



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: October 14, 2009

APPLICATION: Conditional Use Permit No. UP09-0032, Wellspring Church

**APPLICATION
SUMMARY:**

A request to operate a 2,406 square foot religious facility within an existing commercial building.

LOCATION:

966 Jacklin Road (APN 28-05-017)

APPLICANT:

Henry Cord, Wellspring Church, 220 S. Main Street, Milpitas, CA 95035

OWNER:

Di Napoli & Mulcahy Trust, 99 Almaden Blvd. Unit 565, San Jose, CA 95113

RECOMMENDATION:

Staff recommends that the Planning Commission:

- 1. Close the public hearing following public testimony; and**
- 2. Adopt Resolution No. 09-046 approving the project subject to conditions of approval.**

PROJECT DATA:

General Plan/

Zoning Designation:

Professional/Administrative Office (PAO)/ Commercial Office (CO)

Overlay District:

Site and Architectural Overlay (-S)

Specific Plan:

N/A

Site Area:

2.32 Acres

On-site Parking Spaces:

82 parking spaces

Number of Buildings:

3 Buildings

Building Square Footage:

8,230 sq. ft.

Tenant Square Footage:

2,406 sq. ft.

CEQA Determination:

Categorically exempt pursuant to Class 1, Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA).

PLANNER:

Cindy Hom, Assistant Planner

PJ:

2597

ATTACHMENTS:

- Resolution No. 09-046
- Plans
- Project Description

D. Property Owner Letter Agreement for parking.

LOCATION MAP



No scale

BACKGROUND

On March 22, 2000, the Planning Commission approved Conditional Use Permit No. 1542 which allowed for the operations of a Sylvan Learning Center that vacated the space in 2007.

On July 1, 2009, Henry Cord of Cord Associates submitted an application for a Conditional Use Permit to allow for the operations of a 2,406 square foot church facility during the following hours listed in Table: 1:

Table 1:
Activity Schedule and Hours of Operation

Activity	Days	Hours
Administrative and Small Group Meetings	Mondays through Thursdays	6:30PM to 9:30PM
Administrative and Small Group Meetings	Fridays	7:30PM to 9:30PM
Worship Services and Bible Study	Saturdays	9:00AM to 6:00PM

Pursuant to Milpitas Municipal Code XI-10-5.02-1(Religious Facilities), churches are conditionally permitted in the Commercial Office zoning district and require Planning Commission review and approval.

PROJECT DESCRIPTION

The project is located on a 2.32 acre site that is developed with three commercial office buildings that make up the Jacklin Commons Office Park. The proposed church facility would locate in a 2,406 square tenant space within an existing 8,230 square foot single story office building (Building A) located at the southeast corner of the intersection at Jacklin Road and N. Hillview Drive. The existing tenant mix within the Jacklin Commons Office Park consist of Bank of America Loans, H & R Block, North American Title, Dr Lopez-Marzan DDS, and Kinder Care Childcare Center.

The surrounding land uses includes a Shell Gas Station to the immediate east, Milpitas Health and Fitness to the southeast, residential homes and commercial offices to the west, residential homes to the north, and commercial offices the south. A vicinity map of the subject site location is includes on the previous page.

Site Plan

As depicted on the site plan, access to the site is provided by three shared driveways. There is a driveway that provides access off of Jacklin Road and two other driveways that provide access from N. Hillview Drive. The site is developed with three existing buildings that provide a total of 22,950 square feet of office space, 82 parking spaces and a centralized trash enclosure located near Building C.

Floor Plan

The project proposes interior tenant improvement to allow for a 1,386 square foot worship hall that consists of a 618 square foot seating area and altar platform. The seating area will consist of unfixed seats. The sanctuary seating area will be separated by full height columns. Staff recommends

decorative railings or pony walls to provide a physical separation between the walkway and seating area for the purpose of ensuring that the seating area is limited to the 618 square feet as proposed. This practice is consistent with other recently approved places of assembly. The project also proposes approximately 549 square of classroom space that will be used for youth and adult activities.

