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6 February 2012

Via Email Lashun.cross@dcd.cccounty.us
Via US Mail

Hon. Mary Piepho, Chair and
Members of the Board of Supervisors
Contra Costa County
651 Pine Street
Martinez, CA

Attention: Clerk of the Board

**Re: Appeal of Condition of Approval Limiting Number
of Trucks On-Site During Construction.**
County File Nos. LP08-2034 and MS09-0008

Dear Supervisors

We represent Sufism Reoriented, the applicant and appellant in the above matters. We submit this letter in support of its appeal dated November 18, 2011. The appeal requests the modification of a condition adopted by the Planning Commission that limits to two the number of trucks on the construction site at any one time.

This additional condition, which is the subject of this appeal, was added to staff-recommended condition no. 11. The condition reads as follows:

Dump trucks and concrete trucks shall be staged outside of the neighbourhood and no more than two such trucks shall be on site at one time.

(The language that was added by the Commission and that is the subject of this appeal is shown above in *italics* and in this letter is sometimes referenced as "the condition" or "the limitation".)

The appeal is based on the presumably unintended but inevitable consequences of this limitation, which will prolong the construction process, increase the cost and impair the quality of the concrete slab in exchange for little, if any, benefit to the neighborhood. This is not in the best interests of the community or the project. Each of these is addressed in the attached copy of a letter dated February 2, 2012, from Overaa Construction that was previously submitted to you.

At the end of this letter, we present two revisions of the condition, each of which would address this issue to our satisfaction.

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Background:

The condition was proposed after the close of the public hearing before the Planning Commission. To my recollection, it was not requested by any of the speakers during the four nights of public hearings.

The Chair suggested the condition and it was incorporated into the motion to approve the land use permit without discussion or elaboration. The Commission did not request or receive comments or recommendations from the applicant or the County staff.

The condition was adopted without any discussion or explanation of its purpose and without a collective understanding or any consideration of its effect on the duration, quality of construction or the cost of the project.

Nor did the Commission indicate or discuss what it intended to accomplish by the condition. In the absence of a statement of the Commission's intention, we assume the condition was an effort to reduce or limit noise and/or traffic. However, the EIR had already studied those impacts, imposed mitigation measures and found the impacts after mitigation to be less than significant. There was no evidence that the condition was needed or that it would make any noticeable difference.

There is no County or other law or policy that limits the number of excavation or concrete trucks allowed on a construction site. Overaa states that no such limitation has been imposed on any of the many projects in which it has participated over the past 105 years in this County and elsewhere. Therefore, this *ad hoc* condition is problematic as a matter of law given that (a) use permits are quasi-adjudicatory proceedings in which the County is supposed to apply *existing* law to the facts; and, (b) the First Amendment precludes discriminatory requirements applied only to religious projects.

Adverse Consequences:

The excavation process already is limited by COA 27, the implementation of which will limit the number of truck trips per day, thereby extending the duration of this phase of construction. The condition under appeal will further lengthen the construction process by 11-14 days and increase the cost as explained in the attached letter from Overaa. .

The delay from imposing the two-truck limit on the concrete pours is even more serious, again as explained in the Overaa letter. The concrete operation would be extended by 4 – 6 months. The limitation also could cause significant structural consequences, such as irregularities in the placement sequence, and more cold joints and waterproofing voids.

Finally, the delay would substantially increase the cost of this project, borne by a relatively small congregation.

The Condition Is Not Needed.

Again, in the absence of an explanation of the need for the condition, we assume the Commission intended it to reduce or limit noise and/or traffic caused by the trucks even though these impacts were fully addressed in the FEIR that the Commission certified.

When imposing conditions, the County should balance the negative consequences against the benefits that are expected from the condition. The Commission did not address this essential issue. If the Commission had inquired, it would have learned that the benefits, if any, are too small to matter and are outweighed by the adverse consequences, especially the longer construction period required if construction is limited by the condition.

The condition would not reduce cumulative neighborhood inconvenience from construction trucks as there is no difference in the total number of truck trips the neighborhood will experience with or without the condition. In fact, the condition burdens the neighborhood by extending the length of the construction period.

Traffic: Given that the project is located on an arterial that has considerable excess capacity, there is no readily ascertainable benefit from reducing the number of trucks per day from the 60 that would occur without the condition. The FEIR reports that there are approximately 4500 trips per day currently. With or without the condition, the arterial will have more than sufficient capacity for the trucks. Excavation is the most intensive traffic generator but the related trips can easily be accommodated due to the unused capacity of Boulevard Way -- the number of truck trips could be doubled without creating a problem. FEIR, Vol II, pp.2-39 et seq; Vol. I, pp. 4.13 et seq.

Noise: The EIR and other conditions of approval addressed construction noise by (a) limiting the hours of construction to weekdays from 8 a.m. to 5 p.m., (b) requiring the installation of temporary sound walls; (c) limiting idling time of equipment to 2 minutes; and (d) requiring use of noise control devices on equipment; and (e) requiring a project noise coordinator to oversee compliance. The limitation on work hours is typical of County requirements for other projects in residential neighborhoods and more stringent than neighboring jurisdictions of Lafayette, Walnut Creek, Orinda and Pleasant Hill. FEIR, vol II, pp.2-34 et seq; COA 46 (MM 410-1).

