RECOMMENDED ACTION AND JUSTIFICATION: Approval of the proposed General Plan/Zoning Amendment to reclassify and rezone 7.75 acres of land to the Residential land use classification and the Mountain Home zone and the conditional use permit to allow construction of a church, parsonage and appurtenant structures on the parcel within the boundaries of the Midpines Community Planning Study Area. The amendment is necessary because the current land use classification and zoning do not allow the construction of a church. Churches are a conditional use in the Mountain Home zone. On June 15, 2007, following a public hearing, and review of the staff report and the initial study for the project, the Planning Commission recommended adoption of a mitigated negative declaration and approval of the General Plan/Zoning Amendment and Conditional Use Permit with findings, mitigation measures and conditions of approval. The Board action is to adopt a resolution approving the General Plan Amendment pursuant to GP/ZA No. 2006-26 and CUP No. 2006-43 and adopting a Mitigated Negative Declaration for environmental review purposes. The action includes waiving the first reading and introducing an ordinance amending the zoning on the property pursuant to General Plan/Zoning Amendment No. 2006-43.

BACKGROUND AND CONTEXT OF BOARD ACTIONS: No specific action on this specific project. The subject property was rezoned by General Plan/Zoning Amendment No. 91-3, changing the designation on the property from Mountain Home (which was the original designation according to the Mariposa County General Plan of 1981) to Resort Commercial in conjunction with Commercial Industrial Manufacturing Plan No. 91-3, which proposed to develop the property with a 20-unit motel, restaurant, and livery facility. The project was approved by the Board of Supervisors on August 6, 1991.

ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION: A denial of either one of these two applications will mean that the Midpines Bible Church cannot be constructed on this project site. Grading and building permits for the church project would not be approved.

Financial Impact? ( ) Yes (X) No Current FY Cost: $ Annual Recurring Cost: $
Budgeted In Current FY? (X) Yes ( ) No ( ) Partially Funded
Amount in Budget: $

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<th>Source:</th>
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<td>Transfer Between Funds</td>
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Additional Funding Needed: $

List Attachments, number pages consecutively

<table>
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<th>Staff Report with attachments</th>
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<td>Attachment 1 - Initial Study (IS)</td>
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<td>Attachment 7 - Midpines PAC Minutes</td>
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<td>Attachment 8 - Draft Board Resolution</td>
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<td>Attachment 9 - Draft Board Ordinance</td>
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<td>Attachment 10 - Draft Mitigated Negative Declaration</td>
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CLERK’S USE ONLY:

The foregoing instrument is a correct copy of the original on file in this office.
Date: 
Attest: MARGIE WILLIAMS, Clerk of the Board County of Mariposa, State of California
By: 
Deputy

COUNTY ADMINISTRATIVE OFFICER:
Requested Action Recommended ( ) No Opinion
Comments:

CAO: 

Revised Dec. 2002
MARIPOSA COUNTY RESOLUTION NO. 2009-466

A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION AND APPROVING GENERAL PLAN/ZONING AMENDMENT NO. 2006-26 AND CONDITIONAL USE PERMIT NO. 2006-43

WHEREAS an application proposing to amend the General Plan land use classification and zoning designation on Assessor’s Parcel Number (APN) 009-170-024 (4953 Carstens Road) and to seek approval of a conditional use permit for the operation of a church on the parcel was received from the Midpines Bible Church on February 14, 2006; and

WHEREAS the proposal is to amend the land use classification from Rural Economic to Residential and the zoning from Resort Commercial to Mountain Home, and to construct, under the conditional use permit, an 8,440 square foot footprint church, 1,980 square foot footprint parsonage, two parking lots for 75 vehicles, and appurtenant facilities on the 7.75-acre parcel within the Midpines Community Planning Study Area; and

WHEREAS the Planning Department circulated the application among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS a duly noticed public hearing was scheduled before the Planning Commission for the 15th day of June, 2007; and

WHEREAS the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

WHEREAS Staff Reports and Initial Study were prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and

WHEREAS the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, including the Initial Study and Staff Report, testimony presented by the public concerning the application, and the comments of the applicant; and

WHEREAS the Planning Commission adopted Resolution No. 2007-26, recommending that the Board of Supervisors adopt a Mitigated Negative Declaration, and further recommending the Board of Supervisors approve General Plan/Zoning Amendment No. 2006-26 and Conditional Use Permit No. 2006-43 with recommended findings, mitigation measures, mitigation monitoring, and conditions of approval; and

WHEREAS a duly noticed Board of Supervisors public hearing was scheduled for the 22nd day of September, 2009; and
WHEREAS a Staff Report packet for the Board of Supervisors was prepared pursuant to the California Government Code, Mariposa County Code, and local administrative procedures; and

WHEREAS the Board of Supervisors did hold a public hearing on the noticed date and considered all of the information in the public record, including the Staff Report packet, updated Initial Study, testimony presented by the public and the applicant concerning the application, and comments and recommendations from the Planning Commission.

