



staff report

TO: Honorable Mayor and Members of the City Council

ATTENTION: Jeffrey L. Stewart, City Manager

FROM: Art Bashmakian, Director of Planning and Building Services

SUBJECT: Consideration and possible action to adopt Resolution No. 16-XX - A Resolution amending Variance Case No. V 15-01 and Conditional Use Permit Case No. CU 15-04 by extending the expiration dates of both applications for property located at 9812-9820 Walnut Street.

DATE: April 11, 2016

EXECUTIVE SUMMARY

This matter is a request by Glory Tabernacle Christian Center (GTCC) to amend conditions of approval for Variance No. 15-01 and Conditional Use Permit No. 15-04. The applicant requests a 120-day extension from the expiration date of April 13, 2016, for both applications. Staff recommends a 90-day extension, but authorizing the City Manager to provide an additional extension for up to 30 days upon good cause shown. No extension would be granted beyond August 11, 2016.

RECOMMENDATION TO CITY COUNCIL

- 1) Adopt Resolution No. 16-XX - A Resolution amending Variance Case No. V 15-01 and Conditional Use Permit Case No. CU 15-04 by extending the expiration dates for property located at 9812-9820 Walnut Street; or
- 2) Alternatively, discuss and take other action related to this item.

FISCAL IMPACT

None.

PUBLIC NOTICE

On March 29, 2016, notice of the hearing was provided to the Applicant and on March 30, 2016, the notice of the hearing was mailed to all property owners within 300 feet of the subject site; on March 31, 2016, a Public Hearing Notice was posted at City Hall, Brakensiek Library, Bellflower Substation, Thompson Park, and Simms Park; and on March 31, 2016, a Public Hearing Notice was published in the *Herald American* newspaper.

CEQA STATUS

Resolution No. 15-18, adopted on May 27, 2015, approved a negative declaration for the CUP and Variance. The present action does not result in any additional or intensified environmental impacts beyond what was anticipated by Resolution No. 15-18 and, therefore, no additional environmental review is required.

DISCUSSION

In April 2015, the City and Glory Tabernacle Christian Center (GTCC) settled a lawsuit related to GTCC's application for a CUP and Variance affecting its property at 9812-9820 Walnut Street. As a result, the City amended a previously approved CUP (No. 15-04) and Variance (No. 15-01). GTCC was required to implement the approvals by April 13, 2016.

GTCC was allowed, however, to extend the deadline as to the CUP for up to one year for good cause. The Variance does not provide for a similar extension; the deadline is April 13, 2016. The difference in the language between the CUP and Variance appears to be inadvertent; allowing an extension is the City's common practice and is accurately reflected within the conditions of approval for the CUP.

On March 11, 2016, GTCC filed a request with the City to extend both the CUP and Variance for 120 days (see Exhibit A to the draft resolution). It provided a number of reasons justifying the extension. After reviewing GTCC's request, it does appear that there are valid reasons to extend the April 13, 2016, deadline. By letter dated March 16, 2016 (see Exhibit B to the draft resolution), the City responded that staff would support a 90-day extension. Additionally, however, staff noted that to ensure there was some flexibility, it would recommend that the City Council delegate authority to the City Manager to extend the deadline for an additional 30 days if GTCC could provide good cause for more time. The deadline would not be extended beyond August 11, 2016. The draft resolution reflects staff's recommendations as set forth in the City's March 16, 2016, letter to GTCC.

To ensure that both the CUP and Variance are on the same schedule, the draft resolution (if adopted by the City Council) would amend Condition No. 63 (for the CUP) and Condition No. 4 (for the Variance) to state as follows:

“Except as otherwise provided in this Condition, all approvals become void on July 12, 2016 if the applicant fails to commence construction needed to exercise the privileges granted in [CUP or Variance]. Upon good cause shown, the City Manager may, but is not required to, extend the deadline up to August 11, 2016. The deadline cannot be extended beyond August 11, 2016.”

Staff believes that GTCC can commence construction within the next 90 days and has been working diligently with GTCC's development team to help achieve this goal. The proposed language, i.e., giving authority to the City Manager, does give some additional flexibility in the unlikely event that more time is needed to wrap up any unforeseen difficulties.

ATTACHMENTS

Resolution No. 16-0X (Time Extension and Amendment of condition of approval).....4
March 11, 2016, Letter from Applicant requesting the time extension..... 6
March 16, 2016, Letter from Interim City Attorney to Applicant 10
Resolution No. 15-19 (Conditional Use Permit and modified conditions) 12
Resolution No. 15-20 (Variance application and modified conditions) 30

CITY OF BELLFLOWER

RESOLUTION NO. 16-XX

**A RESOLUTION AMENDING VARIANCE CASE NO. V 15-01 AND
CONDITIONAL USE PERMIT CASE NO. CU 15-04 BY EXTENDING
THE EXPIRATION DATES OF BOTH APPLICATIONS FOR PROPERTY
LOCATED AT 9812-9820 WALNUT STREET**

THE CITY COUNCIL RESOLVES AS FOLLOWS:

SECTION 1. The City Council finds and declares as follows:

- A. By letter dated March 11, 2016, Glory Tabernacle Christian Center ("GTCC") requested a 120-day time extension to commence construction at its property located at 9812 Walnut Street (the "Request"). A true and correct copy of the Request is attached as Exhibit "A," and incorporated by reference. The Request identified a number of factors supporting the time extension;
- B. By letter dated March 16, 2016, the City acknowledged the Request and concurred that there was good cause for the Request. A true and correct copy of that letter is attached as Exhibit "B," and incorporated by reference;
- C. Based upon a review of the record – including the Request and the City's response – the City Council believes it is in the public interest to extend the time period for GTCC to commence construction at its property in accordance with previous approvals and conditions.

SECTION 2. *Amendments.* Condition No. 63 in Resolution No. 15-19 and Condition No. 4 in Resolution No. 15-20 are respectively amended in their entirety as follows:

- A. Condition No. 63: "Except as otherwise provided in this Condition, all approvals become void on July 12, 2016, if the applicant fails to commence construction needed to exercise the privileges granted in Conditional Use Permit CU 15-04. Upon good cause shown, the City Manager may, but is not required to, extend the deadline up to August 11, 2016. The deadline cannot be extended beyond August 11, 2016."
- B. Condition No. 4: "Except as otherwise provided in this Condition, all approvals become void on July 12, 2016, if the applicant fails to commence construction needed to exercise the privileges granted in Variance V 15-01. Upon good cause shown, the City Manager may, but is not required to, extend the deadline up to August 11, 2016. The deadline cannot be extended beyond August 11, 2016."
- C. Except as amended by this Resolution, Resolution Nos. 15-19 and 15-20 remain in full force and effect.

SECTION 3. *Environmental Assessment.* The findings and determinations set forth in Resolution No. 15-18, adopted on May 27, 2015, are incorporated into this Resolution by reference. This Resolution does not result in any additional or intensified environmental impacts beyond what was anticipated by Resolution No. 15-18 and, therefore, no additional environmental review is required.

SECTION 4. *Reliance on Record.* Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 5. *Limitations.* The City Council's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the City Council's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the city's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

SECTION 6. *Effective Date.* This Resolution will become effective immediately upon adoption and remain effective until superseded by a subsequent resolution.

SECTION 7. The City Clerk is directed to mail a copy of this Resolution to the Applicant and to any other person requesting a copy.

SECTION 8. This Resolution will become effective immediately upon adoption.

SECTION 9. The Mayor, or presiding officer, is hereby authorized to affix his signature to the Resolution signifying its adoption by the City Council of the City of Bellflower, and the City Clerk, or her duly appointed deputy, is directed to attest thereto.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BELLFLOWER THIS ___ DAY OF _____ 2016.

Dan Koops, Mayor

Attest:

Mayra Ochiqui, City Clerk

APPROVED AS TO FORM:

Karl H. Berger, Interim City Attorney

SheppardMullin

RECEIVED

MAR 15 2016

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March 11, 2016

File Number: 0100-922498

VIA E-MAIL AND U.S. MAIL

Jeff Stewart
City Manager
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16600 Civic Center Drive
Bellflower, CA 90706
E-Mail: jstewart@bellflower.org

Re: Glory Tabernacle Christian Center – Request For 120-Day Extension Re CUP Case No. CU 15-04 and Variance Case No. V 15-01

Dear Mr. Stewart:

We write on behalf of Glory Tabernacle Christian Center ("GTCC") to request a 120-day extension to commence the "construction necessary and incidental" to CU 15-04 and V 15-01 (the "Entitlements"). GTCC has been working diligently on the necessary plans to submit to the City. However, for a number of reasons, GTCC is concerned that it may be unable to meet the current deadline to commence construction of the improvements required by CU 15-04 and/or V 15-01.