Further, as the excavation deepens the noise will be increasingly confined to the excavation and will be less and less noticeable to those nearby. Also, concrete trucks will be on site only part of each work day as the pours need to be completed shortly after noon in order to allow time to complete the finishing work before the required end of the work-day.

Conclusion: Taking all of this into account, and recognizing the temporary nature of construction, the FEIR (commissioned by the County; reviewed and recommended by the Zoning Administrator; and certified by the Commission) concluded that the impacts from construction are less than significant. There is no evidence that the condition will result in a noticeable reduction in construction noise, traffic or any other environmental impact. There is evidence that the condition will prolong the

Hon. Mary Piepho, Chair
6 February 2012
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construction process, increase the cost and negatively affect the quality of the concrete structures. The Board should eliminate or modify the condition to eliminate the negative consequences.

RELIEF REQUESTED.

From the applicant's perspective, it would be preferable to eliminate this portion of condition 11 entirely to permit flexibility during construction and allow work to proceed in the most expeditious and cost effective manner. This would benefit both the neighbors (by limiting the duration of construction) and the applicant (by limiting the cost of the project and improving the quality of the concrete pours). This also would be consistent with other projects that are not subject to limitations similar to the condition.

If the Board believes it necessary for the County to control this aspect of construction, we suggest two alternatives, either of which would be acceptable to the applicant.

Alternative One: As proposed by the applicant in its appeal, revise the affected portion of Condition 11 as follows:

Dump trucks and concrete trucks shall be staged outside of the neighborhood and no more than ~~two such~~ four dump trucks shall be on site at one time.

Alternative Two: As recommended by Overaa in the attached letter, revise the affected portion of Condition 11 as follows:

Dump trucks and concrete trucks shall be staged outside of the neighborhood and no more than ~~two such~~ four dump trucks or four concrete trucks per pump shall be on site at one time.

Sincerely yours


Sanford M. Skaggs

ec: Lashun Cross

CONTRA COSTA
COUNTY



February 2, 2012

2012 FEB -6 A 11: 26

Contra Costa County Board of Supervisors
c/o Clerk of the Board
651 Pine Street
Martinez, CA 94553

DEPARTMENT OF
CONSERVATION
AND DEVELOPMENT

VIA US MAIL

Re: Sanctuary for Sufism Reoriented
Potential Limitation of Excavation and Concrete Trucks Onsite (proposed Condition #11)

Dear Supervisors:

This letter is submitted in support of the applicant's appeal of the decision of the Planning Commission to impose Condition 11, which proposes to limit to two the number of trucks that may be on the property at any one time during construction.

We assume the intent of the Commission was to benefit the public and the neighborhood by minimizing potential impacts. Unfortunately, imposing this limitation has exactly the opposite effect by increasing time for construction of the project, thereby extending the duration of any impacts and greatly increasing Project cost.

In order to complete the work as expeditiously as possible, and to minimize both the duration of neighborhood disruption and the cost, it is preferable to all parties **not** to have these limitations and instead to maintain maximum flexibility within the conditions previously established.

The Commission imposed several conditions (mitigation measures) to address the potential impacts. Those include conditions that (a) require the staging of trucks outside of the neighborhood; (b) limit total truck trips per day to 60 (based on a particular haul site); (c) limit idling time to 2 minutes; and (d) limit working hours to 8 a.m. to 5 p.m. Each of these conditions already extends the duration of the excavation and concrete pours. Imposing proposed Condition 11 would compound these effects by substantially increasing the time required for these operations, thus further increasing the duration of construction, any potential impacts to the neighborhood, and substantially increasing the cost to the applicant.

Overaa has substantial experience providing oversight on many large scale excavations and has been directly responsible for hundreds of large concrete placements throughout the Bay Area extending over its 105 years in business. Never has the number of trucks on the construction site been limited by the responsible governmental agency in this way. Taken together, the sum of these conditions on trucks far exceeds the limitations placed on any other construction project known to us. Condition 11 alone will substantially increase both the time onsite and any related neighborhood impacts, as well as the overall project cost, both of which are already adversely affected by the other conditions. Specifically, imposing Condition 11 would have the following effects:



1. Extend the excavation and offhaul duration by 11-14 working days -

Offhaul operations have been limited to 60 trips per day by implementation of Condition No. 27. In order to make the allowed number of trips per day per this condition, we plan to utilize between 8 and 10 trucks. After maneuvering into position, each truck will be loaded in approximately three minutes. Based on estimated round trip times to the assumed disposal site, we expect - after the initial loading - that four trucks will be onsite at any one time, as illustrated on the attached drawing. Since the number of trucks being used is small, it is critical that they be available to the site in groups of four in order to maintain efficiencies and to not further affect the overall duration of the offhaul activities. By operating in this manner (groups of 4), we anticipate the total off-haul operation will take approximately 55 working days.

If Condition 11 is put into effect and limits the number of trucks onsite to just two, the efficiency of loading will be reduced by 20-25%, thereby extending the overall offhaul duration by 11 – 14 working days, and increasing the duration of potential impacts to the neighborhood and increasing all the related project costs.

