

NOTICE OF REGULAR MEETING

Pursuant to Section 54954.2 of the Government Code of the State of California, a Regular meeting of the Planning Commission is hereby called for:

Date/Time: **Wednesday, September 14, 2011, 7:00 p.m.**
(or as soon thereafter as possible)

Location: City Hall Council Chambers
333 Civic Center Plaza, Tracy

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Planning Commission on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

PLEDGE OF ALLEGIANCE

ROLL CALL

MINUTES APPROVAL

DIRECTOR'S REPORT REGARDING THIS AGENDA

ITEMS FROM THE AUDIENCE

In accordance with Procedures for Preparation, Posting and Distribution of Agendas and the Conduct of Public Meetings, adopted by Resolution 2008-140 any item not on the agenda brought up by the public at a meeting, shall be automatically referred to staff. If staff is not able to resolve the matter satisfactorily, the member of the public may request a Planning Commission Member to sponsor the item for discussion at a future meeting.

1. OLD BUSINESS

2. NEW BUSINESS

A. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT APPLICATION FOR A PLACE OF WORSHIP AT 213 W. ELEVENTH STREET – APPLICANTS ARE JERALYN CREAR AND CYNTHIA CHESS AND OWNER IS COSMO RENTALS, INC. - APPLICATION NUMBER CUP11-0002

B. ELECTION OF OFFICERS

3. ITEMS FROM THE AUDIENCE

4. DIRECTOR'S REPORT

A. UPDATE ON DOWNTOWN WORKSHOP

5. ITEMS FROM THE COMMISSION

6. ADJOURNMENT

September 8, 2011

Posted Date

The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in public meetings. Persons requiring assistance or auxiliary aids in order to participate should call City Hall (209-831-6000), at least 24 hours prior to the meeting.

Any materials distributed to the majority of the Planning Commission regarding any item on this agenda will be made available for public inspection in the Development and Engineering Services Department located at 333 Civic Center Plaza during normal business hours.

AGENDA ITEM 2-A

REQUEST

PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT APPLICATION FOR A PLACE OF WORSHIP AT 213 W. ELEVENTH STREET – APPLICANTS ARE JERALYN CREAR AND CYNTHIA CHESS AND OWNER IS COSMO RENTALS, INC. - APPLICATION NUMBER CUP11-0002

DISCUSSION

Background

On June 16, 2011, the City received a Conditional Use Permit application from Mountain's Hope Community Worship Center ("Mountain's Hope") at 213 W. Eleventh St, formerly occupied by the Employment Development Department (EDD). Mountain's Hope currently uses a school building when school is not in session. According to the applicant, each time the congregation meets, the members need to set up and take down the worship space, and it is inconvenient. Mountain's Hope would like to obtain their own space that they can permanently arrange to suit their needs.

Project and Site Description

The proposed use is a place of worship including activities such as religious gatherings, smaller meetings for religious study and education, and related administrative and service functions. The use may also include social and recreational gatherings but will not involve any on-site outdoor events.

The subject site is zoned Central Business District (CBD). Places of worship are conditionally permitted in the CBD zone and must receive Planning Commission or City Council approval of a Conditional Use Permit before such use is established.

The subject site is bordered by Eleventh Street to the south and residences and Twelfth Street to the north (Attachment A: Location Map). To the west of the subject site is In Shape Health Clubs ("In Shape") and to the east is a private parking lot for nearby apartments.

The subject site is comprised of three parcels, Assessor's Parcel Numbers 233-113-08 ("parcel 08"), 233-113-09 ("parcel 09"), and 233-113-04 ("parcel 04"). An existing one-story, approximately 5,250 square foot building is on "parcel 08," which Mountain's Hope intends to fully occupy. A portion of the building straddles the property line between "parcel 08" and "parcel 09," and a parking lot to serve the building is improved on the remainder of "parcels 08 and 09" and "parcel 04" (Attachment B: Site and Floor Plan).

Because the parking lot is located on a legally separate lot from the building, the parking lot could potentially be transferred to a different owner than the owner of the building and, as such, it would no longer be legally bound to serve as the parking area for the building. To address this issue, staff has identified two solutions: (1) a lot line adjustment to merge the three properties into one, or (2) a legal recording that maintains the parking lot for the use by the building pursuant Tracy Municipal Code (TMC) Section

10.08.3460 that addresses buildings and parking facilities located on separate lots. After discussions with the property owner regarding concerns about the cost and time of a lot line adjustment, staff determined that a recordation of an easement would be sufficient to resolve the separate lot concern. Staff recognizes that the easement would not resolve the issue of the property line that runs through the building; however, it is an existing situation that the staff considers non-conforming and would not trigger new building improvements. Should Planning Commission determine that a lot line adjustment is more appropriate than recordation of an easement; the Commission has the authority to require a lot line adjustment through a Condition of Approval.