NOW BE IT THEREFORE RESOLVED THAT the Board of Supervisors of the County of Mariposa does hereby adopt a Mitigated Negative Declaration and directs staff to file a Notice of Determination for the project pursuant to the California Environmental Quality Act, Title 14, California Code of Regulations and approves General Plan/Zoning Amendment No. 2006-26 and Conditional Use Permit No. 2006-43.

BE IT FURTHER RESOLVED THAT the parcel to be reclassified and rezoned (APN 009-170-024) is as legally described below and is shown on the map in Exhibit 1.

“All that property identified as Parcel B on that certain parcel map recorded on August 20, 1986 in Book 22, Page 33, Mariposa County Official Records.”

BE IT FURTHER RESOLVED THAT the project approval action is based on the findings shown in Exhibit 2, which are supported by substantial evidence in the public record.

BE IT FURTHER RESOLVED THAT the conditions of approval and mitigation measures for Conditional Use Permit No.2006-43 are shown in Exhibit 3 and monitoring for mitigation measures is shown in Exhibit 4.

BE IT FINALLY RESOLVED THAT the effective date of the approval of the reclassification of the property pursuant to General Plan Amendment No. 2006-26 and Conditional Use Permit No. 2006-43 shall be the effective date of the ordinance adopted to rezone the property pursuant to General Plan/Zoning Amendment No. 2006-26.

ON SEPARATE MOTIONS BY Supervisor Cann, seconded by Supervisor Allen; 1) the Mitigated Negative Declaration is adopted, and 2) this resolution is duly passed and adopted this 22nd day of September 2009, both by the following vote:

AYES: Aborn, Turpin, Cann, Allen

NOES: None

EXCUSED: Bibby

ABSTAIN: None
Midpines Bible Church, Project Applicant
22nd Day of September, 2009 • Page 3 of 18 pages

__________________________
Brad Aborn, Chair
Mariposa County Board of Supervisors

ATTEST:

__________________________
Margie Williams
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

__________________________
Steven W. Dahlem
County Counsel
Exhibit 2

Findings for General Plan/Zoning Amendment No. 2006-26;
Conditional Use Permit No. 2006-43

In accordance with Section 5.3.02 of the 2006 Mariposa County General Plan and Section 17.128.050 of the Mariposa County Zoning Code, the following findings are made for General Plan/Zoning Amendment Application No. 2006-26:

1. **FINDING:** This amendment is in the general public interest, and will not have a significant adverse affect on the general public health, safety, peace, and welfare.

   **EVIDENCE:** The project provides an institutional use of relatively low intensity which will be available to the public. The subject property is located within a short distance of State Highway 140, which constitutes the main tourist route within Mariposa County. Current access to the property is obtained from Carstens Road connecting to Highway 140. The property is located near an area of Mariposa County which serves as a commercial pocket; the increased traffic associated with this project will be incorporated into the existing traffic without significant adverse effect based upon the results of the traffic study. The project site is well buffered from the highway by vegetation surrounding Bear Creek, and is unable to be subdivided due to minimum parcel sizes, so it will remain at its current size. Adequate provisions for water, wastewater, garbage, and parking facilities will be provided on the project site to ensure that the area will not be negatively impacted.

2. **FINDING:** This amendment is desirable for the purpose of improving the Mariposa County General Plan with respect to providing a long term guide for County development and a short term basis for day-to-day decision making.

   **EVIDENCE:** Amending the land use of the site to the Residential land use classification and the reversion of the subject property to the Mountain Home zone provides a clear plan for the future development of the property in a manner consistent with the surrounding privately owned properties. The amendment is consistent with the existing zoning on the properties surrounding the project site, and it eliminates issues associated with commercial land use designations in the middle of public and residential land.

3. **FINDING:** This amendment conforms to the requirements of State law and County policy.

   **EVIDENCE:** State law governing the adoption of general plans requires that the adopted plan include provisions for amendments. Those provisions are included in the adopted Mariposa County General Plan and in the Mariposa
County Zoning Code. This application has been processed in accordance with all requirements of State laws and local ordinances.