2. Extend the duration of concrete placement by 4-6 months -

All structural concrete operations require at least one pump. Each pump requires two concrete mixer trucks at its hopper at any given time, with two trucks on standby to take the place of a truck after it has discharged its load (four trucks total onsite per pump).

It is important that the rate of discharge of the concrete be consistent because irregularities in the placement sequence have a significant structural consequence. Concrete must be discharged within 90 minutes after batching, and as such it is critical that four trucks be available onsite so that the pump maintains two trucks at the hopper at all times and the rate of discharge is consistent.

In addition, many concrete placements require more than one pump due to other conditions of approval restricting time and access, as well as the physical limitations of access on the project site. The number of truck trips per day, idling, haul route, and other limitations described above and in the EIR are all factored into the equation. The mat placement, for example, will require up to four pumps operating simultaneously in order to ensure that concrete is placed in a homogenous way without structural cold joints or waterproofing voids that would negatively affect the structure's performance.

If Condition 11 remains in effect and limits the number of concrete trucks onsite to just two, the duration of the concrete activities will extend by between four and six months, and the cost will increase substantially as well. The duration will be extended because, if limited to two trucks and therefore one pump operating at roughly 50% efficiency, the rate of flow will be substantially reduced. This reduced rate and reduced discharge quantity in a given day will result in a need for three to four times the number of concrete placements. When coupled with the site and neighborhood logistics being repeated so many more times, revisions to structural formwork and design that the smaller placements would necessitate, the overall impact to the neighborhood and project to implement this Condition is very significant.



In summary, we recommend that the Board revise Condition 11 and limit the number of trucks onsite to four (4) when excavating earth, and to four (4) per pump when placing concrete. These limitations of four (4) trucks are reasonable, and will serve to both minimize disruption to the neighborhood, and reduce effectively any potential impacts without substantially affecting the Project or adversely affecting the neighborhood.

Should you have any questions, please do not hesitate to contact us.

Very Truly Yours,

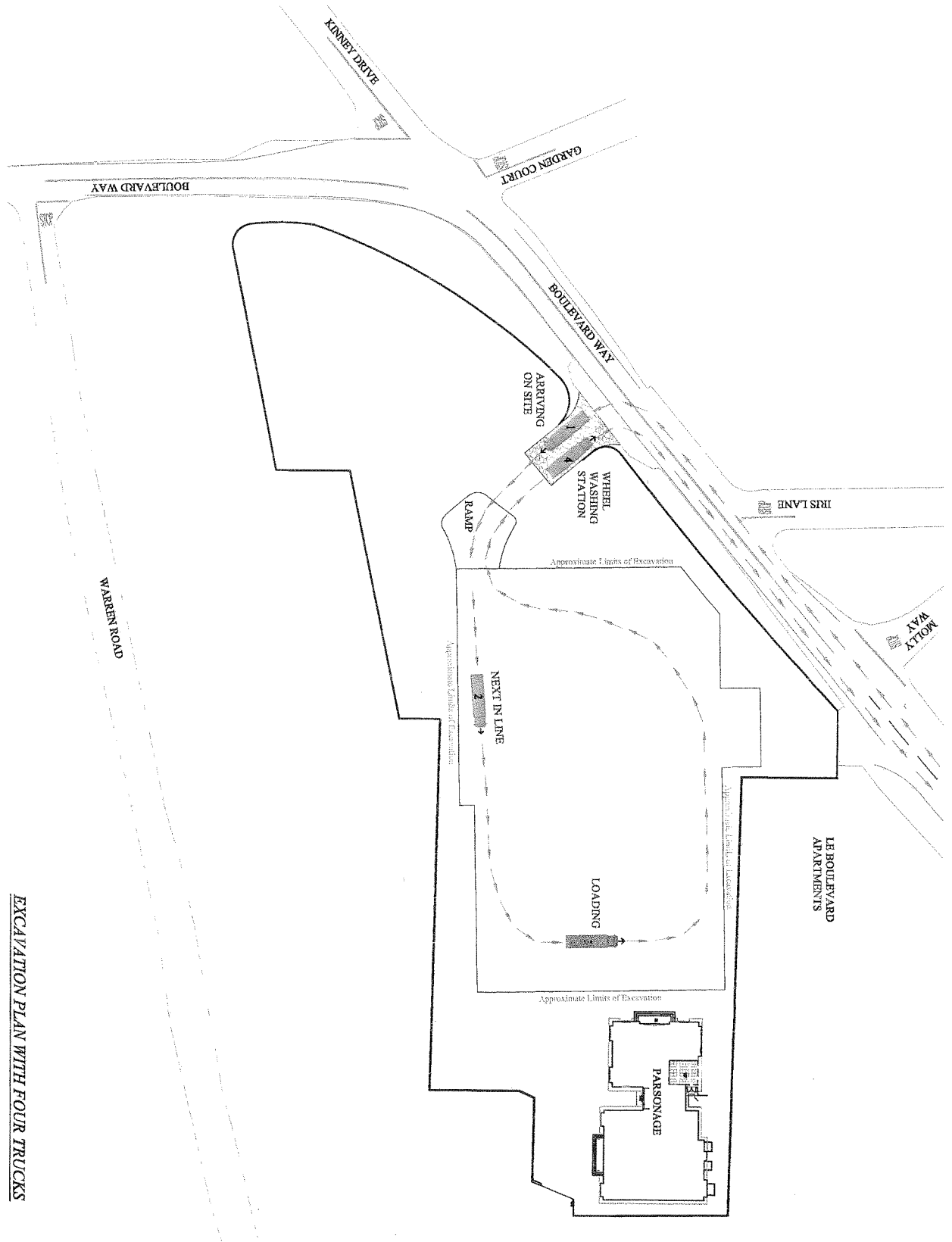
C. OVERAA & CO.