Parking

Because the subject site was developed for offices, the project site was parked at a ratio of one space per 200 square feet and provides 88 parking spaces which are held in common and shared with the other buildings within the Jacklin Commons Office Park. Using that methodology, the tenant space is allocated 12 parking spaces. The minimum parking standards for religious facilities are based on a combination of seating or occupancy of the sanctuary/main assembly area, as well as number of classrooms and square footage of office space provided. The peak use is during Saturday (9:00 AM to 6:00 PM) with a parking demand of 18 parking spaces. The proposed church can satisfy the parking requirements with shared parking considering the church operating hours occur during off peak hours (evenings and Saturdays) when the other uses within the complex are not in operation. As part of the lease agreement, the property owner has granted the use 20 parking spaces during the weekday evenings and weekends.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

The table below outlines the project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 2
General Plan Consistency

Policy	Consistency Finding
<p>Guiding Principle 2.d-G-2, <i>Development of adequate civic, recreational and cultural centers in locations for the best service to the community and in ways, which will protect and promote community beauty and growth.</i></p>	<p>Consistent. The project provides church facility in that the location is suitable and appropriate given the surrounding residential land uses and proximity to Interstate 680.</p>

Zoning Ordinance

The proposed church facility conforms to the Commercial Office Zoning in that the use is conditionally permitted with Planning Commission approval of a conditional use permit. The project complies with the development standards in that no exterior changes are proposed that would affect setback, height, floor area ratio and parking.

The project would not be detrimental or injurious to property, improvements, or public healthy, safety and general welfare. There are no anticipated negative impacts to the property or improvement in that the operations of the church will not conflict with existing businesses and would operate during off-

peak hours. The church is located within an existing development that has adequate site circulation and access for accessibility, fire access, and trash servicing. Based on the proposed 2,406 square church facility, the anticipated number of new trips is 39 net new trips and would add five AM peak hour trips and seven PM peak hour trips which are well below the threshold of significant.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is categorically exempt for further environmental review pursuant to Class 1, Section 15301 (Existing Facilities) in that church is a negligible expansion of use in that the site was used for assembly and entails interior tenant improvements to allow for a 2,406 square foot church facility consisting of sanctuary area and classrooms.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been no inquiries from the public.

CONCLUSION

The proposed church facility is consistent with the General Plan in that it serves the community and is consistent with the Milpitas Zoning Ordinance in terms of land use and development standards. The project will not be detrimental or injurious because the operations will not conflict with other uses within the Jacklin Commons Office Park.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission adopt Resolution No. 09-046 approving Conditional Use Permit No. UP09-0032, subject to the attached Conditions of Approval.

Attachments:

- A. Resolution No. 09-046
- B. Plans
- C. Project Description
- D. Property Owner Letter Agreement for parking.

RESOLUTION NO. 09-046

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP09-0032, WELLSPRINGS CHURCH TO ALLOW FOR 2,406 SQUARE FOOT CHURCH FACILITY LOCATED AT 966 JACKLIN ROAD.

WHEREAS, on, July 1, 2009, an application was submitted by Henry Cord, to allow for the operations of a 2,406 square foot church facility in an existing commercial building located at 966 Jacklin Road (APN 28-05-017), zoned Commercial Office Zoning District; and .

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project is categorically exempt from further environmental review; and

WHEREAS, on October 14, 2009, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The project is categorically exempt from further environmental review pursuant to Class 1, Section 15301 (Existing Facilities) in that the proposed tenant improvements and operation of a church facility are a negligible expansion of use. The site was previously used for assembly (classroom) and only entails interior tenant improvement to allow for a 2,406 square foot church facility consisting of sanctuary area and classrooms.

Section 3: The project is consistent with the Milpitas General Plan in that the location provides accessibility to the community at large given its proximity to adjacent residential neighborhood and proximity to Interstate I-680.

Section 4: The project conforms to the Milpitas Zoning Ordinance in that a church facility is conditionally permitted in the Commercial Office Zoning District. The project complies with the development standards in terms of setbacks, height, and is able to satisfy parking requirements with on-site parking.

Section 5: The project will not be injurious or detrimental to property, improvements or to public health and safety in that the operations of the church will not conflict with existing businesses and would operate during off-peak hours. The church is located within an existing development that has adequate site circulation and access for accessibility, fire access, and trash

servicing. The project will not create any significant negative traffic impact because it would add only 5 PM Peak trips and 7 PM peak trips, which are well below the threshold of significant.

Section 6: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UP09-0032, Wellspring Church, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on October 14, 2009

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on October 14, 2009, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Cliff Williams				
Aslam Ali				
Lawrence Ciardella				
Alexander Galang				
Sudhir Mandal				
Gurdev Sandhu				
Noella Tabladillo				
Mark Tiernan				

EXHIBIT 1

CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NO. UP09-00321, WELLSPRINGS CHURCH

Planning Division

- 1. The owner or designee shall develop the approved project in conformance with the approved plans by the Planning Commission on October 14, 2009, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance.