Pursuant to the terms of the April 13, 2015 Settlement Agreement and the Entitlements, such limited extension may be made upon a showing of "good cause." Accordingly, we offer the following "good cause" in support of GTCC's extension request:

1. Shortened Construction Commencement Period: The City Council approved the Entitlements on May 26, 2015; the Entitlements amended CU 11-02 and V 11-01. Typically, under the Bellflower Municipal Code ("BMC"), an applicant has twelve (12) months from the approval date to complete the Conditions of Approval. However, the Conditions of Approval have a date of which GTCC must complete its construction plans and initiate construction of April 13, 2016, a full 45 days sooner than otherwise granted for a CUP and Variance. This "gap" occurred because it was originally believed by the parties in preparing the Settlement Agreement that CU 15-04 and V 15-01 would be approved by the City Council concurrently with the approval of the Settlement Agreement. However, this did not occur and CU 15-04 and V 15-01 were not approved

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by the City until May 26, 2015. Accordingly, GTCC was inadvertently "shorted" 45 days from the normal 365 day period.

2. Uncertainty Pending Final Dismissal of Lawsuit: Following the City's approval of CU 15-04 and V 15-01, the lawsuit then pending between the City and GTCC was effectively stayed for 90 days pending the expiration of the applicable statute of limitations period for third parties to challenge GTCC's Entitlements. The statute of limitations period did not expire until August 25, 2015. Accordingly, GTCC necessarily waited until the 90-day statute of limitations period expired (and the lawsuit against the City was formally dismissed) before incurring fees concerning the preparation of its plans.
3. Loss of Architect: Steve Kroh, Kroh Architects located in Riverside, CA was retained in early 2011 to prepare the plans for GTCC's entitlement applications. The retention of Steve Kroh was necessary to respond to the City's issues, requirements, and questions outlined in the Development Review Board's ("DRB") letter of March 11, 2011. Mr. Kroh's firm specialized in places of assembly/churches and was known by certain board members of GTCC. The relationship between client and architect was important in that the proposed use of the vacant American Hardware business (a retail use) to the proposed church (an assembly use) would require significant detail and attention to prepare the plans per the City's DRB letter previously mentioned. Unfortunately, Mr. Kroh unexpectedly closed his firm (in September 2014) which left GTCC in a position of having to locate another licensed architect that would be appropriate for their project and the requirements of the City.

GTCC was reluctant to search for another architectural firm and incur additional expenses for such services until it was confident the Entitlements would be approved and any statute of limitations to challenge the approvals had expired.

The City Council approved the Entitlements in May 2015, and GTCC immediately began in earnest, its search for an architectural firm and other design professional (i.e., engineering firms, landscape architect, etc.) to prepare the required plans for the construction of the church and related uses. Once the date of the statute of limitations of August 25, 2015 had passed, a joint meeting with the preferred architectural firm, engineering firms, landscape architectural firm, and other design professionals was called by GTCC to review the existing site and requirements of the Entitlements on September 1, 2015. Upon completion of this meeting, formal request for proposals were requested for the final scope of works from the architectural, mechanical, electrical, plumbing, energy, civil, structural, and landscape services.

The architectural firm of Kamus + Keller located in Los Angeles, CA was retained formally in October 2015, five (5) months after the approval of the Entitlements followed by the other design professionals to complete the required plans for the construction of the church.

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Changing of the project's lead design professional, Kroh Architects was a significant setback to GTCC. The new architectural firm hired to move the project through the building design & engineering and construction code process took some time to: understand the project, obtain the proper approvals to use the plans and documents of the previous architectural firm (Kroh Architects), substantiate the information on the plans to be accurate and correct, and prepare its base drawings. The changing of the architectural firms was time consuming and a significant, unanticipated delay.

4. Analysis of 2010 Versus 2013 Codes: The Settlement Agreement allows GTCC to have its design professionals prepare plans to the 2010 code, not the 2013 codes in effect today. In practice, this presented certain challenges to the design team, which slowed progress. First, the design team took additional time to reevaluate the scope of work to change the occupancy from a general retail use (B-occupancy) to a primary assembly use (A-occupancy) as it pertains to the 2010 codes. Certain codes (i.e., energy calculations, structural and electrical) had greater changes than others did and such an evaluation was necessary to decide on a code year over another. Second, under the Settlement Agreement, the City was required to pay for the cost of work required pursuant to the 2013 codes which were not otherwise required by the 2010 codes. Accordingly, the design team had to determine the cost between the two codes in the event GTCC was required to construct the improvements pursuant to the 2013 codes. This analysis was time consuming and slowed the progress of the design team.
5. Roof Repair: The proposed El Nino weather forecast that was to occur in early 2016, posed a significant concern to everyone in southern California and especially to GTCC. GTCC's roof leaked during the 3-year entitlement process and caused enough damage to the building, its insurance for the building would not cover water damage resulting from the roof's deteriorating condition. The forecasted El Nino rains caused a major concern to GTCC and had to be addressed first. The design team began to evaluate the roof to determine what work needed to be done immediately to mitigate water damage if the rains materialize as anticipated. The evaluation included minor repairs to full reconstruction of the entire roof structure. To aide GTCC in its decision, the City's Building Official and other City staff met with GTCC representatives and certain design professionals on-site in late September 2015 to discuss the work program to remediate the roof, even if such improvements were only temporary.

The design team completed its analysis in late October 2015 of the various options GTCC had to mitigate water damage from the predicted El Nino rain events. The analysis also included estimated costs. The cost to repair the roof and include a one (1) year insurance policy coverage was significant and most of the improvements were "throw-aways" once the building would undergo the planned improvements (as contemplated by the Entitlements). GTCC decided not to move forward with the repairs due their costs and would take appropriate action when necessary to minimize water damage from the projected El Nino rain events. Nevertheless, the evaluation was necessary but did take

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the efforts of the design teams away from the primary task of the building plans for the church, which resulted in unplanned delay.

Based on the foregoing, we believe that the requisite "good cause" exists for the City to grant GTCC's request for a limited 120-day extension. Furthermore, this request meets both the spirit of the parties' settlement discussions in 2015, in which it was discussed that, absent an extreme lack of diligence on the part of GTCC, the City would grant GTCC's reasonable extension requests. Moreover, in light of that understanding and the circumstances, GTCC also believes that the 120-day extension is the maximum it will seek for the reasons stated above. Absent some extraordinary and unforeseeable event that would substantially interfere with GTCC's planning (and the City review of submitted plans), GTCC will not seek any additional extension under the terms of the Settlement Agreement.

We thank you for your consideration of GTCC's request. Should you wish to discuss this matter further, please do not hesitate to contact the undersigned at your convenience.

Best regards,



Daniel P. Bane
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:475849855.2

cc: Karl Berger (via email only at Kberger@hensleylawgroup.com)
Art Bashmakian (via email only at abashmakian@bellflower.org)

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March 16, 2016

Via Electronic Mail (dbane@sheppardmullin.com) and U.S. Mail

Daniel P. Bane
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650 Town Center Drive, 4th Floor
Costa Mesa, CA 92626-1993

Re: Letter dated March 11, 2016
Glory Tabernacle Christian Center – Request for 120-Day Extension Re CUP Case No.
CU 15-04 and Variance Case No. V 15-01

Dear Mr. Bane:

City Manager Jeff Stewart forwarded me a copy of your March 11, 2016 letter and asked that I respond. Thank you for your correspondence.

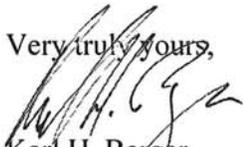
After reviewing your letter, it does appear that your client, Glory Tabernacle Christian Center (“GTCC”), has good cause to request an extension of its conditional use permit (“CUP”) and variance. Based upon recent communications between GTCC’s representatives and City staff, however, we believe that GTCC’s plan can be expeditiously reviewed and – pending any unforeseen circumstance – approved by the City. Consequently, we believe that a recommendation to the City Council that the CUP and Variance be extended by 90 days would provide adequate time for all matters to be resolved. To demonstrate the City’s good faith in this matter, and in an abundance of caution, it seems prudent for the City Council to also authorize the City Manager to grant up to an additional 30 days (for a combined total of 120 days) to close-out all matters related to GTCC’s application. This will be the Planning Director’s recommendation to the City Council.

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Since the CUP and variance are brokered pursuant to the settlement agreement between the parties, it appears that we may go directly to the City Council to consider the Planning Director's recommendation. To accommodate noticing requirements, we will schedule the public hearing to consider amending the CUP and variance on April 11, 2016.

Thank you in advance for your ongoing professional courtesy in this matter.