A handwritten signature in black ink, appearing to read "A. Colby Powell".

A. Colby Powell
Project Director

Attachment – Excavation Sequence Drawing

Cc: Ms. Lashun Cross, Senior Planner
Community Development Division
Department of Conservation and Development
30 Muir Road
Martinez, CA 94553



CONTRA COSTA
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February 1, 2012

2012 FEB -7 P 4:05

The Honorable Mary Piepho
Chair, Board of Supervisors
Contra Costa County
181 Sand Creek Road, Suite L
Brentwood, Ca 94513

DEPARTMENT OF
CONSERVATION
AND DEVELOPMENT

Ref: Sufism Reoriented Religious Facility Proposed in the Saranap Neighborhood

Dear Chairwoman Piepho:

Below you will find the personal assessment we reached after reviewing records obtained from the Freedom of Information Act (FOIA) request that was filed on the proposed project. We have taken this opportunity to highlight for you how the public document request revealed and underscored the County's seriously flawed process for evaluating and approving this project and the FEIR. Due process requires the public be given a reasonable opportunity to provide comments to the County and requires the County to reasonably consider or evaluate the comments made in a fair and unbiased manner.

To put our findings in context, we have first provided the Mission Statement for the Saranap Homeowners Organization (SHO). SHO represents over 850 households in the Saranap area.

MISSION OF THE SHO

The SHO mission is to monitor proposed development, and provide planning direction to reflect low-density zoning that is compatible with the surrounding neighborhood use, and provide design guidance for architectural styles that blend with the immediate neighborhood. Our objective is to help preserve the established residential character of the Saranap area as semi-rural, and limit the expansion of higher density development throughout the greater Saranap area. See – www.SaveOurSaranap.org website.

FREEDOM OF INFORMATION ACT REQUEST

The undersigned were part of a group involved in putting together the FOIA request and were part of a larger group of neighbors who spent considerable time going through boxes of planning, administration, and public works records on this project, copying a number of the paper records and CD's and preparing copies for our members that are searchable for various topics. The County has this capability, and we would strongly recommend that you have County staff

prepare a searchable database of the project records for you and your staff so you can verify for yourself what we have found.

Our overall conclusion is that the County's planning process, in regards to this project, is seriously flawed and clearly not as transparent as one would expect. The planning process used by the County, in this case, overwhelmingly favored a knowledgeable and well represented applicant.

The public record reflects that Sufism Reoriented representatives and their attorneys and engineer were given unrestricted access to County staff at all levels and spanning several years.

The public record clearly shows this unfettered access was an obvious detriment to those of us who are opposed to the many County-acquiesced aspects of this project. We feel the public was denied the opportunity to participate because the public was unaware of the many decisions and disputed interpretations of County ordinances and state law that were being made by high-level County employees at the behest of the Project Applicant and the Applicant's attorneys and engineer. These interpretations, at times, appear contrary to the opinions of their lower level staff and appear contrary to County ordinances and state law. In addition, these agreed upon interpretations or positions, which were often confirmed in writing, were not disclosed to the public at any point in any part of the process.

In summary, we believe the public record indicates that the County should have limited the access of the Applicant and their attorneys and engineer and required them to state their requests, recommendations, positions, and opinions in written form that would be provided to the public as a part of the public review process or required them to make their statements at public meetings for all to hear. The issues being discussed behind closed doors were of intense interest to the public but the public was never informed about what was transpiring or had transpired between County Staff and the Applicant or their representatives.

Examples

The public record provides examples where the Project Applicant and its representatives used their access to influence critical issues to their great advantage. Examples of behind closed door influence include:

- closed meetings and discussions and decisions on whether parking and landscaping setbacks were going to be enforced and the acceptable interpretation of the setback requirements;

