



**SPECIAL AGENDA
CITY OF GUSTINE
PLANNING COMMISSION
COUNCIL CHAMBERS, CITY HALL
352 5th STREET GUSTINE, CALIFORNIA
SEPTEMBER 2, 2015 – 7:00 P.M.**

CALL TO ORDER - PLEDGE OF ALLEGIANCE

ROLL CALL

Commission Members: Martens, Oliveira, Hasness, Vice-Chairperson Marsigli,
Chairperson Gandy & Ex-Officio Anderson

PRESENTATIONS

ORAL COMMUNICATIONS

At this time, any person may comment on an item, which is not on the agenda. PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD. Members of the public, who have questions regarding a specific agenda item, may comment on that item before consideration of that item by the Planning Commission, when recognized to do so by the Chairman.

CONSENT CALENDAR

ADMINISTRATIVE AGENDA

- 1. PUBLIC HEARING – Use Permit for a Wine Bar/Retail Store, 351 5th Street**
 - 1. Receive Staff Report*
 - 2. Open the public hearing*
 - 3. Receive public comment*
 - 4. Close the public hearing*
 - 5. Consider a motion to approve the resolution*

- 2. PUBLIC HEARING – Use Permit for a Religious Facility, 680 South Avenue**
 - 1. Receive Staff Report*
 - 2. Open the public hearing*
 - 3. Receive public comment*
 - 4. Close the public hearing*
 - 5. Consider a motion to approve the resolution*

CITY PLANNER REPORT

PLANNING COMMISSION REPORTS

ADJOURNMENT

Note:

1. In compliance with the Americans with Disabilities Act, a disabled person requesting a disability-related modification or accommodation to participate in this meeting, must contact City Hall at (209) 854-6471 or (209) 854-2127(fax). Requests must be made as early as possible, preferably one-full business day before the start of the meeting.
2. Any document provided to a majority of the Planning Commission regarding any open session item on this agenda is available for public inspection during normal business hours at the front counter of City Hall located at 352 5th Street, Gustine, CA. Documents or writings received after the general distribution of the agenda are also available for inspection.

CERTIFICATION

I, Melanie Correa, Deputy City Clerk, do hereby declare under penalty of perjury that the foregoing agenda was posted on the outdoor bulletin board at the Gustine City Hall, 352 5th Street, Gustine CA and made available for public review on this 19th day of November, 2015, at or before 5:00 p.m.



Melanie Correa



ITEM NO. 1

PLANNING COMMISSION AGENDA ITEM DECEMBER 2, 2015

PREPARED BY: Sean Scully, City Manager

SUBJECT: Public Hearing: Use Permit – Wine Bar / Retail Wine Shop

BACKGROUND:

On October 26th 2015 Sherri and Bill Marsigli submitted a Use Permit application requesting approval of a wine bar/wine shop to be co-located with their existing antique store (Aged to Perfection) at 351 Fifth St. At the November 3rd City Council meeting the City Council approved a fee deferral of the use permit application fee (as requested by Mrs. Marsigli) which allowed the Use Permit to proceed forward to staff review and consideration by the Planning Commission.

351 Fifth Street is located in the building directly across the street from City Hall and immediately to the South of the Pastime Bar on the west side of 5th St. The building operated for many years as a bank and still retains almost all of the original historical character of the bank use. Currently the building houses Aged to Perfection antique shop which operated from 1PM-7PM Tuesday through Friday and Saturday 11-5PM. Mrs. Marsigli's vision is to have the two uses complement each other to create a retail location that sells antiques as well as wine. The operation would include a wine bar so that people can sample as well as order glasses of wine. Mrs. Marsigli is in the process of obtaining approvals from Alcohol Beverage Control (ABC) and Merced County Dept of Health, both approvals are contingent upon an approved use permit.

Zoning Ordinance Requirements:

While the Gustine Zoning Ordinance doesn't specifically have "wine bar" as a defined use, it does have two uses that by definition encompass a retail wine shop/wine bar use. First would be "Alcoholic Beverage Sales" which is defined as "the retail sale of beer, wine, and/or distilled spirits for on-premise or off-premise consumption." Second would be "Bar/Tavern" which is defined by the Zoning Ordinance as "a business where alcoholic beverages are sold for on-site consumption, which are not part of a larger restaurant. Includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a microbrewery ("brew-pub"), and other beverage tasting facilities. Does not include adult oriented businesses."