Very truly yours,



Karl H. Berger
Interim City Attorney
City of Bellflower

CITY OF BELLFLOWER

RESOLUTION NO. 15-19

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELLFLOWER APPROVING CONDITIONAL USE PERMIT CASE NO. CU 15-04 MODIFYING THE PREVIOUSLY APPROVED CONDITIONAL USE PERMIT TO ESTABLISH A PUBLIC ASSEMBLY USE, RELATIVE TO APPEAL CASE NO. AP 13-02 FOR THE PROPERTIES LOCATED AT 9812-9820 WALNUT STREET WITHIN AREA 2 OF THE TOWN CENTER (TC) DISTRICT; APPLICANT: GLORY TABERNACLE CHRISTIAN CENTER ("GTCC")

WHEREAS, the Planning Commission held a public hearing on October 21, 2013 and adopted Resolution Nos. PC 13-33, PC 13-34, and PC 13-35, approving Negative Declaration No. ND 11-02 (under the California Environmental Quality Act), Conditional Use Permit (CU 11-02) related to establishing a public assembly use, Variance (V 11-01) for the required parking for the properties located at 9812-9820 Walnut Street, within Area 2 of the Town Center (TC) District, and a Director's Determination that Bellflower Municipal Code Section 17.88.090 is applicable because off-street parking spaces are provided in a separate lot from the main building; and

WHEREAS, the Applicant timely appealed (Case No. AP 13-02) the Planning Commission's decision to the City Council in accordance with Bellflower Municipal Code ("BMC") § 17.112.060 on October 31, 2013 ("Appeal (AP 13-02)"); and

WHEREAS, notice of the public hearing on said Appeal (AP 13-02) was duly given, published, and posted in the time, form, and manner required by law; and

WHEREAS, on January 27, 2014, the City Council opened the public hearing and received public testimony on the matter, noting supplemental materials were submitted by the Applicant hours before the scheduled public hearing. Following public testimony, the City Council closed the public testimony portion of the public hearing and continued the item to February 24, 2014. In addition, the City Council provided direction to Staff to prepare an analysis and make a recommendation regarding the Applicant's parking mitigation measures proposed and issues raised during the public hearing. The City Council further directed the Applicant would be given an opportunity to respond to the analysis and recommendation of Staff. On February 24, 2014, the City Council voted to approve Resolution No. 14-05 (AP 13-02), subject to revisions to the proposed resolution requested by the City Council. On March 10, 2014, Resolution No. 14-05, with all revisions requested by the City Council, was brought back on the Consent Calendar to confirm conformance with the City Council's final decision; and

WHEREAS, following the City Council's approval of a Conditional Use Permit and Variance, the Applicant filed a complaint against the City on May 22, 2014 in the United States District Court, Central District of California. The City and the Applicant participated in mediation and ultimately entered into a Conditional Settlement Agreement and Mutual Release ("Agreement"). The Agreement provided for the Applicant to apply for modification of the conditions of approval, a variance from a requirement for a solid masonry wall between adjacent public assembly and residential uses, and a waiver of a requirement to underground certain utilities; and

WHEREAS, on April 9, 2015, the Applicant submitted a project application requesting modification of the conditions of approval of Case No. AP 13-02, a variance from a requirement for a solid masonry wall between adjacent public assembly and residential uses, and a waiver of a requirement to underground certain utilities in accordance with Bellflower Municipal Code ("BMC") § 17.96.030 and § 17.100.020; and

WHEREAS, it is the purpose of the Zoning Ordinance to encourage the most appropriate use of the land; to conserve and stabilize the value of property; and to promote public peace, health, safety, and general welfare, all in accordance with the General Plan; and

WHEREAS, the General Plan contains policies to organize land uses to avoid creating nuisances among adjacent land uses; and

WHEREAS, Section 17.96.040 of the Bellflower Municipal Code provides that, before granting approval of the Conditional Use Permit, the City Council must be satisfied that the conditions set forth in that section have been met; and

WHEREAS, a duly noticed public hearing was held before the City Council on May 26, 2015; and

WHEREAS, an environmental assessment has been conducted for this project in compliance with the California Environmental Quality Act (CEQA) and in accordance with the provisions of CEQA, an Initial Study has been prepared; Negative Declaration No. ND 15-04 has been adopted pursuant to City Council Resolution No. 15-18.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLFLOWER AS FOLLOWS:

SECTION 1. The City Council of the City of Bellflower does hereby find, determine, and declare as follows, with respect to the Conditional Use Permit (CU 15-04):

1. That the use applied for at the location set forth in the application is properly one for which a Conditional Use Permit is authorized by the Zoning Title in that the proposed use is a permissible use subject to the approval of a Conditional Use Permit within the Town Center (TC) District.
2. That, in light of the conditions set forth in Attachment A, which is incorporated by reference, the said use is necessary or desirable for the development of this community, is in harmony with the various elements or objectives of the Bellflower General Plan, and is not detrimental to existing uses or to uses specifically permitted in the district in which the proposed use is to be located in that the proposed use, as modified, does meet the intent of the General Plan. The subject site is located in a "Commercial" Land Use Designation of the General Plan and surrounded by commercial uses and a live-work development to the north, commercial and residential uses to the south, a public parking lot to the east, and commercial uses to the west. The proposed project is consistent with the policies set forth in the General Plan to encourage opportunities to sensitively integrate different, but compatible land uses. In addition, the proposed use meets the intent of the General Plan (Land Use Element - Goal 2, Policy 2.1) in that it creates opportunities wherein a population diverse in terms of income, age, occupation, race, lifestyle, values, interest, and religion may interact, exchange ideas, and realize common goals.

3. That, in light of the conditions set forth in Attachment A, which is incorporated by reference, the site for the intended use is adequate in size and shape to accommodate said use, and all the setbacks, landscaping, and parking in order to adjust said use to those existing, or possible future uses of land in the neighborhood in that, as conditioned, the proposal is to utilize the subject building for public assembly use and reconfigure the existing on-site parking lot to accommodate the required parking as set forth in the Conditional Settlement Agreement and Mutual Release entered into by the City of Bellflower and the Applicant. It could be expected that the public parking lot located east of the subject site would be utilized as overflow parking area for the proposed use.

4. That, in light of the conditions set forth in Attachment A, which is incorporated by reference, the site for the proposed use has sufficient access to streets and highways adequate in width and pavement type to carry the quantity and quality of traffic generated by the proposed use in that, as conditioned, the site for the proposed use relates to streets and highways properly designed and improved so as to carry the type and quantity of traffic generated or to be generated by the proposed use in that the proposal, as conditioned provides on-site parking.

SECTION 2. Based on the above findings, the City Council approves Conditional Use Permit Case No. CU 15-04, modifying Condition Nos. 14, 15, 16, 17, 29, 35, 36, 66, 67, 74, 82, and 83 of Resolution No. 14-05 (Exhibit B) for the following reasons:

1. (RESOLUTION NO. 14-05 (EXHIBIT B), Condition Nos. 14, 15, 16 – Modified)

(Condition No. 14) Office hours shall be between the hours of 8:00 AM to 10:00 PM, Monday through Saturday.

(Condition No. 15) Organized group worship services shall be held 8:00 AM to 10:00 PM on Sundays and during Religious Holidays. No service shall be held after 10:00 PM.

(Condition No. 16) Bible Studies, Leadership/Prayer Meeting, and small group meetings are permitted to be held on weekday evenings and Saturdays, but shall not be held after 10:00 PM.

Condition Nos. 14-16 are modified. These conditions of approval were explicitly cited in the Agreement as one of the conditions that GTCC would request to be modified (Agreement Sections: II.B.4. and II.B.5.). Currently, there are no limitations to business hours for public assembly uses within the Town Center District. Thus, expanding the hours of operation, from what GTCC originally requested, remains in compliance with what is permitted in the Zoning Code. In addition, pursuant to the Agreement entered into by the City and GTCC, the revised condition clarifies that the CUP and Variance will not run with the land.

2. (RESOLUTION NO. 14-05 (EXHIBIT B), Condition No. 17 – Removed) Unless an approval of a Variance is obtained from the Planning Commission, provide a decorative solid masonry wall, eight (8) feet in height along property lines adjoining any property zoned or used for residential purposes; provided, that the wall shall not exceed forty-two (42) inches in height where it abuts the front yard of a residential use or is located within the front or street side yard setback (Pursuant to BMC Section 17.48.125.C). The Applicant is responsible for ensuring that the project complies with this development standard. Any proposed block wall/fencing is subject to review and approval by the Town Center Design Review Committee and the Community Development Department. A written approval from the adjacent property owner(s) is required if the block wall is to be partially located on the adjacent property.

This condition is removed. Condition of Approval No. 17 was explicitly cited in the Agreement (Section II.B.8.) as one of the conditions that GTCC would request be removed. The previous project application received from GTCC did not include the request to vary from the solid masonry wall requirement pursuant to BMC Subsection 17.48.125.C. GTCC previously provided correspondence from the owner of the property to the south of the parking lot, which is the property directly impacted by the activities within the parking lot, requesting that a block wall not be required because it will block out all light and air. GTCC has now applied for a Variance regarding this matter, which is the subject of a separate resolution.