4. **FINDING:** This amendment is consistent with other guiding policies, goals, policies and standards of the Mariposa County General Plan.

**EVIDENCE:** The development of community institutional facilities and the preservation of open space as proposed by this application are consistent with the Mariposa County General Plan. This amendment and the associated conditional use permit application allow the Midpines Bible Church to construct a facility, provide a use consistent with the residential uses in the immediate vicinity of the project site and provide a facility that members of the community may use as a gathering place. The establishment of a church in or near a community planning area is consistent with the purpose of a planning area.

5. **FINDING:** The subject parcel is physically suitable (including, but not limited to access, provision of utilities and infrastructure, compatibility with adjoining land uses, and absence of physical constraints) for the requested land use designation and the anticipated land use development.

**EVIDENCE:** The subject parcel is found to be physically suitable for the proposed zoning classification based upon the existing development immediately surrounding the project site; the proposed development is consistent in appearance with the existing development in the area, and the scale of the development is suitable for the project site. Utilities and infrastructure are available for this property, with access to the project site provided by a County-maintained road that connects to a State highway. There are no physical constraints on the property that would impede or prohibit institutional development of the project site. The project site is buffered from the highway by Bear Creek and its associated riparian vegetation as well as the scattered oak and pine vegetation, and provides good topography for the proposed church development.

6. **FINDING:** The proposed zoning is logical and desirable to provide expanded employment opportunities, or basic services to the immediate residential population or touring public.

**EVIDENCE:** The proposed zoning is logical and desirable in that it provides the potential for the proposed church development, which provides a basic service in the form of a gathering place to the residents of Mariposa County.

7. **FINDING:** The subject property is not subject to a Williamson Act Contract or zoned as a Timber Preserve.

**EVIDENCE:** The subject property is not now, nor has it ever been subject to a Williamson Act contract or zoned as a Timber Preserve. The original zoning and land use designation on this property was Mountain Home, which was amended
in 1991 to Resort Commercial. At no time was the property used for agricultural purposes or for timber harvesting.

8. **FINDING:** There is a need for additional Residential land to meet General Plan goals, respond to changes in County policy, or to meet the Regional Housing Needs Allocation.

**EVIDENCE:** In order for this parcel to meet the General Plan goal to “Maintain the rural character of Mariposa County” (Goal 5-1) and the goal to “create land use density and development patterns to manage growth in patterns avoiding sprawl” (Goal 5-2), this parcel should be changed to Residential within the Midpines Planning Study Area so that the church development may occur in an area defined by the plan as suitable for community serving land uses.

9. **FINDING:** The subject property will be contiguous on at least two sides to lands within the Residential, Rural Economic, or Planning Area land use classifications.

**EVIDENCE:** The subject property is located within the Midpines Planning Study Area. Within the study area, the project is contiguous to Residential land on the north, northwest, southwest, and south side of the project site.

10. **FINDING:** The subject property has access from a maintained road.

**EVIDENCE:** Carstens Road is maintained by the County.

In accordance with Section 17.112.040 of the Mariposa County Zoning Code, the following findings are made for Conditional Use Permit Application No. 2006-43:

1. **FINDING:** Adequate open space is provided by the project.

**EVIDENCE:** An existing open space easement one hundred feet in width (fifty feet on each side of the apparent centerline of Bear Creek) is shown over the entire length of Bear Creek within the project site, according to the proposed site plan and is described in Condition of Approval No. 21. Development of the lot, including the proposed building, parking areas, and driveway, will cover approximately 1.5 to 2.0 acres of the 7.75 acre project site. Future development on the project site will be subject to review through the conditional use permit process, and the effect of any future development on the adequacy of the open space onsite will be evaluated at that time.
2. **FINDING:** The site is physically suited for the proposed development.

**EVIDENCE:** The site plan shows that the proposed development is located easily within the required setbacks, conforms to the existing contours as much as possible, and provides for an open space buffer over the creek. Grading will be minimized on the project site in accordance with Section E.1.(a) of Chapter 17.65, Title 17, Scenic Highway Overlay.

3. **FINDING:** Adequate provisions have been made for sewage disposal and handling of solid waste.

**EVIDENCE:** The Health Department has noted that the sewage disposal system serving the church on the project site will require engineering; this requirement will be met prior to issuance of a building permit on the property. The Mariposa County landfill has the capacity to serve the solid waste disposal needs of this project.

4. **FINDING:** The proposed development will have adequate potable water for public use and fire protection.

**EVIDENCE:** The project site is 7.75 acres. The applicant will establish their adequate water supplies through the state or county permit process for a drinking water system. Onsite water storage requirements necessary for fire protection will be implemented prior to issuance of a Certificate of Occupancy for the church building.