Land Use and Project Analysis

According to the applicant, Mountain's Hope's proposed activities include religious worship services on Sundays from 8am to 2pm and Wednesdays from 7pm to 8:30pm, classes on Saturdays from 9am to 12pm, and administrative office duties during the week from 9am to 5pm. It should be noted that while these are Mountain's Hope's current hours of operation, these schedules and times could change over time with the growth of the membership or re-occupancy by a future tenant. According to the applicant, the facility would also be used for occasional activities unrelated to typical worship services, such as wedding ceremonies, annual back-to-school assistance events, and offering resource information and miscellaneous assistance to low-income families. All assembly activities will take place in the building.

Places of worship are categorized with other similar uses in the TMC. Accordingly, uses similar to a place of worship could be appropriate for this location and may operate under this Conditional Use Permit.

The subject property is within the City's Downtown area. The City's vision for Downtown is a cultural and historic heart of the City supported by a mix of retail, offices, and residential uses along the Eleventh Street corridor. The City is in the process of creating a Downtown Specific Plan. Though still in development, the current vision for the subject property would permit places of worship.

The applicant invited businesses, residents, and property owners in the neighborhood to a meeting to discuss their project. According to the applicant, a few individuals were in attendance and no concerns or issues were raised. A place of worship, as conditioned, would be compatible with the neighboring businesses and residences.

Parking and Circulation

The site has an existing onsite parking lot containing 20 parking spaces with access to Eleventh and Twelfth Streets. Based on an assembly area of 2,148 square feet and accessory area of 3,097 square feet, the minimum amount of off-street parking required by the TMC is 36 spaces. According to the applicant, Mountain's Hope currently has up to 30 cars at peak times. Regardless, the applicant is required to satisfy the required minimum parking and provide 16 additional parking spaces.

In Shape owns the adjacent building and parking lot containing 83 parking spaces. When In Shape received a Conditional Use Permit for the fitness club in 1994, it and the property owner of the subject property entered into an agreement to share their parking

facilities with each other (Attachment C: Shared Parking Agreement). The agreement was not required to satisfy parking requirements for either party, but the two property owners recognized the benefits of sharing their parking facilities. According to the project applicant and to the owner of In Shape, both property owners would like the shared parking agreement to continue.

The applicant has several options to satisfy Mountain's Hope's parking requirements, including the following:

(1) Joint Use Parking: Per TMC Section 10.08.3460(j), joint use parking allows up to fifty percent of a primarily daytime use's required parking to be provided by parking facilities belonging to a primarily nighttime use, subject to specific conditions. According to the applicant, Mountain Hope's peak usage will be weekend mornings to early afternoon. According to an onsite manager at In Shape, In Shape's peak times are weekdays, primarily from the late afternoon into the evening. A maximum of 18 spaces of Mountain's Hope's required 36 spaces from In Shape's parking lot could be credited toward Mountain's Hope. Mountain's Hope needs 16 spaces to satisfy their parking requirement, which can be fully accommodated by In Shape's parking facilities through joint use. Shared parking facilities would provide an opportunity for better circulation and alleviate additional vehicles from parking on the street. Should Mountain's Hope desire to use joint use parking to satisfy its parking requirement, the applicant will need to cause recording of a reciprocal pedestrian access and vehicular parking agreement (easement) on both affected properties in accordance with the TMC.

(2) CBD Parking In-Lieu Fee: Pursuant to TMC Section 10.08.3470(c), buildings in the CBD zone shall either provide on-site parking or pay an in-lieu parking fee. The CBD Parking In-Lieu Fee was established by the City Council, Resolution No. 2002-362 and is available only to sites zoned CBD because of the availability of public parking facilities and as a means to ease parking requirements in the Downtown. The applicant may satisfy the parking requirements by paying the CBD In-Lieu Fee for the remaining 16 parking spaces. This fee would be collected at the time of building permit issuance for Mountain's Hope's tenant improvements. Overflow parking would either occur on nearby City streets or at the In Shape parking lot under the terms of the existing private agreement.

Environmental Document

The project is categorically exempt from CEQA pursuant to Guidelines Section 15303, which pertains to existing facilities. The project consists of additions to existing structures that will not result in an increase of more than 10,000 square feet where the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive. No further environmental assessment is required.