- closed meetings and discussions and decisions on the applicability and/or validity of the County ordinances in relation to state law about merging 7 single family home lots to create a 3.1 acre single parcel;
- closed meetings and discussions and decisions regarding the sight distance to the project's entrance/exit road, etc; and
- closed meetings and discussions and decisions regarding other safety issues such as the need for a right-hand turning pocket for vehicles entering the parking lot-- Public Works staff advocated for such a turn out, but it was not included in the final project design;
- closed meetings and discussions in regards to the procedures which would be followed for lot merger that was necessary to allow for this proposed religious facility and how that merger would impact the general plan and the character of the neighborhood and what was the appropriate application of the state law and County ordinances including whether or not a separate public hearing was required for the merger and whether a final map process was required for the merger;
- closed discussions regarding the objections of the Applicant to pay for offsite improvements which would normally be required. and then later the refusal to fund these improvements after the County had earlier acquiesced to the Project Applicant's proposed process for merger;
- closed meetings and discussions to have the site deemed a corner lot thereby circumventing the normal front setback requirements for the building, the issue being the encroachment of the underground portion of the religious facility into the normal front setback on the frontage road (Boulevard Way); and,
- closed meetings and discussions about how adding an unwarranted stop sign could relieve the applicant of meeting stopping sight distance standards; and
- closed meetings and discussions about trying to convince the County that Caltrans design standards for sight distance could be interpreted differently because the proposed project cannot provide, at its entrance, a stopping sight distance (coming from Olympic Boulevard) of the minimum of 250 feet as required by CalTrans.

Consistency Between the County's Handling of this Project and Other Projects

We have also reviewed other applications submitted to the County and found substantial inconsistencies in County procedures.

For example, one tree *on the current Sufism Reoriented project site* was deemed to be a protected tree under the County Tree Protection Ordinance and was not to be removed. However, for Sufism Reoriented, that same large native oak tree is *not* deemed worthy of protection. Sufism Reoriented is being allowed to eliminate every one of the protected trees onsite without a peep from Planning staff. And, these trees are not even being required to be replaced by native, drought tolerant trees. The neighborhood is wondering why the County has a tree protection ordinance if it is going to be ignored at will.

For a previously proposed project which was on part of the proposed Sufism Reoriented facility site, County Public Works staff required substantial drainage improvements to stop local flooding and damage. Such stringent conditions stopped the prior project from moving forward, according to that project's proponent. However, the new Sufism Reoriented project is exempt from this same drainage improvement requirement. The EIR reports some agreed upon technical fix that may, or may not, be adequate to protect downstream neighbors from continued damage. And, what foresight does the County apply to protect the neighborhood? The project's drainage needs to only meet the requirements of a ten-year storm, even though this is already an area with documented drainage problems. And, worse yet, it is already acknowledged that any storm exceeding a ten-year event will likely lead to flooding.

Another issue, for example, to compare consistency between projects is that the Sufism Reoriented facility is proposed to be close to stark white and so will the compound's 2,200 foot long and 6-8 foot high boundary wall. No problem at all according to County planning staff. But, the pending Creekside Cemetery Project EIR precludes the use of stark white for anything, including buildings, grave markers, headstones, etc.

But, the most grievous inconsistency found is in the paucity of the "Project Alternatives" in the Sufism Reoriented EIRs. These so-called alternatives were selected by the County but they do not rise to a viable project alternative under CEQA. Instead of seriously evaluating alternatives including an alternate project site, a reduced size, or a campus alternative that could meet most of the needs of the Project Applicant, the EIR rejects all of these as not meeting the Applicant's objectives. Any rational person would conclude that there must be some reasonable alternatives between 15 dwelling units and a 66,000 square foot non-residential facility. However, due to what appears to be careful maneuvering by the County staff appearing to favor the applicant, a way was found to reject any possible alternative between 15 housing units and 66,000 square feet. This action is in total opposition to the alternatives provisions of CEQA. Professional planners, such as those employed by the County, are aware of what CEQA requires. Instead of representing the public interest, they seemed to act as if they were agents of the Applicant.

These are prime examples of a flawed planning process. But, further, these examples appear to reflect a willful disregard for the health, safety and welfare of the general public by County officials and staff.

To those of us who own a home in this single family neighborhood and pay property taxes for County services, we were appalled to read numerous meeting accounts where the Project Applicant and/or their attorneys were participating in meetings that *they* had called to enable *them* to make *their* points about what *they* thought should happen and how County ordinances and state law should be construed in *our* Saranap neighborhood.

Pressure on County Staff by the Applicant

As we mentioned above, we were disappointed to read of the unfettered access the Project Applicant and their attorneys and engineers were granted to key County staff, including department heads, who were setting up meetings and involving their respective supervisory and general staff persons to apparently do what the Project Applicant or the Applicant's attorneys wanted considered or reconsidered.

But, what added to our dismay was that many of these issues were reconsidered over and over again according to the public record. Apparent in this public record review was the pressure put on County staff by the Sufism Reoriented attorneys. These attorneys continuously revisited issues with the obvious focus on having County staff change their position on behalf of the Project Applicant. And, the public record reflects that they were very successful in doing just that.

It appears that lower level staff was being subtly pressured to act on an issue or concede an issue to meet the objectives of the Project Applicant. If you read the public record, you will see the comments made by County staff engineers and traffic engineers expressing their opinions and concerns about factual engineering questions regarding construction issues, drainage issues, setback issues, the TDM plan, proposed roadway changes, etc. We even found where lower-level Public Works staff stated that some of the model assumptions used in regards to the construction of the project were unrealistic. But, did these staff concerns lead to changes in the final EIR? No.

The public record gives one the impression that during the multitude of meetings which were held, the County staff, particularly high level staff, acted to assist the Applicant rather than act in the public interest.