Practically either use would likely suffice as a common sense relatable definition for the purposes of this review. Neither have specific requirements aside from general operational requirements within the zoning code. Both uses require a Use Permit approval from the Planning Commission in order to locate in the downtown C-1 commercial zoning district.

Typically the key points of review for this type of use would be center around noise, parking, hours of operation and impact on surrounding uses. Those components following are generally considered as follows:

Parking: Due to the limited nature of the proposed use (co-location with an existing retail business) and the fact that the tastings/patronage for the wine bar use will primarily take place after normal 8-5 M-F business hours parking does not appear to be an immediate concern. Due to the fact that the current site is completely built out, providing private parking is not a possibility (much like most businesses in the downtown). In addition, parking demand in the downtown area is typically not at capacity in the evening hours (unless there is a downtown event). Due to the limited floor space that this use will actually encompass, vehicle trip generation would almost certainly be only incrementally greater than the current parking demand placed on the area by surrounding land uses.

Noise: While noise is commonly a concern with uses that involve alcohol, the business will be required to comply with noise regulations as listed in the Gustine Zoning Ordinance. The adjacent land uses are commercial in nature aside from residential units on the second floor in the building to the south. Due to the fact that the noise ordinance is designed to create noise threshold's by **receiving** land use versus originating land use, the wine bar would be required to make sure that their noise creation met the residential standard.

Hours of Operation: The wine bar / retail sale use would be required to operate under the same rules and regulations as all alcohol retailers for both on site and off site uses.

Impact/Compatibility with Surrounding Uses: The tone of a wine bar is typically distinctly different than that of a bar that serves liquor. This, teamed with the fact that it is collocated with a retail use do not appear to conjure potential compatibility issues with the adjacent land uses. In addition, required compliance with the zoning ordinance will ensure that impacts to not spill over into adjacent land uses.

Staff have included a condition that would clarify that the approval for this use is only for the type of wine bar / alcohol sales and that any change to a more traditional bar (full bar with liquor) would require separate use permit approval as the character of the use would be different from the character of a wine bar

use / wine retail shop use.

ANALYSIS AND FINDINGS:

In order to approve a conditional use permit the Planning Commission must make the following findings.

1. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning and Subdivision Code and the Municipal Code;
2. The proposed use is consistent with the General Plan and any applicable specific plan;
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and
5. Granting the permit would not be detrimental to the public comfort, convenience, health, interest, morals, safety, or welfare of the persons residing or working in the subject neighborhood, or materially detrimental or injurious to property or improvements in the vicinity and zoning district in which the property is located.

Staff's analysis of the project concludes that although the municipal code clearly requires use permit approval for this type of use, the zoning code adequately accounts for the potential issues that could be a result of the use.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

Staff has determined that the proposed project is exempt from the provisions of CEQA under §15332 Infill Development Projects and/or §15301 Existing Facilities.

RECOMENDATION:

The Planning Commission consider approval of the attached resolution (Exhibit A) declaring this project exempt from the provisions of CEQA and approving the Use Permit for the project as referenced in the resolution and in the project description.

EXHIBIT

- A) Resolution 2015-X
- B) Map Showing Project Location

RESOLUTION NO. 2015-X

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GUSTINE
APPROVING A USE PERMIT FOR A RETAIL WINE SHOP / WINE BAR USE LOCATED AT
351 FIFTH ST AND FINDING THE PROJECT EXEMPT FROM THE PROVISIONS OF THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**

WHEREAS, the City of Gustine received an Use Permit for a retail wine shop / wine bar located at 351 Fifth St; and

WHEREAS, if approved, this resolution shall act as the Planning Commission's written approval of the Use Permit; and

WHEREAS, §4-24-030 of the Gustine Zoning Ordinance requires a Use Permit for alcoholic beverage sales uses within the C-1 (Downtown Commercial) zoning district; and