- 2. Conditional Use Permit No. UP09-0032 shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.06(2) of the Zoning Ordinance of the City of Milpitas. If the project requires the issuance of a building permit, the project shall be deemed to have commenced when the date of the building permit is issued and/or a foundation is completed, if a foundation is a part of the project. If the project does not require the issuance of a building permit, the project shall be deemed to have commenced when dedication of any land or easement is required or complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.

Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of UP09-0032 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein.

- 3. Prior to building permit issuance, the applicant shall provide a decorative railings or pony walls to provide a physical separation between the walkway and seating area for the purpose of ensuring that the seating area is limited to the 618 square feet as proposed.
- 4. Approved hours of operation for the church shall be limited to the following:

Days	Hours
Mondays through Thursdays	6:30PM to 9:30PM
Fridays	7:30PM to 9:30PM
Saturdays	9:00AM to 6:00PM

- 5. The applicant shall a letter agreement that maintain permission for the 20 parking spaces as granted by the property owner. The agreements shall specify the applicant and its guest and invitees are entitled to use said assigned spaces during the hours of operation for the Wellspring Church. If the applicant loses permission to use some or all said parking spaces,

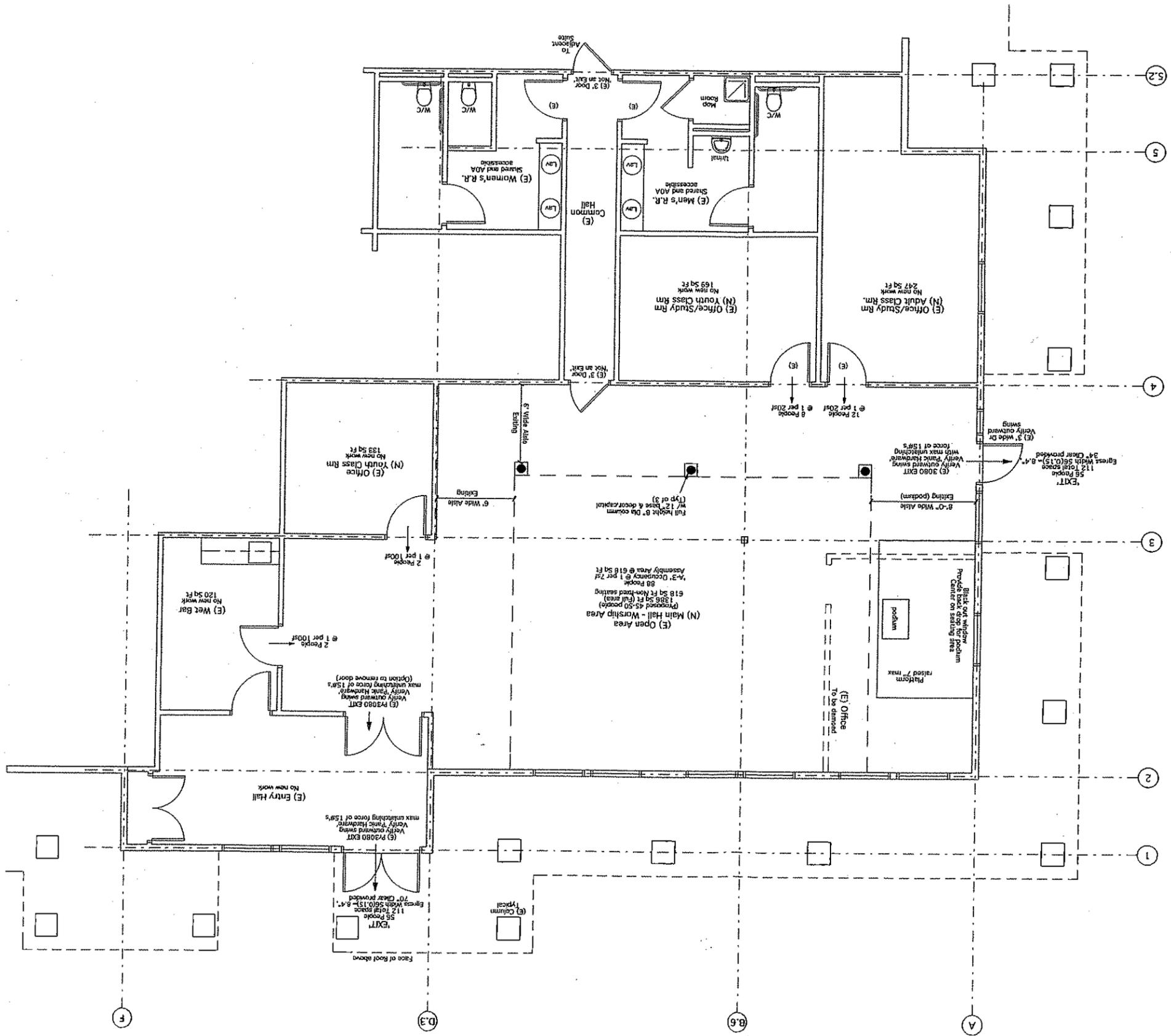
and is unable within 30 days thereafter, to secure permission to use a like number of parking spaces within 300 feet of its property by means of a parking agreement of the type described above, this Conditional Use Permit shall be considered in violation of this approval and subject to Section 10.63.06, Revocation, Suspension, Modification, of the Milpitas Zoning Ordinance.