5. **FINDING:** The project complies with all standard and special setback requirements and appropriate buffers have been provided for adjacent land uses.

**EVIDENCE:** The open space easement existing over Bear Creek within the project site is adequate separation between the proposed development area and the highway. All standard setback requirements have been met, and no special setback standards are applicable to this property.

6. **FINDING:** Appropriate access is available or is proposed to the development.

**EVIDENCE:** The project takes access from Carstens Road, a County-maintained road, which connects to Highway 140 at a point approximately 900 feet northwest of the project site. Conditions of approval will ensure that Carstens Road is adequate for existing traffic and proposed traffic by this project.

7. **FINDING:** The proposed use is consistent with the policies and standards of the general plan and any applicable specific plan.

**EVIDENCE:** The proposed use is listed as a conditional use for the proposed land use and zoning classification on the property. Please refer to the findings
for the General Plan Zoning Amendment portion of this project for further information; there is no Specific Plan applicable to this property.

8. **FINDING:** The project as approved will not have a significant effect on the environment, or the significant impacts have been eliminated or substantially lessened, or determined that the significant effects are unavoidable and acceptable due to overriding concerns.

**EVIDENCE:** An Initial Study has been prepared for this project pursuant to the provisions of the California Environmental Quality Act. Mitigation measures have been incorporated into the project approval as a result of this environmental review, and due to the incorporation of these mitigation measures, the potentially significant impacts have been or will be lessened to a level that is less than significant.

9. **FINDING:** The establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the county.

**EVIDENCE:** The project proposes the construction of a church building, two parking areas, a parsonage and the improvement and widening of a driveway. The Health Department will monitor the installation of wells and septic systems on the project site; the Public Works Department will ensure that the driveway is installed in a safe location and that improvements to Carstens Road are constructed in accordance with county standards; the Building Department will monitor grading activities to ensure that they are not detrimental. Churches are generally considered to be beneficial to public morals. The comfort and general welfare of the residents and employees in the immediate area as well as the county as a whole will not be negatively impacted by this project.

10. **Finding:** The effective date of Mariposa County’s approval of Conditional Use Permit No. 2006-43 and the reclassification of the property pursuant to General Plan/Zoning Amendment No. 2006-26 shall be the same as the effective date of the ordinance rezoning the property pursuant to General Plan/Zoning Amendment No. 2006-26. This shall be 30 days following the Board of Supervisor’s waiver of the second reading and the adoption of the ordinance approving the zoning amendment portion of General Plan/Zoning Amendment No. 2006-26.
1. The Conditional Use Permit is approved for the development of an 8,440 square foot footprint church, two parking areas with space for 75 vehicles, a 1,980 square foot footprint parsonage and minor appurtenant structures, and improvement of the existing onsite driveway providing access to the church structure and parking lots, which shall be widened to 20 feet as proposed by the applicant. The widths of the driveways serving the parsonage are required to meet only residential use standards. An Onsite engineered septic system will be required to serve the church facility. Wells and water storage facilities will be developed onsite as necessary. Building sizes shall be as shown on the approved plans; maximum occupancy shall be as determined by the Building and Fire Departments. Expansions of up to 10% of square footage may be approved by the Planning Director; the Planning Director may also approve a modification of use, provided that the modified use is substantially similar to the approved use. To approve either an expansion in square footage or a modified use, the Planning Director must make a finding that there are no impacts with the expansion or modification which weren't addressed in the project approval documents. The project shall be developed in accordance with the approved plans; any deviation from the approved plans shall be reviewed and approved by the Planning Director, in accordance with the conditions of approval, prior to any modification being made. The Planning Director may approve a reduced or smaller project, including reduced parking lots.

2. Prior to issuance of a development permit to this property, including but not limited to permits for grading, wells, septic systems, or structures, the applicant shall submit a complete Scenic Highway Overlay development plan, in accordance with applicable sections of Chapter 17.65, Title 17, Mariposa County Zoning Code. The Planning Director shall review and approve this plan prior to permit issuance. The project shall be required to comply with all applicable standards for the Scenic Highway Overlay zone.