3. (RESOLUTION NO. 14-05 (EXHIBIT B), Condition No. 29 – Modified) The project must fully comply with the applicable provisions of the 2013 California Building Code, the 2013 California Plumbing, Mechanical, and Electrical Codes, the 2013 California Energy Standards, the 2011 Los Angeles County Fire Code, and the Bellflower Municipal Code as adopted and amended by the City of Bellflower and the County of Los Angeles, or the version of these codes in effect at the time the building permit application is filed.

This condition is modified. This request was discussed in Agreement Section II.B.6. The overall project will still comply with 2013 CBC. The modification requested by GTCC clarifies that if the cost of complying with the 2013 CBC in making improvements to the Properties in connection with the change in the occupancy of the Properties from commercial to assembly use, is greater than the cost of complying with the 2010 CBC, the City will pay the difference. This change does not adversely affect the public health and safety.

4. (RESOLUTION NO. 14-05 (EXHIBIT B), Condition No. 35 – Modified) The final occupant load for the buildings, including all rooms and spaces, and all associated load factors, requires the review and approval of the City Building Official. Notwithstanding the foregoing, the maximum occupancy of the public assembly areas shall not exceed 274, the occupant load on which the parking requirement for the use is based.

This condition is modified. This condition of approval was explicitly cited in the Agreement (Section II.B.7.) as one of the conditions that GTCC would request to be modified. This modification establishes the maximum occupancy will be 297 instead of 274.

5. (RESOLUTION NO. 14-05 (EXHIBIT B), Condition No. 36 – Modified) Exterior doors shall not swing into or encroach into the public right of way.

This condition is modified. This condition of approval was explicitly cited in the Agreement (Section II.B.9.) as one of the conditions that GTCC would request to be modified. The requested modification allows for existing doors within areas not used for assembly purposes (i.e., office use) and doors swinging towards a private alley to remain as is. The Building Official determined that the proposed modification remains in compliance with the CBC. Further, the doors that will not be modified are located where there would be less pedestrian traffic potentially affected by doors swinging out.

6. (RESOLUTION NO. 14-05 (EXHIBIT B), Condition No. 66 – Modified) Pursuant to BMC Section 17.96.060 the uses of the property authorized by the approval of Conditional Use Permit CU 11-02, shall be commenced by construction necessary and incidental thereto within one (1) year after the date such Permit was approved. In all cases, the Commission for good cause shown before the expiration of such time limit may extend such time limit once for a period of up to one (1) year.

This condition is modified. This condition of approval was discussed in Agreement Section II.B.1. The Agreement provides the approvals lapse one year from the Effective Date of the Agreement, which is April 13, 2015. Accordingly, Condition of Approval No. 66 should be amended.

7. (RESOLUTION NO. 14-05 (EXHIBIT B), Condition No. 67 – Removed) All utility lines including, but not limited to, electric, communication, street lighting and cable television shall be placed underground prior to building occupancy or sale, in accordance with the Bellflower Municipal Code. This condition is not applicable if the valuation of the project improvements is less than \$50,000.00. The subdivider, developer, land owner and utility company shall make the necessary arrangements for the installation of such facilities. This requirement includes, but is not limited to, all lines and wires extending to the property from poles located in the street, alley, rights-of-way, or the exterior property lines of any property being developed (Section 13.28 of Bellflower Municipal Code).

This condition is removed. This condition of approval was explicitly cited in the Agreement (Section II.B.8.) as one of the conditions that GTCC would request be removed. Subsection 13.28.020(B) authorizes the City Council to waive the undergrounding requirement in special circumstances. The subject building previously underwent major renovation and at that time not all utility lines were undergrounded, possibly because the renovation was publicly funded. The tenant improvement associated with the proposed project is anticipated to be less intense than the previous renovation, does not increase the square footage of the buildings, and has very limited exterior modifications. The history of the Properties constitutes a special circumstance supporting waiver of the condition.

8. (RESOLUTION NO. 14-05 (EXHIBIT B), Condition No. 74 – Removed) Compliance with the 2013 California Plumbing Code, Chapter 4, and Table 4-1 is required regarding the minimum number of plumbing fixtures required for all spaces within the building.

This condition is removed. This condition of approval is addressed with the revisions shown for Condition of Approval No. 29.

9. (RESOLUTION NO. 14-05 (EXHIBIT B), Condition No. 82 – Modified) The Applicant must provide 79 total parking spaces for the public assembly use. The Public Works Director, in consultation with the City Traffic Engineer, may review a parking plan submitted by the Applicant to meet the total parking needs for the public assembly use. Such a parking plan must, at a minimum, identify (a) the number of on-site and off-site parking spaces; (b) if offsite parking spaces are provided, a covenant is required to secure such offsite parking spaces in accordance with the BMC; and (c) those alternative services, e.g., shuttle services or valet services, that will be provided by the Applicant to meet the parking requirements. A decision made by the Public Works Director may be appealed in accordance with the BMC.

This condition is modified. This condition of approval was explicitly cited in the Agreement (Section II.B.3.) as one of the conditions that GTCC would request be modified. The proposed project will include reconfiguring the existing on-site parking lot to accommodate the required parking as set forth in the Agreement entered into by the City of Bellflower and the Applicant. It could be expected that the public parking lot located east of the subject site would be utilized as overflow parking area for the proposed use.

Facts supporting modification of this condition include GTCC's representations made in documents presented to the Planning Commission and City Council in connection with CUP Case No. CU 11-02 regarding church members' ride sharing and use of public transportation to attend church services and events, GTCC's agreements with other property owners for use of their parking lots, and the availability of 26 parking spaces on site. Further, while the law provides there is no vested right in zoning or development standards remaining unchanged, and the City does not concede the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc et seq. ("RLUIPA"), creates any vested right, the timing of the adoption of the parking requirement in BMC 17.48.125 relative to GTCC's acquisition of an interest in the Properties, coupled with the lack of clear direction from RLUIPA on the validity of the parking requirement, further support amendment of this condition.

10. (RESOLUTION NO. 14-05 (EXHIBIT B), Condition No. 83 – Removed) Occupancy for the public assembly areas is limited to a maximum of 274. The public assembly area, for purposes of this condition, is (1) sanctuary; (2) multi-purpose room (overflow room); and (3) stage and ancillary assembly areas. No other portion of the property may be occupied during periods of public assembly use.

This condition is removed. This condition of approval is addressed with the revisions shown for Condition of Approval No. 35.

SECTION 3. Determination. Based upon the findings and conclusions set forth in this Resolution, the City Council approves Conditional Use Permit Case No. CU 15-04, subject to the conditions set forth in Attachment A. Attachment A is incorporated by reference.

SECTION 4. *Reliance on Record.* Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 5. *Limitations.* The City Council's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the City Council's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

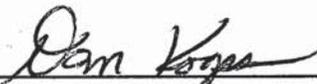
SECTION 6. *Summaries of Information.* All summaries of information in the findings in this Resolution are based on the substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 7. *Notice.* The City Clerk is directed to provide a copy of this Resolution to the Planning Commission, Applicant, and to any other person requesting a copy.

SECTION 8. *Effective Date.* This Resolution becomes effective immediately upon adoption and memorializes the City Council's final decision made on May 26, 2015. Note that persons dissatisfied with the City Council's decision may seek judicial review by a court of competent jurisdiction within 90 days after May 26, 2015. The time period in which such review must be sought commenced at the time the City Council rendered its decision on May 26, 2015.

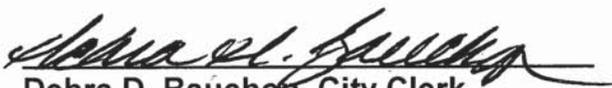
SECTION 9. The Mayor, or presiding officer, is hereby authorized to affix his signature to this Resolution signifying its adoption by the City Council of the City of Bellflower, and the City Clerk, or her duly appointed deputy, is directed to attest thereto.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF BELLFLOWER THIS 26TH DAY OF MAY 2015.



Dan Koops, Mayor Pro Tem

Attest:


Debra D. Bauchop, City Clerk

Attachment:

A: Modified Exhibit B of City Council Resolution No. 14-05

Doc 321338

ATTACHMENT A – CONDITIONAL USE PERMIT CASE NO. CU 15-04

Modified Conditions of Approval

(AP 13-02 – Exhibit B, as it relates to Conditional Use Permit Case No. CU 11-02)

Planning Division

1. Pursuant to Bellflower Municipal Code Section 17.88.090, where the required off-street parking is provided on a separate lot from the main building, there shall be recorded in the Official Records of the County Recorder of Los Angeles County, California, a covenant by the owner or owners of said lot for the benefit of the City, to the effect that such owner or owners will continue to maintain such parking so long as the building or use to which this CUP pertains continues. The covenant shall define days and hours when parking may be used, designate the specific parking spaces and define the total number of spaces. All required parking for the entire site shall be made available at all times.
2. Decorative bollards shall be installed on the driveway apron leading to existing roll-up sectional garage door serving the proposed administrative office area off of Walnut Street to prevent vehicular access.
3. A Lot Line Adjustment shall be completed in order to combine the parking lot properties (9816-9820 Walnut Street) and the church building property (9812 Walnut Street) into a single lot. In lieu of a Lot Line Adjustment, a lot tie covenant to hold the properties as a single parcel, in a form acceptable to the City, may be recorded in the Official Records of the County Recorder of Los Angeles County. The City shall be a party to said covenant and approval from the City shall be obtained prior to release of the covenant.
4. The Applicant shall maintain the minimum required driveway width. Said driveway width shall be unobstructed and clear to the sky at all times.
5. The driveway gates shall remain open during business hours.
6. A lock-box shall be provided for the proposed sliding gates.
7. Any change in the floor plan layout/configuration shall require that the Applicant submit an application for a modification of the Conditional Use Permit and shall be brought forth to the Planning Commission for review at a public hearing.
8. A detailed landscaping and irrigation plan shall be submitted. The landscape plan shall indicate the location and the number of trees and shrubs planted on the property including their scientific and common names. Proposed trees shall be a minimum of 24-inch box trees and plants shall be a minimum of 5-gallon in size.
9. All landscaping shall be planted prior to finalizing the building permits.