RECOMMENDATION

Staff recommends that the Planning Commission approve the Conditional Use Permit application for a place of worship at 213 W. Eleventh Street based on the findings and

subject to the conditions as stated in the Planning Commission Resolution dated September 14, 2011 (Attachment D).

MOTION

Move that the Planning Commission approve the Conditional Use Permit application for a place of worship at 213 W. Eleventh Street based on the findings and subject to the conditions as stated in the Planning Commission Resolution dated September 14, 2011 (Attachment D).

Prepared by Kimberly Matlock, Assistant Planner

Reviewed by Bill Dean, Assistant Development and Engineering Services Department Director

Approved by Andrew Malik, Development and Engineering Services Department Director

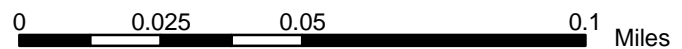
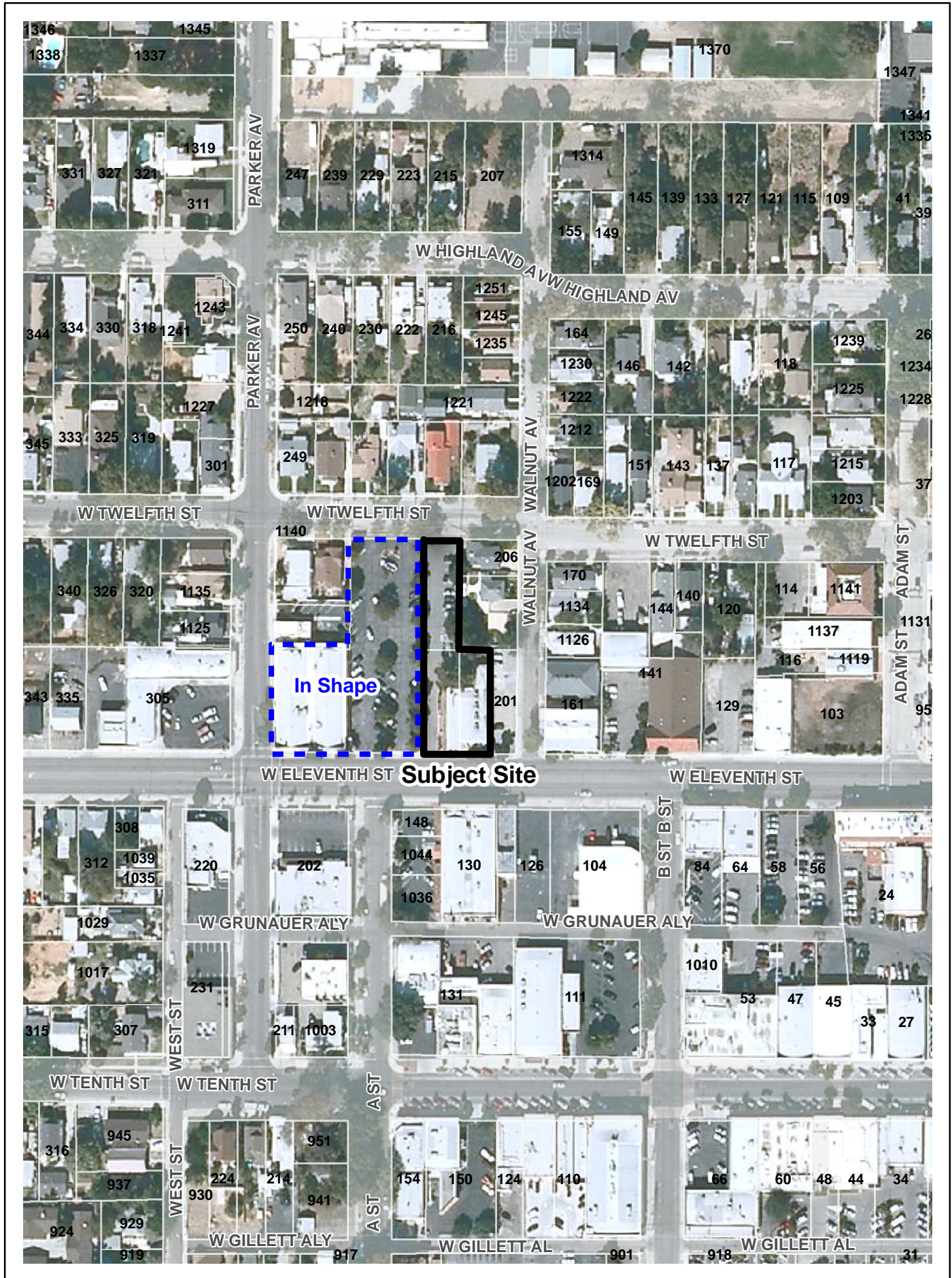
ATTACHMENTS