3. The project applicant shall improve Carstens Road to Rural Class I (18 foot wide, paved) standard or a Rural Class II (20-foot wide graveled) standard from the end of the pavement to the south side of the driveway encroachment to the church site prior to the issuance of a Certificate of Occupancy for the church structure. The applicant shall obtain an encroachment permit from the Public Works Department prior to the initiation of any construction work on the required road improvements. The improvements shall be completed in accordance with the Road Improvement and Circulation Policy and the County Improvement Standards and shall be approved by the County Engineer prior to the issuance of a Certificate of Occupancy for the church structure. The
thickness of aggregate base shall be determined by the Public Works Department through the encroachment permit process. The County Engineer may require engineered improvement plans prepared by a Registered Civil Engineer for any improvements required as a condition of approval for this project. If engineered improvement plans are required, the plans shall be approved by the County Engineer prior to commencement of construction work on the required road improvements. This section of roadway shall be maintained by the project applicant to this standard for the life of the project.

4. Prior to issuance of a Building permit for the project, the applicant shall obtain an encroachment permit from the Public Works Department for the expanded driveway connection to Carstens Road. The driveway shall be widened as proposed by the applicant, and shall meet all Fire Safe Standards established by the California Department of Forestry and Fire Protection (CDF). The requirements of the encroachment permit shall be satisfied, and the Public Works Department and CDF shall confirm in writing to the Building Department that this condition has been met.

5. Prior to issuance of a building permit for any new structure on the project site, the applicant shall submit a new parking plan for the new development to the Planning Director for review and approval. The plan shall provide area for the maximum proposed 75 parking spaces (minimum 9' by 19' each for standard spaces; 8' by 14' for compact spaces, which can be 40% of total spaces) and for adequate backing and turning areas. Actual parking lot area can be sized for a smaller number of vehicles depending on sanctuary seating. The standards contained in the Mariposa Town Planning Area Plan shall be used to determine the appropriate number of spaces for the seating proposed. At a minimum, all driveways and parking spaces serving the church shall be graveled and shall be maintained to minimum standards at all times. Should only a portion of the project be completed, or should the ultimate construction be phased, the Planning Director may allow construction of a portion of the required on-site parking for each increment of the development, based upon a finding that the parking is adequate for the project phase permitted. The parking area shall be constructed prior to issuance of a Certificate of Occupancy.

6. This project shall meet all standards of PRC 4290 and 4291 as well as all standards established by the County Fire Department regarding institutional structures.

7. Prior to issuance of a Building Permit for any new structure on the project site, the applicant shall consult the Health Department regarding the production capacity needed to serve the proposed development and the production capacity of the existing onsite wells. The applicant shall either confirm with the Health Department that the existing wells will be sufficient to serve the development, or shall make provisions for additional water production and/or storage onsite. The Health Department shall confirm in writing to the Planning Department that the project has sufficient potable water. Should the Health Department determine that the project necessitates a Public Drinking Water permit from the California Department of Public Health, the confirmation of adequate water
shall be the responsibility of this state agency. Additionally, the public drinking water permit shall be obtained prior to issuance of a Certificate of Occupancy. The state drinking water permitting process may require additional environmental review in accordance with policies of the California Department of Public Health.

8. Prior to issuance of a Building Permit for the church structure, the wastewater disposal system for the structure shall be designed in accordance with the requirements of the County Health Department, which shall include engineering. The wastewater disposal systems on the project site shall be installed and approved by the County Health Department prior to issuance of a Certificate of Occupancy for the structures they serve.

9. Prior to the commencement of any grading on the project site, the project proponent shall obtain from the Regional Water Quality Control Board (RWQCB) a General Permit for Discharges of Storm Water Associated with Construction Activity, if required. A copy of the approved permit or evidence that a permit is not required shall be submitted to the Mariposa County prior to the initiation of grading activities.

10. All structures shall be located a minimum of twenty five (25) feet from the edge of the Highway 140 right-of-way and from all property lines; the minimum setback for structures from Carstens Road shall be fifty-five (55) feet from the centerline of Carstens Road and twenty five (25) feet from the edge of the easement.

11. All new utilities, with the exception of propane storage, shall be located underground. All propane storage tanks and garbage areas shall be screened from view from Highway 140, Carstens Road, and adjoining properties.

12. The applicant shall provide adequate facilities for solid waste disposal. Planning shall confirm that these facilities have been provided on the project site prior to issuance of a Certificate of Occupancy for any onsite structure. These facilities shall be screened from view from Highway 140.

13. All onsite lighting features shall be of a hooded type, shall produce the minimum amount of light necessary to complete its intended function, and shall direct light only onto the project site. The applicant shall submit an outdoor lighting plan to the Planning Director for review and approval prior to issuance of a building permit for any onsite structure. Staff recommends use of the Dark Sky International Association reference materials and recommendations for full cut-off fixtures.