10. Landscaping materials shall be compatible with the proposed architectural theme of the structure.
11. Irrigation for any live plant materials shall consist of an automatic drip irrigation system for all non-turf planter areas and conventional irrigation for turf and groundcover areas. All irrigation systems shall include the following: backflow prevention device; automatic controller; separate water meter; connection to reclaimed water system if located within 150 ft. of a public reclaimed water distribution system.
12. The Applicant shall submit a photometric plan for the proposed project. The photometric plan shall be provided to illustrate that existing light shielding is adequate to prevent light from "spilling" onto adjacent private properties. The illumination level along the southerly property line shall not exceed 1-foot candle. The photometric plan for the project shall extend a distance of 10'-0" beyond the property lines, and must be provided as part of the building plan check review submittal.
13. All worship services shall be held inside the structure. A Temporary Use Permit shall be obtained for all special events and services that will take place outside the building.
14. Following issuance of a Certificate of Occupancy by the City, GTCC may use the Properties for religious services, meetings and events with a maximum occupancy of 297 individuals, from 7:00 a.m. to 2:00 a.m., 7 days per week. The CUP and Variance (i) shall not be transferable by Signet to any other property owner, except a subsidiary wholly owned and controlled by GTCC, and (ii) shall only be effective as a land use entitlement for a public assembly use operated by GTCC.

Traffic Engineering

15. Tandem parking is not allowed.
16. Disabled parking spaces shall be located such that the shortest path of travel to a building entrance is provided. One disabled space shall be designated van accessible.

City Engineering

17. Fire Protection: This development may require construction of fire protection improvements. Prior to the approval of any development plans the Applicant is required to contact Los Angeles County Fire Department, Land Use and Engineering Divisions, to obtain the fire flow and access requirements for any proposed development.
18. The Applicant shall contact the local Water Company to determine the existing fire flow rate in this area. If the existing fire flow capabilities are below the required minimum, the Applicant shall provide the necessary means for meeting the fire flow rates required by the Fire Department.

19. Any proposed landscaping in the public right of way shall be installed per the City of Bellflower Master Street Tree Plan as identified on the Department of Public Works Checklist dated February 25, 2011.
20. For any new sewer connections please contact the Los Angeles County Sanitation District and obtain any connection permits. Documentation of said permits shall be submitted to the Building Official prior to the issuance of any building permits. Provide documentation from the District that sufficient sewer capacity is provided. A separate sewer demand analysis prepared by a Registered Civil Engineer may be required.
21. Any un-sodded, mounded planters adjacent to public sidewalk shall be provided with 6" curbs to prevent soil run-off onto the public sidewalk. Curbs are not required if the planting in the planter consists solely of sod.
22. The contractor shall meet with the City Inspector before starting any construction within the public right-of-way.
23. All work within the public right-of-way, including placing and removal of traffic control devices, shall be restricted to the hours between 8:30 A.M. and 3:30 P.M., Monday through Friday. No work requiring continuous inspection or traffic control shall be done on Saturday, Sunday or Holidays, unless prior arrangements have been made at least one week in advance with the approval of the City Engineer.
24. The developer, at his/her cost, shall be responsible for the relocation as necessary of any public or private utility or other obstruction to facilitate the construction within the public right-of-way.
25. All requirements identified in the Public Works Checklist shall be completed prior to building permit final inspection.

Building and Safety Division

26. Compliance with CUP Conditions/California Building Code.
 - (a) At GTCC's cost, except as provided in the paragraph, below, GTCC will comply with the conditions of CUP and Variance approval, as amended to conform to the Settlement Agreement, including the health and safety requirements of the California Building Codes (including without limitation, the California Building Code, and Electrical, Mechanical, Plumbing, Seismic and Fire Codes ("CBC") adopted by the City and applicable to GTCC's proposed use of the Properties.
 - (b) GTCC shall submit professionally prepared and stamped plans to the City for plan check. Prior to GTCC's submittal for plan check, City staff and the City Building Official will be available to meet with GTCC to discuss GTCC's planned submittals, in the same way City staff is available to meet with all City land use entitlement Applicants.
 - (c) If there is a dispute as to the propriety of any of the submitted plans, then the

City's Building Official and a GTCC representative shall meet and confer within 5 business days to attempt to resolve any dispute. If those individuals cannot reach an agreement, then they will, within 5 business days, in good faith appoint a mutually agreeable third party engineer who shall make any final determination. If those individuals cannot agree on a third party engineer, within 5 business days, then both sides shall each submit the names and qualifications of three licensed engineers to Judge Joseph Biderman, who shall select the engineer to decide the dispute.

- (d) To the extent GTCC is required to construct additional improvements to comply with provisions of the 2013 CBC that were not otherwise included in the 2010 CBC, the City shall pay for the cost of the additional required improvements, unless waived by the City's Building Official.
 - (e) The City will release to GTCC, as owner of the Properties, full-size copies of all previously approved plans and drawings for the renovation project completed for American Hardwood Floors, including all engineering drawings (structural, MEP's, Architectural, etc.).
27. At the time of initial plan review submittal, 4 sets of complete plans along with two sets of supporting documentation, calculations, and specifications must be provided before the plan check process may commence.
 28. Separate plan review and written approvals from the County of Los Angeles Fire Prevention Engineering and Land Use Divisions are required, prior to the issuance of a building permit.
 29. A fire flow worksheet shall be provided by the local water provider and returned to the City of Bellflower and Fire Department prior to building permit issuance.
 30. Any right of way improvements required shall be clearly detailed on the proposed site plan. In addition, a deposit is required regarding any improvements as specified on the checklist. The deposit must be paid prior to any building permit issuance and may be refunded once all improvements are completed under separate permit and the project is signed off by the Building and Safety Division.
 31. A sewer connection fee is required to be paid to the Los Angeles County Sanitation District regarding the change in use to Assembly (A-3) occupancy. Prior to building permit issuance, please contact the LA County Sanitation District regarding all necessary approvals and permits.
 32. GTCC shall apply for a Certificate of Occupancy upon showing compliance with the conditions of the CUP, Variance and the CBC. The work necessary to comply with the health and safety requirements of the CBC shall be completed within 365 days following approval of submitted plans. GTCC may apply for a one-year extension as set forth in the BMC. The City shall issue a business license to GTCC consistent with agreed-upon full use and occupancy of 297 individuals at any one time, upon issuance of City's Certificate of Occupancy for the Properties.

33. GTCC will comply with recessing the two single exit doors from the sanctuary and multi-purpose room on the North and West sides of the building. The ramp for these exits will be ADA compliant. The office and alley doors will be allowed to swing out and the City will issue encroachment permits, if necessary, to GTCC for these doors.
34. Accessible parking stalls and their associated loading zones shall not be located where it may compel a person with a disability to wheel or walk behind parking spaces other than their own parking space.
35. The proposed Assembly (A-3) occupancy and mixed use building must provide the following information in accordance with the 2013 California Building Standards Codes:
 - (a) Refer to the "Occupant Load Comparison Table" prepared by the City Building Official:
 - (1) For Assembly occupancies with an occupant load greater than 300, a seismic (lateral) analysis is required in accordance with CBC Section 3406.4 and Table 1604.5 regarding the reclassification of use to a higher occupancy category (II to III) in the Building Code.
 - (2) A soil report with an assessment of liquefaction potential may be required if the change in use project is classified into a higher occupancy category in accordance with Table 1604.5.
 - (3) For Assembly (A-3) occupancies with a fire area (as defined in CBC) of 300 or greater, an approved automatic fire sprinkler system shall be provided. CBC 903.2.1.3
 - (4) For all Assembly occupancies having an occupant load of 300 or greater, a manual fire alarm system shall be installed in accordance with CBC 907.2.1.
 - (5) All changes in use which move an existing occupancy to a higher risk category (M to A-3) shall comply with CBC 3406.1. "No change in use shall be made unless such building is made to comply with the requirements of this code."
 - (b) A complete accessibility analysis is required in accordance with CBC Chapter 11-B and Section 1104 B (Assembly uses). A review of the parking lot and accessible parking, path of travel to the building entrances and exits, primary and secondary function areas, restrooms, platforms/stages, accessible seating, break rooms, signs, etc. is required in order to verify compliance with the Code. Provide construction details regarding the attachment of the "fixed seating" in the proposed sanctuary room.
 - (c) Provide construction details regarding the attachment of the "fixed seating" in the proposed sanctuary room. The Building Official shall have final authority regarding what constitutes "fixed seating" in accordance with the Building Code.