Attachment A— Location Map

Attachment B— Site and Floor Plan

Attachment C— Shared Parking Agreement

Attachment D— Planning Commission Resolution



STOCKTON ATHLETIC CLUBS

In Shape City

(209) 472-2105

WESTLAINE
RACQUET CLUB
(209) 472-2100

EXHIBIT "C"

Marina
Tennis Club
(209) 472-2110

January 3, 1994



AGREEMENT BETWEEN COSMO RENTALS, INC. AND
IN SHAPE MANAGEMENT CO., INC.

It is hereby recognized that In Shape Management Co., Inc. is the sole management company for In Shape City Tracy which operates a health club at 239 West 11th Street, Tracy, California.

It is also recognized that Cosmo Rentals, Inc. operates a rental at 213 West 11th Street, Tracy, California, which is owned by Mr. and Mrs. Bert Bacchetti and presently occupied by the Tracy E.D.D. Office.

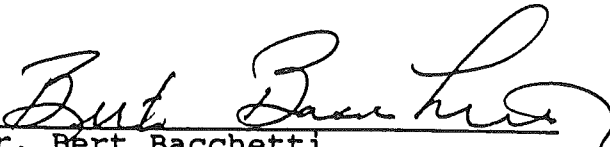
This agreement is made so as to facilitate additional mutual parking as follows:

- 1) In Shape City Tracy will be permitted to utilize additional parking at 213 West 11th Street after 4:30 p.m. Monday through Friday and all day Saturday and Sunday and holidays.
- 2) Clients and employees of the Tracy E.D.D. Office will be free to use parking at 239 West 11th Street anytime during the day before 4:30 p.m.
- 3) The chain-link fence presently separating the two parking areas will be removed with the consent of the City of Tracy.
- 4) This agreement supercedes all other parking agreements between the two facilities and will remain in effect during the length of operation of either facility, whichever is the longest.
- 5) This agreement may not be subject to cancellation by either party without the written consent of the City of Tracy.


WLRC — 1074 E. BIANCHI ROAD • STOCKTON, CA 95210
IN-SHAPE — 7920 KELLEY DRIVE • STOCKTON, CA 95209
MTC — 6545 EMBARCADERO DRIVE • STOCKTON, CA 95219

Agreement bet. Cosmo Rentals, Inc. and
In Shape Management Co., Inc.

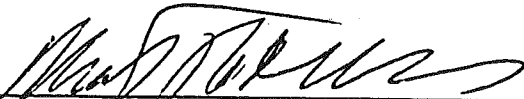
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Mr. Bert Bacchetti
Cosmo Rentals Inc.