14. All new construction shall be sided, roofed, and painted to be compatible with the architectural and design requirements of the Scenic Highway Overlay.

15. The project shall be completed within 3 years of the date of approval for this project (by September 22, 2012). The Planning Commission may grant an extension to this deadline for up to 18 months provided it can find that such
extension is necessary and not detrimental to the public health, safety and welfare. Implementation of the parsonage is not required within the three-year time frame. Although part of the project the residence is a permitted use in the Mountain Home zone and, for this reason, no time frame for its implementation is mandated.

16. Prior to issuance of a Building Permit and prior to issuance of a Certificate of Occupancy for any onsite structure, all fees associated with the processing of this application and the review of plans for any subsequent permit, shall be paid.

17. The applicant shall comply with all standards of the Mariposa County Grading Ordinance as modified below. These standards shall include but not be limited to:

- A maximum height of 5 feet for all cuts and 10 feet for all fills; and

- Immediate re-vegetation and sediment control for all cut and fill banks; and

- All grading shall be confined to the project site; and

- Any retaining walls necessary for the project shall be engineered and shall meet the material and color standards established by the Scenic Highway Overlay; and

- If any grading is proposed on the project site within five feet of any property line, that line shall be surveyed and staked in the field; and

- No grading activity shall take place within the proposed open space easement.

18. All fees associated with the County’s processing of the General Plan-Zoning Amendment/Conditional Use Permit and filing of associated documents shall be paid within Sixty (60) days from the date of project approval (by Monday, November 23, 2009). The Department of Fish and Game filing fee ($1,993.00 as of January 1, 2009) and County Clerk fee ($50 as of January 1, 2009) shall be paid by the applicant within five (5) working days of the approval of the application (September 29, 2009), because if the fee is not paid within 5 working days, and the Notice of Determination is not filed with the County Clerk prior to close of business on Tuesday, September 29, 2009 the environmental determination is not operative, vested, or final (Section 21089(b) Public Resources Code). The County Clerk requires that one check be submitted to cover both of these fees, for a total of $2,043.00 (effective January 1, 2009), and that it be in the form of a cashier’s check or money order payable to “Mariposa County.” The County Clerk will not accept a personal check for these fees. Submit the check to Mariposa Planning who will file this fee and other required documents with the County Clerk.
19. The Property Owner (Owner) shall indemnify, protect, defend, and hold harmless the County, and any agency or instrumentality thereof, and officers, officials, employees, or agents thereof, from any and all claims, actions, suits, proceedings, or judgments against the County, or any agency or instrumentality thereof, and any officers, officials, employees, or agents thereof to attack, set aside, void, or annul, any approval of the County, or any agency or instrumentality thereof, advisory agency, appeal board, or legislative body, including actions approved by the voters of the County, concerning the project and the approvals granted herein. Actions concerning the project and approvals granted shall include, but not be limited to, the environmental determination made pursuant to the California Environmental Quality Act (CEQA). Furthermore, Owner shall indemnify, protect, defend, and hold harmless the County, or any agency or instrumentality thereof, against any and all claims, actions, suits, proceedings, or judgments against another governmental entity in which Owner’s project is subject to that other governmental entity’s approval and a condition of such approval is that the County indemnify and defend such governmental entity. County shall promptly notify the Owner of any claim, action, or proceeding. County will further cooperate in the defense of the action.

An agreement on a form approved by Mariposa County Counsel shall be executed within twenty (20) working days of the date of project action (by October 20, 2009). Non-compliance with this condition may result in revocation of project approval by the county.

20. During road grading and/or construction, or any activity that involves ground disturbance necessary to implement project conditions of approval, if any signs of prehistoric, historic, archaeological, paleontological resources are evident, all work activity within fifty feet of the find shall stop and the Mariposa County Planning Department shall be notified immediately. No work shall be done within fifty feet of the find until Planning in consultation with a representative of the American Indian Council of Mariposa County has identified appropriate measures to protect the find and those measures have been implemented by the applicant. Protection measures for the site may include, but not be limited to, requiring the applicant to hire a qualified archaeologist who shall conduct necessary inspections and research, and who may supervise all further ground disturbance activities and make any such recommendations as necessary to ensure compliance with applicable regulations. In addition to the Planning Department, the Mariposa County Coroner and American Indian Council of Mariposa County shall be notified should human remains be discovered. Representatives of the American Indian Council of Mariposa County shall be requested to be on-site during disturbance and/or removal of human remains. Should any Native American artifact or human remains be discovered, a representative of the American Indian Council of Mariposa County shall be on-site to monitor the remainder of excavation activities. The Picayune Rancheria of Chukchansi Indians shall be notified of any cultural resource finds on the project site.
21. An open space buffer and building setback of fifty [50] feet from the centerline of Bear Creek within the project site is existing and prohibits all development and grading within the setback. This setback is shown on the parcel map recorded on August 20, 1986 in Book 22 of Parcel Maps at Page 33, Mariposa County Official Records. The project parcel (APN 009-170-024) is shown as Parcel B on the parcel map. Development and grading on the project site shall not be allowed in the setback area.