How did this review process get so one-sided and so far off base and where are the cost controls for County staff who are managing this project? And, when is enough, enough?

Other Issues Revealed by the FOIA Request

You will be able to read for yourself about County staff and the Applicant trying to figure out how they were going to respond to the neighborhood's comments and "all be on the same page."

You will see a comment from Public Works staff about how the DEIR was not updated to contain changed copies of critical diagrams. For the record, neither was the FEIR updated.

You will also read about County staff saying they were unable to explain to Planning Commissioner Steele why the space outside of the pillars was not included in the ordinance calculation for required off-street parking.

It is interesting that these missing comments benefited the Project Applicant. It is also important to note that the FOIA records supplied do not appear to be complete. For example, the public record reflects meetings that were set up to consider certain issues but the search ends there with the reviewer wondering what happened at the meeting, what position did the invitees take and why? Other neighbors have now completed a similar review. Our conclusion is that what we were shown was not the complete public record regarding this project. Many items were apparently considered as being attorney client protected and were removed prior to our review. Was this adequately determined? We don't know the answer to this question. Do you?

Staff Treatment of Public Comments

It is reasonable to ask where the fair and unbiased assessment by the County is on the many comment letters that we and many of our neighbors submitted in addition to written comments submitted by County staff stating concerns about the proposed project.

The public record also revealed that almost every substantive issue raised by neighbors who are opposed to this project was the object of pressure by the Applicant to be decided in their favor.

We are hard pressed to find a substantive issue which was decided in favor of the public comments. So, where is the unbiased process?

And, the public record reflects that some of the questions asked by Planning Commissioners had factual answers that should have been known to members of the Planning Department and Public Works staff, but these answers were not reported or explained to the Planning Commission during the hearings. Some members of the Planning and Public Works staff, each time they were asked, seemed to provide an evasive and less than forthcoming answer. It was as if it was the first time they had heard or considered the question and, as the public record shows, it was not the first time. Or, if they admitted they knew about the issue, the answer which was provided was cursory and was treated as if the root of the question was not important or applicable. Yet,

the record reveals that these questions were debated by the staff themselves before the EIR was issued. Not once, did the staff indicate to the Planning Commissioners that the answers they were giving were matters of internal interpretation or debate. Rather, the staff acted as if the answers they gave the Planning Commission were inviolate.

While waiting for our matter to be heard at the Planning Commission meeting, during an agenda item regarding a wind farm, we heard other speakers saying they were experiencing the same attitude and the same evasiveness by County staff. We feel that this evasive tactic appears to be a "Pattern and Practice" of not adequately, or honestly, dealing with environmental issues or code questions. What appeared to be a lack of spontaneous and honest communication in answer to direct questions from Planning Commissioners is in our view unethical and deceitful at the least. The public record validates what we have stated.

In this case the neighbors who were concerned were on the so-called '*other side of the issue*' and they were unable to express their viewpoints about these critically important issues until the County had already agreed in writing to go along with the Project Applicant's preferred interpretation. The County may be obliged to accept inputs from the Applicant's representatives, but there should be guidelines regarding the extent of what can be decided behind closed doors without public input. The process is flawed when the county enters into so many agreements with the Applicant without a public meeting where all sides can be heard.

From the beginning of this process, the public has been misled to believe that the Applicant's proposed project conforms to all ordinances and state laws. Now we learn that the ordinances were bent, and the intent of some laws was ignored.

PUBLIC HEARINGS & DUE PROCESS ISSUES

SHO asked the Planning Commission to separate the approval of the project from the determination of the FEIR's adequacy. This request was never acknowledged nor ruled upon by the Chair.

The lack of time for public review of the FEIR was appalling. The October 3 Zoning Administrator's hearing was held only 11 days after the FEIR was released. The SHO neighbors did not have adequate opportunity to review and comment on the new material. Surely, eleven days cannot be considered an adequate amount of time to review the 528 new, never before seen pages in Volume II of the EIR.

Did you know that several new and important appendices were added to the over 2,000 page FEIR which were not present in the DEIR? No, we did not know that either.

The new appendices which were added included:

- Appendix P, the Transportation Demand Management Plan;
- Appendix Q, and Parking Correspondence; and,
- Appendix R, and a whole new Geotechnical Plan entitled Supplementary Documentation on Geotechnical and Drainage Issues, which introduces substantive changes to the way the building is expected to be built.

Of the three new appendices, at a minimum, Appendix R should have triggered changes to the assumptions used for calculations in the FEIR. And, Appendix R, while labeled supplementary, was in fact about how the construction process was expected to be considerably changed. The public has a right to know about the implications of the contents of Appendix R.

So, was the public given 30 days for review of all this new material? No. The county staff maintains that only 96 hours for public review is required. When so much new material is released, surely a 30-day review period is warranted.

This lack of time precluded our ability to fully consider the changes and comment prior to, or at, the Zoning Administrator's hearing.