Property Maintenance

36. The subject property shall be maintained neat and clean at all times. The subject property shall be maintained free from debris and graffiti at all times. The property owner shall remove any debris or graffiti within 72 hours upon notification by the City.
37. All landscaping shall be maintained adequately.
38. The existing parking lot shall be repaired, including, but not limited to the removal, and replacement based on an analysis prepared by a California State Licensed Civil Engineer of current conditions. If the parking area must be repaired and/or replaced, the parking lot shall be re-striped, and said repair or replacement is subject to City approval. A parking lot plan shall be subject to review and approval of the Town Center Design Review Committee.
39. Existing metal awnings shall be cleaned, repaired and painted.
40. Broken covers of the existing decorative light fixtures on the wall of the subject building shall be replaced.
41. Glass windows of the subject building which were etched with graffiti shall be removed and replaced or repaired to remove the graffiti.
42. Provide proper capping for the exterior hose bib along Bellflower Boulevard. Consult with the Building and Safety Division on proper capping method.
43. Repair cracks and weather stripping on the subject building.
44. Remove overgrown vegetation, including vegetation growing in water inlet on Rush Street.
45. Repair to existing brick walls shall be with like materials and shall be completed in a neat manner, in accordance with the Building Code
46. Paint the wrought iron fence to have a uniform color.
47. Remove and replace or repair damaged planter boxes.

General Conditions

48. The subject property shall be developed and/or used in the manner requested and shall be in substantial conformity with the submitted plans date-stamped November 19, 2012 and April 9, 2015, unless revisions and/or additional conditions are specifically required herein.
49. The approval of this Conditional Use Permit (CU 11-02) is contingent upon approval of Variance (V 11-01). All of the conditions of CU 11-02 and V 11-01 must be met prior to the commencement/establishment/operation of the requested use.

50. The Applicant and its successors in interest shall indemnify, protect, defend (with legal counsel reasonably acceptable to the City), and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively "Claims") arising out of or in any way relating to the use of the property to which this Resolution applies. If the City Attorney is required to enforce any conditions of approval, all costs, including attorney's fees, shall be paid for by the Applicant.
51. The Applicant shall comply with all conditions set forth herein.
52. All requirements of this Resolution, the applicable Zone, City Codes, City Departmental policies, rules and regulations and applicable law, policies and regulations of any State, Federal or local agency with jurisdiction thereof shall be complied with by the Applicant.
53. Failure to implement and maintain all provisions of these conditions of approval shall be deemed to void this permit and revocation of said permit may occur following a public hearing of the approving body.
54. The second sheet of the building plans is to list all City of Bellflower conditions of approval from each department and/or division. This information shall be incorporated into the plans prior to the first submittal for plan check.
55. Exterior construction activities (grading, framing, etc.) shall be restricted to 7:00 a.m. to 5:00 p.m., Monday through Saturday, except that interior building construction activities shall not be limited.
56. All construction equipment shall be properly muffled to reduce noise levels. Transportation of equipment and materials and operation of heavy grading equipment shall also be limited to the hours of 7:00 a.m. to 5:00 p.m., Monday through Saturday. All equipment staging areas shall be sited on the subject property.
57. All concrete and asphalt demolition debris from the site shall be recycled.
58. Standard dust control measures, such as periodically watering the construction site, prior to and during grading activities, and sweeping site access points, shall be implemented to address the generated dust. Reclaimed water shall be used whenever possible. Dirt shall not be hosed into the storm drain system.
59. The project shall comply with the adopted City of Bellflower Climate Action Plan.
60. The Applicant shall sign and return to the Planning Division a notarized Affidavit in Agreement and Support Thereof acknowledging acceptance of the conditions of approval within thirty (30) days from the date of approval. The Affidavit of Support

form shall be signed, notarized and returned to the Planning Division prior to or at the time of plan check submittal.

61. Anything which is not shown on the application or plans, or which is not specifically approved, or which is not in compliance with this Resolution, is not approved. Any application and/or plans which are defective as to, but not limited to, omissions, dimensions, scale, use, colors, materials, encroachments, easements, etc., shall render any entitlements granted by this section null and void. Construction (if any) shall cease until all requirements of this section are complied with. Development entitlements may be withheld until Code violations are abated.
62. Property owner is responsible for the repair and maintenance of curb/gutter, sidewalk and drive apron.

General Conditions Based on Bellflower Municipal Code

63. The uses of the property authorized by the approval of Conditional Use Permit CU 11-02, shall be commenced by construction necessary and incidental thereto no later than April 13, 2016. The City Council for good cause shown before the expiration of such time limit may extend such time limit once for a period of up to one (1) year.
64. Improvements (i.e., metal canopy, planters, plants or any improvements that encroaches in the public right-of-way, including right-of-way airspace) shown on the site plan as located within the public right-of-way require Encroachment Licenses. Review of previously issued permits for the subject site indicates a right-of-way permit issued for covered walkways, directional barricades, and/or protected barrier for pedestrian protection, but permits were not found for all proposed encroaching improvements.
65. The Applicant shall submit DRC and sign applications to the Planning Division for all exterior signage. All proposed signage shall be architecturally compatible with the building. Sign application shall be subject to review and approval of the Town Center Design Review Committee.
66. Any exterior modifications, including signage, building color, etc. will require the approval of the Town Center Design Review Committee. Fees associated with the application, preparation, filing, and noticing for the project shall be borne by the Applicant.
67. Depending upon the valuation of the improvements proposed to be made, additional requirements might be applicable (i.e., CD waste management, art in public places, public facilities, undergrounding, etc.) as set forth in the Bellflower Municipal Code.
68. A permit shall be obtained from the City of Bellflower Public Works Division prior to start of any work in the public right-of-way; including, but not limited to, public improvements and utility installations. All work shall be done in accordance with established City standards or as directed by the Building Official/City Engineer.

General Conditions Based on Building Codes

69. Construction plans regarding the change in use from an existing retail store to Assembly (A-3) occupancy must be designed under the direction of State of California registered design professional(s) in accordance with California Business and Professions Code, Sections 5538 and 6745. All building plans must also bear the wet stamp, date of expiration, and signature of the registered design professional as required by State law.
70. Clarify the use of the walker duct - wood floor system and its impact on exterior and interior exits. Verify required accessibility and minimum egress dimensions as outlined in Chapters 10 and 11-B of the 2013 California Building Code due to floor elevation differentials that may require egress, accessibility, ramps, minimum height dimensions at exit doors, etc.
71. Sliding doors shall not be used as a means of egress system with occupant loads of 10 or greater.
72. Show the accessible path of travel from the proposed accessible parking stalls and define all boundaries and grades, cross slopes, etc.
73. Any open permits or expired permits or illegal improvements must be addressed prior to issuance of building permits for the proposed project.
74. The proposed Assembly (A-3) occupancy and mixed use building must provide the following information in accordance with the 2013 California Building Standards Codes:
 - (a) For mixed use buildings, show compliance with CBC Section 508 regarding required fire rated separation of occupancies. More specifically, for non-sprinklered buildings, a 2 hour fire rated separation is required between Assembly uses and office/storage occupancies in accordance with Table 508.4. A 1 hour fire separation is required in fire sprinklered buildings.
 - (b) All interior finish materials must comply with the smoke/flame spread limitations as set forth in Chapter 8, Section 804, and Table 803.9 of the Building Code.
 - (c) Exit signs and all emergency lighting shall be installed in accordance with Chapter 10 of the 2013 California Building Code and in accordance with the 2013 California Electrical Code, as adopted by the City of Bellflower.
 - (d) All exit doors and hardware must comply with CBC Chapter 10, Section 1008 and for assembly uses, Section 1008.1.10.
 - (e) Assembly occupancies shall comply with the provisions of CBC Chapter 10, Section 1028 regarding exiting, seating, aisle widths and smoke protection where applicable.

- (f) The existing mechanical ventilation systems shall be made to comply with the 2013 California Energy Standards as they relate to the change of use to Assembly occupancy including all associated equipment, required ventilation, and ducting.
- (g) Show how the existing mechanical ventilation system will access alterations based on the change in use, fire rated occupancy separation requirements, and required fire/smoke dampers in accordance with the 2013 California Building Code.

General Conditions Based on Fire Department

- 75. All drive aisles within the proposed development shall be clearly posted "No Parking, Fire Lane".
- 76. Proof of Fire Department approval shall be provided prior to building permit issuance.

