screen outdoor trash enclosures, transformers, generators, and other elements visible from public streets. Shrubs should be a minimum of one gallon in size; however, a mix of one gallon and five gallon shrubs is strongly encouraged.
 - b. If none existing on site, a minimum 15-gallon shade tree shall be installed every 25 feet along the street frontages at Church Avenue and Industrial Way.
 - c. If none existing or operable on site, all landscaping and irrigation system shall be installed prior to issuance of a certificate of occupancy and shall be permanently maintained in a healthy and weed free condition.
 - d. If none existing or operable on site, the irrigation system shall be designed to prevent overspray onto walkways, parking areas, buildings, and fences.
 - e. If none existing or operable, the irrigation system shall include, where practical, drip, bubbler or other non-aerial water application methods or system. The system shall include automatic valves/timers for controlled application.
 - f. The landscape irrigation system shall have a separate meter.
45. If none existing on site, voltage boxes, mailboxes, trash enclosures, maintenance structures, backflow devices, automatic controls, air conditioning/heating units, etc. shall be screened with landscaping and/or decorative fencing/trim.
46. If none existing on site, all parking lots of ten spaces or more shall have at least five percent of the parking lot devoted to landscaped planters. One fifteen-gallon tree shall be planted for every five parking stalls and distributed so as to provide a fifty percent shade cover within fifteen years.
47. If none existing on site, backflow preventers for landscaping irrigation and domestic water shall not be located at visually prominent locations (such as the end of drive aisles or at site entries) and shall be well-screed with shrubs or low screen walls.

48. All landscaped areas shall have automatic irrigation systems installed to ensure plan material survives. Drip irrigation is encouraged where appropriate.

City Engineer

49. No engineering conditions for Conditional Use Permit, as the site is already developed to City standards.

Fire Department

The Fire Department completed a review and has the following requirements for the listed building plan. The following requirements and conditions are to be placed on this plan as a condition of approval by the Fire Department.

Site plan approved as submitted.

This project was reviewed by the Fire Department predominantly for requirements related to water supply, fire hydrants, and fire apparatus access to the building on site. Review for compliance with fire and life safety requirements for the building interior and its intended use are reviewed by both the Fire Department and the Building and Safety Section of the City of Kerman when a submittal for building plan review is made as required by the California Building Code by the architect or engineer of record for the building.

Below are consultation notes for correction prior to building plans are submittal:

50. The building will require fire sprinklers as per the City Municipal Code section 15.04.075. In existing buildings where a change in occupancy/use is proposed which would require remodeling pursuant to a building permit and the gross floor area exceeds 5,000 sq. ft. before or after the alteration an approved automatic fire sprinkler system shall be installed throughout the structure. The gross square footage includes the drip line of the roof, eaves, overhangs or other architectural feature attached to the building that exceeds 3 feet from the wall or support and including any attachments within 10 feet of the building before or after the change of occupancy/use. See City of Kerman Municipal Code for entire section.
51. The building floor plan is to be modified, as submitted the plan shows 5,000 sq. ft., does not include or detail the attached canopy which extends 5 feet out from the face of the building along the east side. This addition to the building square footage as shown of 5,000 sq. ft. is an additional 305 sq. ft. Applicant is to include complete building square footage on future submittals including any structural attachments.
52. Sheet A1.0 states existing floor plan. No proposed floor plan is included and it appears by dotted lines that some walls are proposed for removal. If no improvements are proposed, a revised floor plan is required to show the existing floor plan 'as is'.
53. Sheet A1.0: The occupant load as shown has been calculated incorrectly. Provide the total square footage of the proposed sanctuary and calculate occupant load with the correct occupant load factor. The 15 used is for tables and chairs (dining). The occupant load proposed shall be for assembly use with a factor of 7 for seats as per the 2013 CBC Table 1004.1.2
54. Provide the occupant loads for each room or area per the proposed use and show on plans, including lobbies. 2013 CBC Table 1004.1.2. at time of submittal for plan review.

If you have any further questions, please contact Laurie.Sawhill@fresno.gov. 911 H Street, Fresno CA 93721 (559) 621-4147

Caltrans completed a review of the proposed site plan for the proposed Church site and had no comments.