WHEREAS, in accordance with §4-78-020 the City Clerk caused the legal advertisement to be published as is required by law ten (10) days prior to the Planning Commission hearing date; and

WHEREAS, before making any findings or any consideration of the proposal on its merits, a Public Hearing was conducted in accordance with §4-78-020 of the Gustine Zoning Ordinance; and

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE
CITY OF GUSTINE, AS FOLLOWS:**

A. USE PERMIT FINDINGS:

1. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning and Subdivision Code and the Municipal Code; and
2. The proposed use is consistent with the General Plan and any applicable specific plan; and
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity; and
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and
5. Granting the permit would not be detrimental to the public comfort, convenience, health, interest, morals, safety, or welfare of the persons residing or working in the subject neighborhood, or materially detrimental or injurious to property or improvements in the vicinity and zoning district in which the property is located.

B. CEQA EXEMPTION

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under §15332 Infill Development Projects and/or §15301 Existing Facilities.

C. THE PROJECT WILL BE SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL

1. The project will comply with all applicable section of the Gustine Municipal Code and Zoning Ordinance; and
2. All signage must comply with the Gustine Sign Ordinance and requires a City of Gustine sign permit and building permit depending on electrical / mounting specifics; and
3. There shall be no prohibited signage as defined by §4-38-040; and
4. The project shall be developed in accordance with §4-030-050 and §4-030-060 with regard to any on site changes related to noise or lighting; and
5. The applicant shall acquire all necessary approvals from other governmental jurisdictions as may be required, including ABC, Merced County and any other required regulatory authorities; and
6. Applicant shall work with Gustine Police Department to ensure all local ordinances are complied with; and
7. Any additional uses that may be proposed in the future will require separate planning review and approval prior to the commencement of those use; and
8. This approval does not constitute approval for a full bar type use (an establishment that includes the sale of hard liquor), separate use permit approval would be required if that use is proposed in the future.
9. This permit does not constitute approval of any proposed additional structures, such structures shall require separate building/planning permit review as is standard practice; and
10. Any proposed signage will require a sign permit.

DECISION:

On the 2nd Day of December 2015 based on the findings of fact and determinations, it was moved by _____ and seconded by _____ to approve the Use Permit for a retail wine shop / wine bar located at 351 Fifth St.

AYES:

NOES:

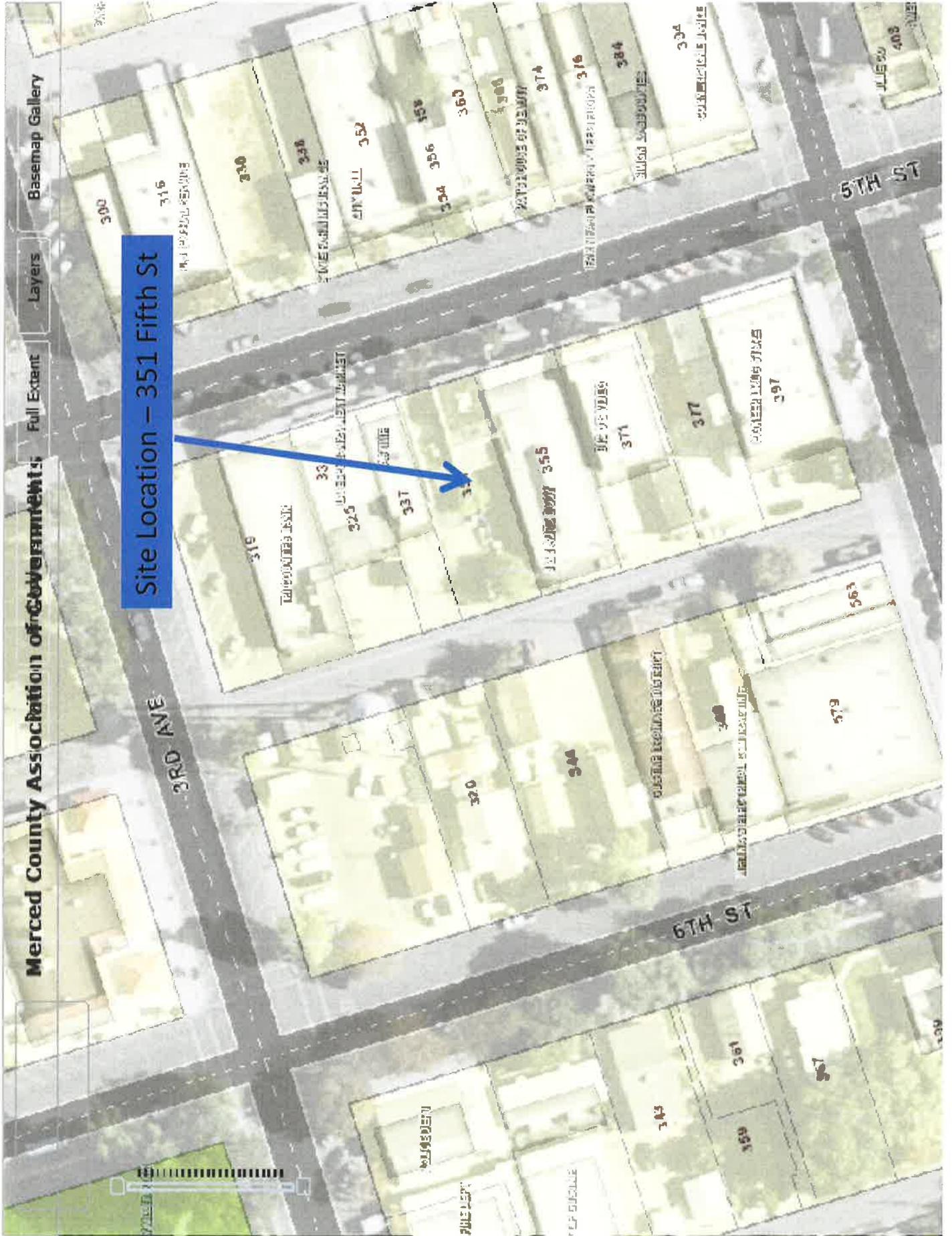
ABSTAIN:

ABSENT:

City Clerk

Planning Commission Chairman

Site Location - 351 Fifth St





PLANNING COMMISSION AGENDA ITEM DECEMBER 2, 2015

PREPARED BY: Kathryn Reyes, Director of Public Works

SUBJECT: Public Hearing: Use Permit – Religious Facility 680 South Avenue

BACKGROUND:

In October, staff received a Use Permit application from Mr. Jose Valenzuela requesting approval to operate a religious facility at the Gustine Plaza located at 680 South Avenue, Suites 5 through 7. The congregation consists of approximately 40 people with seats for 60. The property is zoned neighborhood commercial (C-N) and as such the proposed use is identified as a use that is permissible with a Use Permit approval by the Planning Commission.

The proposed location has operated as a church in the past with City of Gustine records indicating a use permit issued in 1992 and 1996 for the proposed and adjacent suites approved for church use. Suites 9 and 10 of the Gustine Plaza currently operate as a religious facility. Other uses in the Gustine Plaza include a mobile phone store, travel and tax preparer office, and a Hair Salon.

Parking: The Gustine zoning code (4-36-040) requires one parking space per four seats. The Gustine Plaza currently has 29 parking spaces.

Hours of operation: The proposed church would offer services on Tuesday (6PM-7PM) and Saturday (9:30AM - 12PM). The existing religious facility offers services on Wednesday and Sunday.

Noise: The business will be required to comply with noise regulations as listed in the Gustine Zoning Ordinance. The adjacent land uses are commercial in nature.

Impact/Compatibility with surrounding uses: Staff has reviewed the application and proposal and has concluded that, in general, it does not appear as though the proposal would create additional impacts separate of those already present from the current use.

In order to approve a Use Permit the Planning Commission must first make the following findings regarding the proposed use:

1. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning and Subdivision Code and the Municipal Code;
2. The proposed use is consistent with the General Plan and any applicable specific plan;
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity;
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and
5. Granting the permit would not be detrimental to the public comfort, convenience, health, interest, morals, safety, or welfare of the persons residing or working in the subject neighborhood, or materially detrimental or injurious to property or improvements in the vicinity and zoning district in which the property is located.