Is the neighborhood the only party that believes that this project and its environmental analysis is complex? No. In July of 2008, the Project Applicant's attorney stated in writing to Community Development that, "The application and supporting materials are unusually detailed" and offered to have representatives of the Applicant meet with County staff to walk them through it. The Sufism Reoriented application was indeed complex making it extremely difficult for the public, under such short deadlines, to have adequate time to review all that was included in the DEIR and FEIR before they were forced to submit and make their comments. Reviewers were forced to pick and choose what to look at and were not given adequate time to review such a detailed and complex DEIR and FEIR and were never made aware of the questionable County decisions that were made in the previous two years.

Then, in November, the general public was finally invited to a public hearing before the Planning Commission. Here the general public was provided with three minutes each to make comments regarding the over 2,000 page FEIR, the 86 conditions of approval, and the seven findings required for a land use permit, the "minor" subdivision approval for merging seven lots, and the proposed TDM plan. Perhaps, combining all five elements of the process works on a smaller, less complex project, but it was detrimental to the public's right to be heard on this application.

The Planning Commission hardly asked any questions of the speakers so it was difficult to determine if the Planning Commissioners were grasping the points being conveyed. By the way, we were greatly surprised that so few questions were asked given the complexity of the subject.

Many neighbors who live in the Saranap neighborhood firmly believe that their “*due process right*” to express their opinions about this Project was violated by the County. This is the same County who appeared to spend several *years behind closed doors* figuring out how to allow this Project despite its own ordinances and regulations which it decided to violate or bend. Put yourself in their position for a minute and consider how unhappy you would be with the County and the Planning Staff.

You need to be aware that our Saranap neighbors are angry and there is now a serious lack of trust in County staff and for good reason. This should have been, and would have been, avoided by unbiased, responsible, and diligent project planning and management by County personnel. Who does the County staff serve? Does it serve the public or the Applicant?

Conditions in the Hearing Room

Another important issue was the inadequacy of the meeting room for this large a group. Watch the tapes from the first Planning Commission session in particular and you will see many Saranap neighbors who feel very deeply about the Sufism Reoriented proposal. These neighbors had a lot to say and thought the County would want to hear their comments.

What you won't see in these tapes are the people, mostly SHO members and Saranap neighbors opposed to the project, who stood for hours and finally had to leave. They simply did not have the stamina to stand any longer. We had an inordinate number of neighbors, many of whom are elderly, who filled out the speaker's cards, intending to speak in opposition to the Project, but who left and would not return during subsequent hearings due to the hardship of standing-room only conditions within the hearing room. The poor treatment of a number of neighbors by a couple of the Commissioners did not help and is also a matter of record.

The record of the first hearing will substantiate the number of cards signed and submitted and yet many of those wishing to speak were not there subsequently when their names were finally called. The County simply did not provide an adequate hearing room to provide for their needs and the County made no accommodation for those who were standing. The meeting room provided neither the elderly or disabled with conditions conducive to making their comments.

The lack of adequate seating within the auditorium was partially due to Sufism Reoriented filling the auditorium with their members and supporters taking up most of the seating. We will concede that the members of Sufism Reoriented have a right to as many seats as they can fill.

And, they consistently had a large number of their members in attendance. However, it was the responsibility of the Chair to find a solution to the inadequacy of the room, particularly since Fire Department occupancy limits were exceeded. In this regard, the Chairman of the Planning Commission erred.

Some of us had picked up elderly neighbors who no longer drive at night but who wanted to attend the hearing. When we arrived (20 minutes before the meeting time) we found the auditorium already *full*. Because the applicant strongly encouraged its members to be present at the public hearing, the Project Applicant constructively denied adequate seating to their opposition. And, very few of the Sufism members in attendance spoke.

At no point during the hearing did County Staff or the Planning Commission act to relieve the overcrowded conditions. Based on the Clerk of the Board's office, the seating capacity of the hearing room is 180. What is its Maximum Occupancy for fire regulations? The County has a responsibility to only have hearings under conditions which meet the codes.

When our group could not find seats within the auditorium, many took seats outside in the lobby area where there was a small TV mounted up near the ceiling. But, that is where the Sufism group was handing out their green support buttons and you could not hear what was being said inside. We asked for the group to go elsewhere or to be quiet (several times) but they smiled and kept right on doing what they had been doing. **This type of behavior is unacceptable in that it denied others reasonable access to the hearing.** The County is required to provide a reasonable accommodation for public hearings and they failed to do this not once, but for all three hearings and for the meeting following the hearings when the Planning Commission decision was reached. The County should have every expectation that seating, and probably fire department occupancy limits, will be exceeded when the hearing occurs before the Board of Supervisors. What is the County's plan and is it viable and fair?

CONCLUSION

Our expectation of the County process was that County staff would give this project, and all of its ramifications, a fair and unbiased evaluation. We were surprised to learn from the FOIA public records that while we were waiting for the County to respond to our concerns and expecting the County to abide by its own regulations and protect the public interest, some members of County staff appeared to be busy doing what the Project Applicant wanted them to do.

In short, it appears that the “rules” simply don’t apply to well moneyed minority groups. How did we come to this conclusion? The County seems perfectly content to bend and ignore its own ordinances and California law.