6. This use shall be conducted in compliance with all appropriate local, state and federal laws and regulations, and in conformance with the approved plans.
7. If at the time of application for a building permit or certificate of occupancy there is a project job account balance due to the City for recovery of review fees, a permit shall not be issued until the balance is paid in full.
8. Any occupancy of the tenant space shall not occur until all conditions of approval have been satisfied and verified by the City.
9. Prior to the issuance of building permits, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the project. (P)

(P) = Planning

Wall Legend:

- (E) Wall - To remain
- (E) Wall - To be removed
- (N) 3 3/8" @ 16" oc Metal Stud Wall



SPACE PLAN
2406 Sq Ft Usable (Excluding Restroom Core)
Previous use of space: (SYLVAN Learning Center)

A-3

SPACE PLAN

Sheet Title:

Drawn by: TJ

Scale: 1/4" = 1'-0"

Project: # 09011

Date: JULY 2009

WELLSPRING
COMMUNITY CHURCH
Jacklin Commons
966 Jacklin Road
Milpitas, CA, 95035

Project Location:

Use Permit Re-submittal: 08-25-09

Use Permit Submittal: 07-14-09

Date:

Print Date: 08/25/09

TERRY J. MARTIN ASSOCIATES, A.I.A.
RESIDENTIAL AND COMMERCIAL ARCHITECTURE

45 East Main Street, Suite B
Los Gatos, CA 95030
Phone: 408-395-8016
Fax: 408-395-5732
Email: tmj@tjmartin.com

CORD ASSOCIATES

*Real Estate Services/
California Broker*

42 South First Street, Suite D San Jose, CA 95113
Tel. 408.283.7292 Fax 408.971.7699 Email:
cord100@aol.com

July 15, 2009

Cindy Hom
Staff Planner
City of Milpitas
455 East Calaveras Blvd.
Milpitas, CA 95035

RE: CUP Application for 966 Jacklin Road

Dear Cindy:

As you are aware, Wellspring Community Church withdrew its prior CUP application in the industrial park at Calaveras Center in favor of locating in the CO zone at 966 Jacklin Road. In this regard, the application for conditional use permit for 966 Jacklin Road is submitted herewith.

Enclosures with the application include:

- o overall property site plan (4 full size & 4 reduced size drawings).
- o floor plan showing space layout with minor changes to existing conditions.
- o church weekly usage of premises.
- o tenant list for the entire 3 building center.

Wellspring Community Church use of the space as set forth in the enclosures is:

- o Mondays - Thursdays: administrative duty & small group meetings 6:30 PM – 9:30 PM
- o Fridays: administrative duty and small group meeting 7:30 PM – 9:30 PM
- o Saturdays: bible study, worship, lunch & afternoon meetings 9:00 AM – 6:00 PM
- o Sundays: no planned usage

Most church activities are at non peak times resulting in little conflict with other tenants with regard to parking and traffic. Please advise if additional information is required. The church would appreciate if your review could result in action by the Planning Commission at its August 26 meeting.

Respectfully,



Henry Cord



JP DINAPOLI
COMPANIES INC.

August 21, 2009

Mr. Henry Cord
Cord Associates
42 South First Street, Suite D
San Jose, CA 95113

Re: 965 Jacklin Road; Wellspring Community Church.
Parking Allotment

Dear Henry,

Wellspring Community Church will have 10 at-will, open parking spaces during the business hours of 7:30am to 5:30pm, Monday through Friday. During evening hours and on weekends Wellspring will have 20 at-will open parking spaces available for their use.

Please let me know if you have any additional questions.

Warmest Regards,

A handwritten signature in black ink, appearing to read "Eire Stewart". The signature is fluid and cursive, with a large initial "E".

Eire Stewart

Director of Property Management