ANALYSIS:

The intent of the User Permit process is to allow for a process to review uses and activities that may be appropriate in the applicable zoning district but whose effects on site and surroundings cannot be determined before being proposed (and reviewed) for a specific site.

Like any other land use, if approved, the project would have to comply with all applicable sections of the Gustine Municipal Code and Zoning Ordinance.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

Staff has determined that the proposed project is exempt from the provisions of CEQA under §15332 Infill Development Projects and/or §15301 Existing Facilities.

RECOMENDATION:

The Planning Commission consider approval of the attached resolution (Exhibit A) declaring this project exempt from the provisions of CEQA and approving the Use Permit for the project as referenced in the resolution and in the project description.

EXHIBIT

- A) Resolution 2015-XXXX
- B) Gustine Plaza Layout, Map Showing Project Location

APPROVED BY:


for SEAN SCULLY, CITY MANAGER

RESOLUTION NO. 2015-X

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF GUSTINE APPROVING A USE PERMIT FOR THE ADDITION OF A RELIGIOUS FACILITY TO THE GUSTINE PLAZA LOCATED AT 680 SOUTH AVENUE SUITES 5,6,AND 7 AND FINDING THE PROJECT EXEMPT FROM THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

WHEREAS, the City of Gustine received an Use Permit application for the addition of a religious facility at the Gustine Plaza, 680 South Avenue Suites 5,6, and 7, and

WHEREAS, if approved, this resolution shall act as the Planning Commission's written approval of the Use Permit; and

WHEREAS, §4-24-030 of the Gustine Zoning Ordinance requires a Use Permit for the Religious Facility use within the C-N (Neighborhood Commercial) zoning district; and

WHEREAS, in accordance with §4-78-020 the City Clerk caused the legal advertisement to be published as is required by law ten (10) days prior to the Planning Commission hearing date; and

WHEREAS, before making any findings or any consideration of the proposal on its merits, a Public Hearing was conducted in accordance with §4-78-020 of the Gustine Zoning Ordinance; and

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF GUSTINE, AS FOLLOWS:

A. USE PERMIT FINDINGS:

1. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning and Subdivision Code and the Municipal Code; and
2. The proposed use is consistent with the General Plan and any applicable specific plan; and
3. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity; and
4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints; and
5. Granting the permit would not be detrimental to the public comfort, convenience, health, interest, morals, safety, or welfare of the persons residing or working in the subject neighborhood, or materially detrimental or injurious to property or improvements in the vicinity and zoning district in which the property is located.

B. CEQA EXEMPTION

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) under §15332 Infill Development Projects and/or §15301 Existing Facilities.

C. THE PROJECT WILL BE SUBJECT TO THE FOLLOWING CONDITIONS OF APPROVAL

1. The project will comply with all applicable section of the Gustine Municipal Code and Zoning Ordinance; and
2. Any operating hours outside of those allowable within the Gustine Municipal Code would require separate Use Permit approval for extended hour retail; and
3. All signage must comply with the Gustine Sign Ordinance and requires a City of Gustine sign permit and building permit depending on electrical / mounting specifics; and

DECISION:

Based on the findings of fact and determinations, it was moved by Commissioner ____ and seconded by Commissioner ____ to approve the Use Permit for the addition of a religious facility use located at 680 South Avenue, Suites 5, 6, and 7.

AYES:

NOES:

ABSTAIN:

ABSENT:

City Clerk

Planning Commission Chairman

Exhibit

December 1, 2015

Gustine Plaza

680 South Avenue

29 parking spaces

Not to Scale

Suite 1

Empty

Suite 2

C & C Communications

Suite 3

Hair's the Place

Suite 4

Ana's Travel and Tax

Suite 5

Proposed Church connected to Suite 6 and 7

Suite 6

Proposed Church connected to Suite 5

Suite 7

Proposed Church connected to Suite 6

Suite 10

Existing Church

Suite 9 Empty

Suite 8

Empty