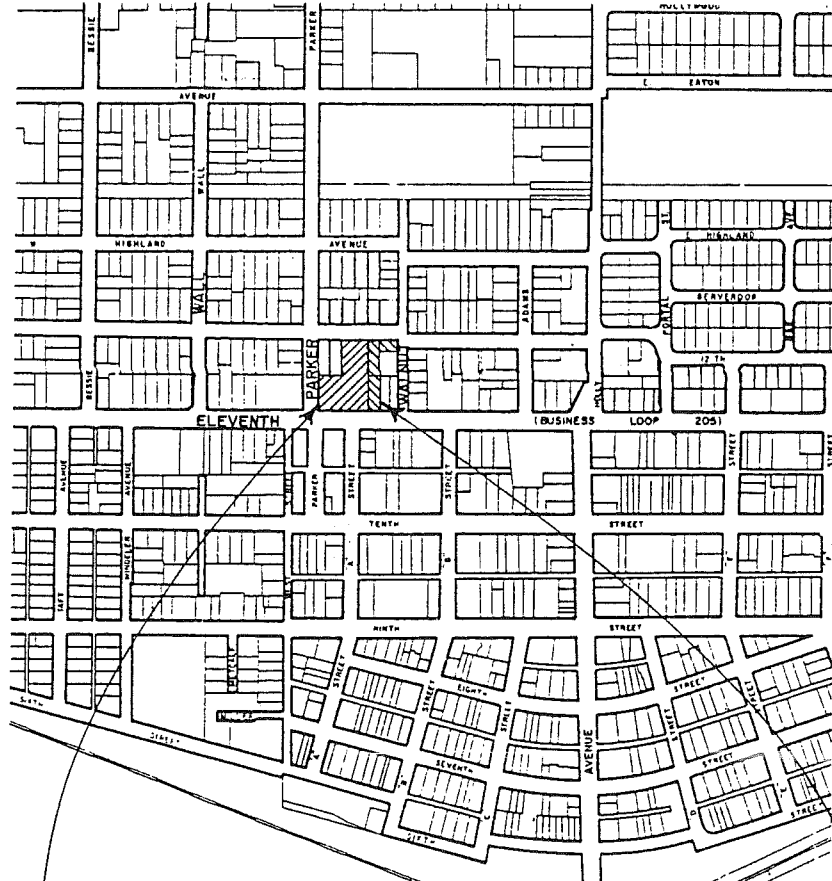
1/17/94
Date


Mrs. Bert Bacchetti
Cosmo Rentals Inc.

1/17/94
Date


Dr. Mort Rothbard
President
In Shape Management Co Inc.

1/3/94
Date



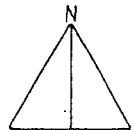
EMPLOYMENT DEVELOPMENT DEPARTMENT

IN SHAPE CITY



VICINITY MAP

1-94-DET: IN SHAPE CITY- E.D.D.



RESOLUTION 2011-_____

**APPROVAL OF A CONDITIONAL USE PERMIT APPLICATION FOR A PLACE OF WORSHIP
AT 213 W. ELEVENTH STREET – APPLICANTS ARE JERALYN CREAR AND CYNTHIA
CHESS AND OWNER IS COSMO RENTALS, INC. - APPLICATION NUMBER CUP11-0002**

WHEREAS, On June 16, 2011, Jeralyn Crear and Cynthia Chess submitted an application on behalf of Mountain’s Hope Community Worship Center for a Conditional Use Permit to establish a place of worship, including activities such as religious gatherings, smaller meetings for religious study and education, social functions, and related administrative and service functions, and

WHEREAS, A Conditional Use Permit is necessary for land use approval of the establishment of a place of worship on property zoned Central Business District, and

WHEREAS, The project is categorically exempt from the California Environmental Quality Act requirements under Guidelines Section 15303, which pertains to existing facilities, and

WHEREAS, The Planning Commission held a public meeting to review and consider the Conditional Use Permit application on September 14, 2011;

NOW, THEREFORE BE IT RESOLVED, that the Planning Commission does hereby approve the Conditional Use Permit to establish a place of worship, including educational, cultural, institutional, religious, and recreational uses serving the local residential areas, at 213 W. Eleventh Street subject to the conditions as stated in Exhibit “1” attached and made part hereof, based on the following findings:

1. There are circumstances applicable to the use which makes the granting of a use permit necessary for the preservation and enjoyment of substantial property right, because a place of worship cannot be established without a Conditional Use Permit. The building was previously occupied by an office use and is designed for uses that function in an office-like setting. The building suits the needs of the applicant, who has been looking for a location with the building and site characteristics of this location for over a year.
2. The establishment, maintenance, and/or operation of the project will not adversely affect or impair the benefits of occupancy, most appropriate development, property value stability, or the desirability of property in the vicinity because the nature of the land use, as conditioned, will conform to the requirements and intent of the City of Tracy General Plan and Tracy Municipal Code. The place of worship is compatible with existing business and residential uses within the vicinity because the use will be operated wholly indoors and will not engage in activities resulting in noise, odors, or vibration.
3. The project will not be detrimental to the public health, safety, or welfare or materially injurious to or inharmonious with properties in the vicinity or to the general welfare of the City, because the project, as conditioned, will meet all applicable City regulations, such as provision of required parking for the use.

* * * * *

The foregoing Resolution 2011-_____ of the Planning Commission was adopted by the Planning Commission on the 14th day of September, 2011, by the following vote:

AYES:	COMMISSION MEMBERS:
NOES:	COMMISSION MEMBERS:
ABSENT:	COMMISSION MEMBERS:
ABSTAIN:	COMMISSION MEMBERS:

Chair

ATTEST:

Staff Liaison

City of Tracy
Conditions of Approval
Place of Public Assembly at 213 W. Eleventh Street
Application Number CUP11-0002
September 14, 2011

A. General Provisions and Definitions.

A.1. General. These Conditions of Approval apply to:

The Project: A place of Public Assembly (Application Number CUP11-0002)

The Property: 213 W. Eleventh Street, Assessor's Parcel Numbers 233-113-08, 233-113-09, and 233-113-04

A.2. Definitions.