22. Prior to the issuance of any permit on the project site, the applicant shall provide verification to Mariposa Planning the location of oak tree plantings and the method or irrigation to ensure growth. This can be provided as part of the landscaping plan that is required to be submitted as part of design review for the project site. The oak trees may not be allowed to be part of parking lot screening, because full screening from the road is required, and must be achieved within five years of project implementation. Replacement oak trees are to be a minimum of 15 gallons in size at the time of planting.

23. Prior to the initiation of any parking lot or driveway construction occurring within 25 feet of the centerline of or across the blue-line drainage feature running east/west through the project site the applicant shall contact the California Department of Fish and Game to determine if a State Fish and Game Code Section 1602 Streambed Alteration Notification is required. If required, the applicant shall submit the notification and comply with all applicable requirements of Section 1600 et seq. of the State Fish and Game Code. A copy of the Stream Alteration Agreement or evidence that such an Agreement is not required shall be submitted to the Mariposa County Planning Department prior to the initiation of grading activities.
   (Mitigation Measure 4.b.1)

24. Prior to the initiation of any grading on the project site, the project applicant shall obtain any required permitting pursuant to Section 404 of the Clean Water Act from the United States Army Corps of Engineers and, if such permitting is required, a Section 401 Water Quality Certification from the Regional Water Quality Control Board – Central Valley Region. The project proponent shall provide a copy of the permit and certification to the Mariposa County Planning Department prior to initiation of grading activities.
   (Mitigation Measure 4.b.2)

25. Any tree removal or pruning that is necessary to implement the project shall occur between September 15 and January 31, the time-frame which is outside of the general avian nesting season. Should such tree removal or pruning occur between February 1 and September 15 a pre-construction survey conducted by a qualified biologist/botanist shall be required to determine if such removal violates the provisions of Fish and Game Code sections 3503, 3503.5 and 3513. The survey shall be conducted no more than 30 days prior to tree removal or pruning. A copy of the survey shall be submitted to the California Department of Fish and Game, Region 4. If these code sections will be violated by tree removal or pruning between February 1 and September 15, mitigation measures
established by the qualified biologist/botanist in consultation with the California Department of Fish and Game shall be implemented to reduce impacts of this tree removal or pruning to less than significant levels. The Planning Department shall be provided a copy of the results of any survey conducted and evidence that any required mitigation measures have been implemented prior to such tree removal/pruning on the site. Removal or pruning necessary for safety, access or other emergency situations shall not be subject to this mitigation measure. (Mitigation Measure 4.d.1)
## Exhibit 4

**Mitigation Monitoring for Conditional Use Permit No. 2006-43**

<table>
<thead>
<tr>
<th>Mitigation Measure No.</th>
<th>Mitigation Measure</th>
<th>Mitigation Monitoring</th>
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<tbody>
<tr>
<td>4.b.1</td>
<td>Prior to the initiation of any parking lot or driveway construction occurring within 25 feet of the centerline of or across the blue-line drainage feature running east/west through the project site the applicant shall contact the California Department of Fish and Game to determine if a State Fish and Game Code Section 1602 Streambed Alteration Notification is required. If required, the applicant shall submit the notification and comply with all applicable requirements of Section 1600 et seq. of the State Fish and Game Code. A copy of the Stream Alteration Agreement or evidence that such an Agreement is not required shall be submitted to the Mariposa County Planning Departments prior to the initiation of grading activities.</td>
<td>This mitigation measure will be monitored by the Mariposa County Planning Department through the project construction permitting process.</td>
</tr>
<tr>
<td>4.b.2</td>
<td>Prior to the initiation of any grading on the project site, the project applicant shall obtain any required permitting pursuant to Section 404 of the Clean Water Act from the United States Army Corps of Engineers and, if such permitting is required, a Section 401 Water Quality Certification from the Regional Water Quality Control Board – Central Valley Region. The project proponent shall provide a copy of the permit and certification to the Mariposa County Planning Department prior to initiation of grading activities.</td>
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<td>This mitigation measure will be monitored by the Mariposa County Planning Department through the project development process.</td>
</tr>
</tbody>
</table>
and Game, Region 4. If these code sections will be violated by tree removal or pruning between February 1 and September 15, mitigation measures established by the qualified biologist/botanist in consultation with the California Department of Fish and Game shall be implemented to reduce impacts of this tree removal or pruning to less than significant levels. The Planning Department shall be provided a copy of the results of any survey conducted and evidence that any required mitigation measures have been implemented prior to such tree removal/pruning on the site. Removal or pruning necessary for safety, access or other emergency situations shall not be subject to this mitigation measure.
COUNTY of MARIPOSA
P.O. Box 784, Mariposa, CA 95338 (209) 966-3222