Conditions Regarding Parking and Occupancy

- 77. GTCC shall provide 26 BMC-compliant parking spaces on the Properties. GTCC is not required to provide any further parking to satisfy its parking requirement for full use of the Properties.

Doc 321334

CITY OF BELLFLOWER

RESOLUTION NO. 15-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELLFLOWER APPROVING VARIANCE CASE NO. V 15-01 MODIFYING THE PREVIOUSLY APPROVED VARIANCE FOR THE REQUIRED PARKING, RELATIVE TO APPEAL CASE NO. AP 13-02 AND GRANTING A VARIANCE FROM THE REQUIREMENT FOR A SOLID MASONRY WALL BETWEEN ADJACENT PUBLIC ASSEMBLY AND RESIDENTIAL USES FOR THE PROPERTIES LOCATED AT 9812-9820 WALNUT STREET WITHIN AREA 2 OF THE TOWN CENTER (TC) DISTRICT; APPLICANT: GLORY TABERNACLE CHRISTIAN CENTER ("GTCC")

WHEREAS, the Planning Commission held a public hearing on October 21, 2013 and adopted Resolution Nos. PC 13-33, PC 13-34, and PC 13-35, approving Negative Declaration No. ND 11-02 (under the California Environmental Quality Act), Conditional Use Permit (CU 11-02) related to establishing a public assembly use, Variance (V 11-01) for the required parking for the properties located at 9812-9820 Walnut Street, within Area 2 of the Town Center (TC) District, and a Director's Determination that Bellflower Municipal Code Section 17.88.090 is applicable because off-street parking spaces are provided in a separate lot from the main building; and

WHEREAS, the Applicant timely appealed (Case No. AP 13-02) the Planning Commission's decision to the City Council in accordance with Bellflower Municipal Code ("BMC") § 17.112.060 on October 31, 2013 ("Appeal (AP 13-02)"); and

WHEREAS, notice of the public hearing on said Appeal (AP 13-02) was duly given, published, and posted in the time, form, and manner required by law; and

WHEREAS, on January 27, 2014, the City Council opened the public hearing and received public testimony on the matter, noting supplemental materials were submitted by the Applicant hours before the scheduled public hearing. Following public testimony, the City Council closed the public testimony portion of the public hearing and continued the item to February 24, 2014. In addition, the City Council provided direction to Staff to prepare an analysis and make a recommendation regarding the Applicant's parking mitigation measures proposed and issues raised during the public hearing. The City Council further directed the Applicant would be given an opportunity to respond to the analysis and recommendation of Staff. On February 24, 2014, the City Council voted to approve Resolution No. 14-05 (AP 13-02), subject to revisions to the proposed resolution requested by the City Council. On March 10, 2014, Resolution No. 14-05, with all revisions requested by the City Council, was brought back on the Consent Calendar to confirm conformance with the City Council's final decision; and

WHEREAS, following the City Council's approval of a Conditional Use Permit and Variance, the Applicant filed a complaint against the City on May 22, 2014 in the United States District Court, Central District of California. The City and the Applicant participated in mediation and ultimately entered into a Conditional Settlement Agreement and Mutual Release ("Agreement"). The Agreement provided for the Applicant to apply for modification of the conditions of approval, a variance from a requirement for a solid masonry wall between adjacent public assembly and residential uses, and a waiver of a requirement to underground certain utilities; and

WHEREAS, on April 9, 2015, the Applicant submitted a project application requesting modification of the conditions of approval of Case No. AP 13-02, a variance from the requirement for a solid masonry wall between adjacent public assembly and residential uses, and a waiver of a requirement to underground certain utilities in accordance with Bellflower Municipal Code ("BMC") § 17.96.030 and § 17.100.020; and

WHEREAS, it is the purpose of the Zoning Ordinance to encourage the most appropriate use of the land; to conserve and stabilize the value of property; and to promote public peace, health, safety, and general welfare, all in accordance with the General Plan; and

WHEREAS, the General Plan contains policies to organize land uses to avoid creating nuisances among adjacent land uses; and

WHEREAS, Section 17.100.030 of the Bellflower Municipal Code provides that, before granting approval of the Variance, the City Council must be satisfied that the conditions set forth in that section have been met; and

WHEREAS, a duly noticed public hearing was held before the City Council on May 26, 2015; and

WHEREAS, an environmental assessment has been conducted for this project in compliance with the California Environmental Quality Act (CEQA) and in accordance with the provisions of CEQA, an Initial Study has been prepared; Negative Declaration No. ND 15-04 has been adopted pursuant to City Council Resolution No. 15-18.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLFLOWER, AS FOLLOWS:

SECTION 1. The City Council of the City of Bellflower does hereby find, determine, and declare as follows, with respect to the Variance (V 15-01) and Resolution No. 15-20:

1. There are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to the property or class of use in the same vicinity or district.

As it relates to the parking requirement, the subject site's size, configuration and existing physical constraints create a situation where there are no design alternatives that would result in the property's ability to comply with the on-site parking requirements per the Bellflower Municipal Code. The Applicant shall therefore be required to provide a total of 26 parking spaces on the subject property, in full satisfaction of its parking requirement, calculated based on parking requirements applicable to other similar and/or similarly intense use in the Town Center (TC District). Facts supporting this finding include GTCC's representations made in documents presented to the Planning Commission and City Council in connection with CUP Case No. CU 11-02 regarding church members' ride sharing and use of public transportation to attend church services and events, GTCC's agreements with other property owners for use of their parking lots, and the availability of 26 parking spaces on site. Further, while the law provides there is no vested right in zoning or development standards remaining unchanged, and the City does not concede

the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc et seq. ("RLUIPA"), creates any vested right, the timing of the adoption of the parking requirement in BMC 17.48.125 relative to GTCC's acquisition of an interest in the Properties, coupled with the lack of clear direction from RLUIPA on the validity of the parking requirement, further support amendment of this condition.

As it relates to the wall requirement, this variance is responsive to the request of the adjacent property owner, whose property will become commercial upon termination of the non-conforming use that is subject to abatement in the future. Upon abatement of the non-conforming residential use, a block wall would not be required to be built for the subject parking lot. Had the adjacent property been developed with a conforming use (i.e., commercial use), then a block wall would not be required to separate the subject parking lot and the neighboring property. In addition, GTCC previously provided correspondence from the owner of the property to the south of the parking lot, which is the property directly impacted by the activities within the parking lot, requesting that a block wall not be required because it will block out all light and air.

2. The variance approved by this Resolution is necessary for the preservation and enjoyment of a substantial property right of the Applicant that is possessed by other property in the same vicinity and district.

As it relates to the parking requirement, the subject site is located within the Town Center (TC) District, where most of the properties heavily rely on off-premise parking. The subject property, because of its proposed public assembly use, is required to provide on-site parking. Other types of uses (e.g., mortuaries, museums, restaurants and taverns, office, commercial) located within the Town Center (TC) District provide parking based on a standard which, when applied to the subject property, results in a requirement of 26 parking spaces. Satisfaction of this parking standard for the duration of Conditional Use Permit Case No. CU 11-02, as modified, would allow the Applicant the same privileges enjoyed by other similarly situated uses within the Town Center (TC) District. In addition, facts supporting this finding include GTCC's representations made in documents presented to the Planning Commission and City Council in connection with CUP Case No. CU 11-02 regarding church members' ride sharing and use of public transportation to attend church services and events, GTCC's agreements with other property owners for use of their parking lots, and the availability of 26 parking spaces on site. Further, while the law provides there is no vested right in zoning or development standards remaining unchanged, and the City does not concede RLUIPA creates any vested right, the timing of the adoption of the parking requirement in BMC 17.48.125 relative to GTCC's acquisition of an interest in the Properties, coupled with the lack of clear direction from RLUIPA on the validity of the parking requirement, further support deletion of this condition.

As it relates to the wall requirement, the subject parking lot is located adjacent to a non-conforming residential use that is subject to abatement in the future. Upon abatement of the non-conforming residential use, a block wall would not be required to be built for the subject parking lot. Had the adjacent property been developed with a conforming use (i.e., commercial use), then a block wall would not be required to separate the subject parking lot and the neighboring property.

3. In light of the conditions set forth herein and in Resolution No. 14-05, granting the variance approved in this Resolution will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and district in which the property is located.

As it relates to the parking requirement, the proposed project will include reconfiguring the existing on-site parking lot to maximize the number of parking spaces onsite and to accommodate the required parking as set forth in the Agreement entered into by the City of Bellflower and the Applicant. The subject site is located immediately adjacent to the public parking lot to the east, which presents additional parking opportunity. Because all of the required parking spaces could be provided on site, for the duration of Conditional Use Permit Case No. CU 11-02, as modified, providing the required 26 parking spaces onsite will be adequate to satisfy the locational requirement of the Bellflower Municipal Code, and will reduce the demand for parking on public streets and parking lots. In addition, facts supporting deletion of this condition include GTCC's representations made in documents presented to the Planning Commission and City Council in connection with CUP Case No. CU 11-02 regarding church members' ride sharing and use of public transportation to attend church services and events, GTCC's agreements with other property owners for use of their parking lots, and the availability of 26 parking spaces on site.