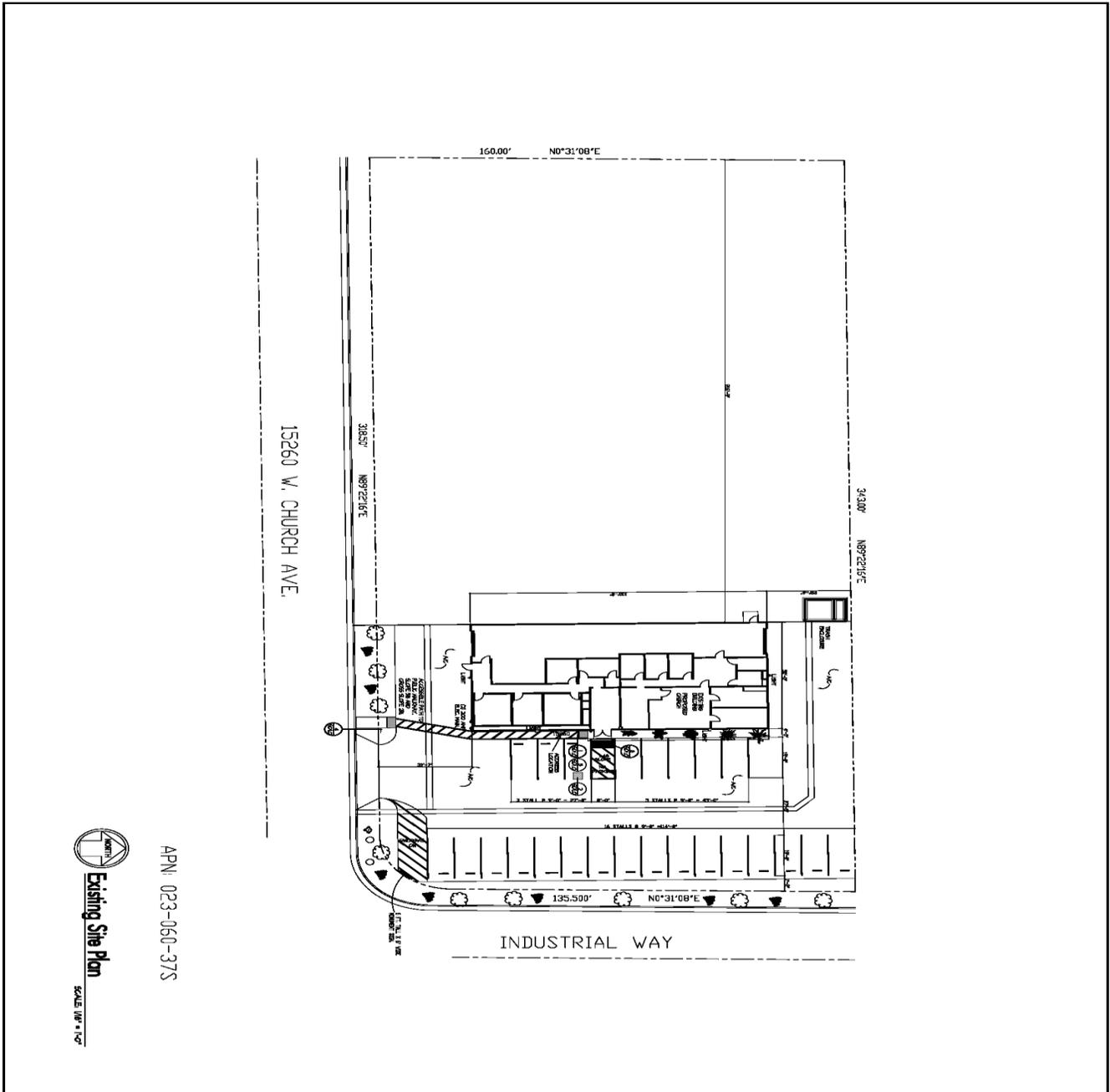
END OF CONDITIONS

Applicant hereby acknowledges receipt of and agrees with the Conditions of Approval.

Representative/Agent:
Kerman Baptist Church

Date

Exhibit 'A'
 Site Plan



 Existing Site Plan
 SCALE: 1/8" = 1'-0"

APN: 023-060-37S

<p>DATE: APRIL 28, 2010</p> <p>SP1.0</p> <p>SHEETS</p>	<table border="1"> <tr> <th>NO.</th> <th>DESCRIPTION</th> <th>DATE</th> </tr> <tr> <td>1</td> <td>EXISTING SITE PLAN</td> <td></td> </tr> </table>	NO.	DESCRIPTION	DATE	1	EXISTING SITE PLAN		<p>Existing Site Plan Kerman Baptist Church 15260 W. Church Ave. Kerman, California 93630 Cell #355-2356 Home # 408-9580</p>		<p>Gary Rogers-Architect 450 S. MADERA AVE. SUITE F MADERA, CALIFORNIA 93651 (510) 674-6546(OFFICE), 674-6544(FAX) PLANNING • DESIGNING • CONSTRUCTION PROBLEMS SOLVING</p>
NO.	DESCRIPTION	DATE								
1	EXISTING SITE PLAN									