BRAD ABORN, CHAIR
JANET BIBBY, VICE CHAIR
LYLE TURPIN
KEVIN CANN
JIM ALLEN

DISTRICT I
DISTRICT III
DISTRICT II
DISTRICT IV
DISTRICT V

MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

TO: KRAIS SENCHEN, Planning Director

FROM: MARGIE WILLIAMS, Clerk of the Board

SUBJECT: PUBLIC HEARING to Consider General Plan/Zoning Amendment No. 2006-26 and Conditional Use Permit No. 2006-43. Action Includes Adopting a Resolution Approving the General Plan Amendment and Conditional Use Permit, Adopting a Mitigated Negative Declaration, Waiving the First Reading and Introducing an Ordinance to Rezone 7.75 Acres of Land (APN 009-170-024) From the Resort Commercial Zone to the Mountain Home Zone Pursuant to General Plan/Zoning Amendment No. 2006-26. The General Plan Amendment Proposes to Amend the Land Use Classification on the Property from Rural Economic to Residential. Conditional Use Permit No. 2006-43 Proposes Construction of an 8,440 Square Foot Footprint Church with Two Parking Lots for Seventy-five Vehicles and a 1,980 Square Foot Footprint Parsonage, Driveways and Septic System. Project Applicant: Midpines Bible Church

THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA

ADOPTED THIS Order on September 22, 2009

ACTION AND VOTE:

10:36 a.m. Kris Schenk, Planning Director;
PUBLIC HEARING to Consider General Plan/Zoning Amendment No. 2006-26 and Conditional Use Permit No. 2006-43. Action Includes Adopting a Resolution Approving the General Plan Amendment and Conditional Use Permit, Adopting a Mitigated Negative Declaration, Waiving the First Reading and Introducing an Ordinance to Rezone 7.75 Acres of Land (APN 009-170-024) From the Resort Commercial Zone to the Mountain Home Zone Pursuant to General Plan/Zoning Amendment No. 2006-26. The General Plan Amendment Proposes to Amend the Land Use Classification on the Property from Rural Economic to Residential. Conditional Use Permit No. 2006-43 Proposes Construction of an 8,440 Square Foot Footprint Church with Two Parking Lots for Seventy-five Vehicles and a 1,980 Square Foot Footprint Parsonage, Driveways and Septic System. Project Applicant: Midpines Bible Church

BOARD ACTION: Kris Schenk introduced the item. Skip Strathearn, Senior Planner, presented the staff report; and he advised of two changes: 1) adding a statement to Condition No. 22 that the Picayune Rancheria of Chukchansi Indians shall be notified of any cultural resource finds on the project site; and 2) changing the language in Finding No. 2 to read that “The site plan shows...” Staff responded to questions from the Board relative to correspondence that was received from Midpines residents; relative to review of the scenic design overlay standards; requirements for improvement of Cartens Road; and relative to the parking area improvements. The public portion of the hearing was opened and there was no input. The public portion of the hearing was closed and the Board commenced with deliberations. (M)Cann, (S)Allen, the Board adopted a Mitigated Negative
Declaration for this project/Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby. (M)Cann, (S)Allen, Res. 09-466 was adopted approving the amendment to the land use classification and zoning on APN 009-170-024 pursuant to General Plan/Zoning Amendment 2006-26 with findings and approving Conditional Use Permit No. 2006-43 with the recommended findings, conditions of approval, and mitigation measures, and mitigation monitoring; including the recommended changes to Condition No. 22 and Finding No. 2/Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby. (M)Cann, (S)Allen, the first reading was waived and the Ordinance introduced amending the Mariposa County Zoning Map pursuant to General Plan/Zoning Amendment No. 2006-26. The Clerk of the Board read the title of the Ordinance into the record. Ayes: Aborn, Turpin, Cann, Allen; Excused: Bibby. The hearing was closed.

Cc: File