As it relates to the wall requirement, the existing parking lot has been in existence for years and abuts a non-conforming property to the south (17010 Rush Street). The property to the south is the property that would be directly impacted by the activities within the parking lot. A correspondence from the owner of said property was received, requesting that a block wall not be required because it will block out all light and air.

4. The granting of the variances approved in this Resolution will not adversely affect the Comprehensive General Plan. The proposal is consistent with the Land Use Element of the General Plan, as follows:
 - a. Goal 1: Policy 1.2, which is to encourage opportunities to sensitively integrate different, but compatible, land uses.
 - b. Goal 2: Policy 2.1, which is to create opportunities wherein a population diverse in terms of income, age, occupation, race, lifestyle, values, interest, and religion may interact, exchange ideas and realize common goals.
 - c. Town Center: Policy 1, which is to promote the Town Center as the commercial, entertainment, social, and civic hub of the community.

SECTION 2. Based on the above findings, the City Council approves Variance Case No. V 15-01, in connection with Conditional Use Permit Case No. CU 15-04 (Resolution No. 15-19), modifying Condition Nos. 3 and 4, and inclusion of an additional condition of approval of Resolution No. 14-05 (Exhibit C) for the following reasons:

1. (RESOLUTION NO. 14-05 (EXHIBIT C), Condition No. 3 – Modified) Pursuant to Bellflower Municipal Code Section 17.88.090, where the required off-street parking is provided on a separate lot from the main building, there shall be recorded in the Official Records of the County Recorder of Los Angeles County, California, a covenant by the owner or owners of said lot for the benefit of the City, to the effect that such owner or owners will continue

to maintain such parking so long as the building or use to which this Variance pertains continues. The covenant shall define days and hours when parking may be used, designate the specific parking spaces and define the total number of spaces. All required parking for the entire site shall be made available at all times.

Condition No. 3 is modified. This condition of approval was explicitly cited in the Agreement (Section II.B.3.) as one of the conditions that GTCC would request be modified. The Agreement entered into by the City and GTCC no longer requires satellite off-street parking for the project. In addition, the proposed project will include reconfiguring the existing on-site parking lot to accommodate the required parking as set forth in the Agreement entered into by the City of Bellflower and the Applicant. It could be expected that the public parking lot located east of the subject site would be utilized as overflow parking area for the proposed use.

In addition to the terms of the Agreement, facts supporting modification of this condition include GTCC's representations made in documents presented to the Planning Commission and City Council in connection with CUP Case No. CU 11-02 regarding church members' ride sharing and use of public transportation to attend church services and events, GTCC's agreements with other property owners for use of their parking lots, and the availability of 26 parking spaces on site. Further, while the law provides there is no vested right in zoning or development standards remaining unchanged, and the City does not concede RLUIPA creates any vested right, the timing of the adoption of this parking requirement in BMC 17.48.125 relative to GTCC's acquisition of an interest in the Properties, coupled with the lack of clear direction from RLUIPA on the validity of the parking requirement, further support deletion of this condition.

2. (RESOLUTION NO. 14-05 (EXHIBIT C), Condition No. 4 – Modified) This approval shall lapse and become void if the privilege authorized is not utilized within one (1) year from the date of this approval.

Condition No. 4 is modified. This request was discussed in Agreement Section II.B.1. The Agreement provides the approvals lapse one year from the Effective Date of the Agreement, which is April 13, 2015. Accordingly, Condition of Approval No. 4 should be amended.

3. (RESOLUTION NO. 14-05 (EXHIBIT C) – Additional Condition of Approval) The Applicant requested a condition of approval be added to clarify that the solid masonry wall requirement will not be applicable to the project, pursuant to an approval of a Variance.

This condition is added. This condition of approval was explicitly cited in the Agreement (Section II.B.8.) as one of the conditions that GTCC would request be modified. The previous project application received from GTCC did not include the request for a variance from this requirement of BMC Subsection 17.48.125.C. This matter was included in the Agreement entered into by the City and GTCC; thus the request is now being formally brought forward. GTCC previously provided correspondence from the owner of the property to the south of the parking lot, which is the property directly impacted by the

activities within the parking lot, requesting that a block wall not be required because it will block out all light and air.

SECTION 3. *Determination.* Based upon the findings and conclusions set forth in this Resolution, the City Council approves Variance Case No. V 15-01, subject to the conditions set forth in Attachment A. Attachment A is incorporated by reference.

SECTION 4. *Reliance on Record.* Each and every one of the findings and determinations in this Resolution are based on the competent and substantial evidence, both oral and written, contained in the entire record relating to the project. The findings and determinations constitute the independent findings and determinations of the City Council in all respects and are fully and completely supported by substantial evidence in the record as a whole.

SECTION 5. *Limitations.* The City Council's analysis and evaluation of the project is based on the best information currently available. It is inevitable that in evaluating a project that absolute and perfect knowledge of all possible aspects of the project will not exist. One of the major limitations on analysis of the project is the City Council's lack of knowledge of future events. In all instances, best efforts have been made to form accurate assumptions. Somewhat related to this are the limitations on the City's ability to solve what are in effect regional, state, and national problems and issues. The City must work within the political framework within which it exists and with the limitations inherent in that framework.

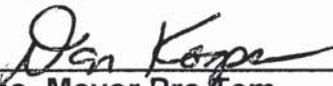
SECTION 6. *Summaries of Information.* All summaries of information in the findings in this Resolution are based on substantial evidence in the record. The absence of any particular fact from any such summary is not an indication that a particular finding is not based in part on that fact.

SECTION 7. *Notice.* The City Clerk is directed to provide a copy of this Resolution to the Planning Commission, Applicant, and to any other person requesting a copy.

SECTION 8. *Effective Date.* This Resolution becomes effective immediately upon adoption and memorializes the City Council's final decision made on May 26, 2015. Note that persons dissatisfied with the City Council's decision may seek judicial review by a court of competent jurisdiction within 90 days after May 26, 2015. The time period in which such review must be sought commenced at the time the City Council rendered its decision on May 26, 2015.

SECTION 9. The Mayor, or presiding officer, is hereby authorized to affix his signature to this Resolution signifying its adoption by the City Council of the City of Bellflower, and the City Clerk, or her duly appointed deputy, is directed to attest thereto.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF
THE CITY OF BELLFLOWER THIS 26TH DAY OF MAY 2015.



Dan Koops, Mayor Pro Tem

Attest:



Debra D. Bauchop, City Clerk

Attachment:

A: Modified Exhibit B of City Council Resolution No. 14-05

ATTACHMENT A – VARIANCE CASE NO. V 15-01

**Modified Conditions of Approval
(AP 13-02 – Exhibit C, as it relates to Variance Case No. V 11-01)**

1. The subject property shall be developed and/or used in the manner requested and shall be in substantial conformity with the submitted plans date-stamped November 19, 2012 and April 9, 2015, unless revisions and/or additional conditions are specifically required herein.
2. The Conditional Use Permit (CU 11-02) approval shall not become effective until all conditions of Variance (V 11-01) are fulfilled. All of the conditions of CU 11-02 and V 11-01 must be met prior to the commencement/establishment/operation of the requested use.
3. GTCC shall provide 26 BMC-compliant parking spaces on the Properties. GTCC is not required to provide any further parking to satisfy its parking requirement for full use of the Properties.
4. This approval shall lapse and become void if the privilege authorized is not utilized by April 13, 2016.
5. The Applicant and its successors in interest shall indemnify, protect, defend (with legal counsel reasonably acceptable to the City), and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively "Claims") arising out of or in any way relating to the use of the property to which this Resolution applies. If the City Attorney is required to enforce any conditions of approval, all costs, including attorney's fees, shall be paid for by the Applicant.
6. The Applicant shall comply with all conditions set forth for the subject site, unless otherwise modified.
7. All requirements of this Resolution, the applicable Zone, City Codes, City Departmental policies, rules and regulations and applicable law, policies and regulations of any State, Federal or local agency with jurisdiction thereof shall be complied with by the Applicant.
8. The Applicant shall sign and return to the Planning Division a notarized Affidavit in Agreement and Support Thereof acknowledging acceptance of the conditions of approval within thirty (30) days from the date of approval. The Affidavit of Support form shall be signed, notarized and returned to the Planning Division prior to or at the time of plan check submittal.
9. Failure to implement and maintain all provisions of these conditions of approval shall be deemed to void this permit and revocation of said permit may occur following a public hearing of the approving body.
10. The decorative solid masonry wall required by BMC Section 17.48.125 shall not be required along property lines adjoining the non-conforming residential use to the South of the parking lot.