- a. "Applicant" means any person, or other legal entity, defined as a "Developer."
- b. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed Engineer designated by the City Manager, or the Development and Engineering Services Director, or the City Engineer to perform the duties set forth herein.
- c. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
- d. "Development and Engineering Services Director" means the Development and Engineering Services Director of the City of Tracy, or any other person designated by the City Manager or the Development and Engineering Services Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean the conditions of approval applicable to the place of public assembly located at 213 W. Eleventh Street, Application Number CUP11-0002. The Conditions of Approval shall specifically include all Development and Engineering Services Department conditions set forth herein.
- f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.

A.3. Compliance with submitted plans. Except as otherwise modified herein, the project shall be constructed in substantial compliance with the site and floor plans received by the Development and Engineering Services Department on July 28, 2011.

- A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, building permit fees, plan check fees, or any other City or other agency fees or deposits that may be applicable to the project.
- A.5. Compliance with laws. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
- A.6. Compliance with City regulations. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City regulations, including, but not limited to, the Tracy Municipal Code (TMC), Standard Plans, and Design Goals and Standards.
- A.7. Protest of fees, dedications, reservations, or other exactions. Pursuant to Government Code section 66020, including section 66020(d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a protest within this 90-day period, complying with all of the requirements of Government Code section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.

B. DES Planning Division Conditions

Contact: Kimberly Matlock (209) 831-6430 kimberly.matlock@ci.tracy.ca.us

- B.1. Project Expiration. The Conditional Use Permit approval shall expire six months from the project approval date, unless occupancy is established or a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion or unless an extension is granted by the Planning Commission in accordance with TMC Section 10.08.4350 and 4360.
- B.2. Lot Line Adjustment. Before the issuance of a building permit, the property owner of the subject property shall cause a lot line adjustment to be recorded on Assessor's Parcel Numbers 233-113-08, 233-113-09, and 233-113-04 to eliminate the property lines that run through the building and separate the parking lot. The resulting parcel shall be one lot containing the entire building and parking lot.
- B.3. Parking. Before the issuance of a building permit, the applicant shall demonstrate compliance with the TMC Off-Street Parking Ordinance by paying the Central Business District In-Lieu Parking Fee in accordance with the City Council adopted Resolution No. 2002-362, engaging in joint use of parking facilities with 239 W.

Eleventh Street in accordance with TMC Section 10.08.3460(j), a combination of both, or other method authorized by the TMC.

B.4. Recordations.

B.4.1. Before receiving credit for Joint Use of parking facilities with the property at 239 W. Eleventh Street, the applicant shall cause to record a reciprocal access and parking agreement with the property owner of 239 W. Eleventh Street in accordance with TMC Section 10.08.3460(g) on all affected properties. Said agreements shall receive the City's approval prior to recordation and shall contain measures to prevent its change or removal without prior written City approval. A copy of said agreement signed shall be provided to the City prior to building permit issuance.

B.4.2. Before the issuance of a building permit, the applicant shall cause a reciprocal access and parking recordation on Assessor's Parcel Numbers 233-113-08, 233-113-09, and 233-113-04 in accordance with TMC Section 10.08.3460(g). Said recordation shall provide for pedestrian and vehicular traffic to travel unimpeded throughout the parking areas. Said recordation shall receive the City's approval prior to recordation with the County Recorder and shall contain measures to prevent its change or removal without prior written City approval. A copy of said recordation shall be provided to the City prior to building permit issuance.

B.5. Signs.

B.5.1. The applicant shall obtain sign and building permits, as applicable, for any new or reconstructed signs.

B.5.2. Temporary signs, including banners, flags, pennants, balloons, and similar devices, shall comply with the Tracy Municipal Code standards for temporary signs.

B.6. Amplification of sound. There shall be no exterior amplification of sound, noise, or music without City approval.

B.7. Activities indoors. The use shall be conducted wholly within the building unless a Temporary Use Permit is approved or an amendment to the Conditional Use Permit is granted by the Planning Commission.

C. DES Building and Fire Safety Division Conditions

Contact: Kevin Jorgensen (209) 831-6415 kevin.jorgensen@ci.tracy.ca.us

C.1 Building permits. Before occupancy of the building, the applicant shall obtain all applicable building permits required to modify the structure to change its use from a B occupancy designation to an A-3 occupancy designation to the satisfaction of the Building Official.