It appears obvious from the FOIA records that the Project Applicant had the ear of some Planning and Public Works staff from the beginning and over the last several years. The Applicant prevailed through a long and lengthy set of interactions to create a carefully crafted situation which, on its face, would normally lead to the project being approved. We hope that this letter, among the other information you will receive, will inspire you to delve deeper into the record and as a result of the issues that were not addressed adequately with the FEIR, send the FEIR back to Planning for revision and recirculation.

Thank you for your consideration of these issues.

Very truly yours,

Robert C. Nuzum
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Walnut Creek, CA

Joyce A. S. Coleman
781 Hilton Road
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CC: Board of Supervisors, SHO Board of Directors

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9 February 2012

Via FedEx

Hon. Mary Piepho, Chair and
Members of the Board of Supervisors
Contra Costa County
Room 106
651 Pine Street
Martinez, CA 94553

Attn: Clerk of the Board

**Re: Sufism Reoriented Sanctuary Project
County files no. LP08-2034 and MS09-0008**

Dear Supervisors:

Enclosed for the record in the appeals of the decisions of the Planning Commission in the above matters are:

1. Document titled *The Religious Purposes of the Spaces in Sufism Reoriented's New Sanctuary*, prepared by the Applicant, consisting of six pages and dated today;
2. DVDs of the Planning Commission's hearings held on October 18 and 25, and November 1 and 8, 2012.

By copy of this letter we are providing six sets of the DVDs to the Department of Conservation and Development; five for distribution to the Supervisors and one for the Department's file.

Sincerely yours


Sanford M. Skaggs

cc: Lashun Cross

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Sufism Reoriented

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February 9, 2012

The Religious Purposes of the Spaces in Sufism Reoriented's New Sanctuary

Overview

Sufism Reoriented was founded 60 years ago as a spiritual order. It is recognized as a church by the Federal Government and the State of California. When it submitted its Land Use Permit Application, it provided a 56-page document detailing its space needs and their purposes.

Opponents continue to attack this church regarding its need for space, comparing Sufism Reoriented's space needs to those of the Christian churches with which they are familiar, and attempting to deny to members of Sufism Reoriented their right to practice their own distinct beliefs. Despite a voluminous record in public meetings, newsletters, submitted documents, personal contacts, testimony and a public website, opponents exhibit an unwillingness to accept religious needs that differ from their own. This prejudice should not be countenanced by the County.

The project requires no variances for height, size, or setbacks, and meets all zoning criteria and has been approved by the Planning Commission. Opponents' attempt to appeal that decision based on their narrow-minded notion of Sufism Reoriented's religious needs should not even be heard.

Nonetheless, this document is a further attempt to summarize why Sufism Reoriented's congregation requires the type and amount of space included in its new Sanctuary design to conduct its worship and fulfill its spiritual mandate.

Context

- Alan Ritchie, a principal of *Philip Johnson / Alan Ritchie Architects*, one of the world's premier architectural firms, based its space design of the Sufism Reoriented Sanctuary on an analysis of the church's activities and the frequency of participation of Sufism Reoriented's 350-member congregation in those activities.
- The County's professional planning staff conducted a full EIR of this project. The EIR includes as Appendix B Sufism Reoriented's detailed description of its space needs.
- The County Planning Commission approved the EIR and the Land Use Application, for the new sanctuary at the size Sufism Reoriented had demonstrated is necessary to pursue its religious practice.

- Those who seek to overturn the approval of the Sanctuary project assert, without facts, that a congregation of 350 members cannot need the 66,000 square feet of space the Sufism Reoriented building project contains. They base this assertion on their own experience with the churches with which they are familiar and not from any understanding of Sufism Reoriented's worship and spiritual practice.

Background for Understanding the Space Needs of Sufism Reoriented

1. Sufism Reoriented is a contemporary religious order and the intensive involvement of its members is different from that of congregations of most other faith groups.

- While in many respects Sufism Reoriented is similar to churches and synagogues with which most people are familiar, it also differs significantly from most local congregations. Meher Baba chartered Sufism Reoriented as a spiritual order, which makes it more akin to the religious orders of Catholicism and Buddhism.
- In a contemporary religious order like Sufism Reoriented, members center their lives around the activities of their spiritual community. They dedicate themselves not only to attend weekly worship and devotional services, but also commit as much of their free time as possible to various activities designed to enhance their spiritual lives. These activities are experienced as forms of spiritual practice in celebration of God and service to humanity. The range and scope of these many, concurrent activities demand the use of more space than is typically needed in most churches.
- Another distinguishing characteristic of Sufism Reoriented is the prominent role of the fine and performing arts in enhancing and deepening spiritual understanding and devotion. The evocative and inspiring effects of music, dance, visual art, and dramatic performance are used in the congregation's own worship to augment member's meditative practice and with external audiences to communicate deeper truths of the human spirit. These forms of worship require specialized spaces as described below.

2. The 350 members of Sufism Reoriented are guided to be involved in a wide range of concurrent activities.]

- In his charter for Sufism Reoriented and subsequent instructions to the spiritual directors of this spiritual order, Meher Baba assigned certain responsibilities to this order:
 - ❖ Editing, publishing, overseeing foreign language translations and distributing books on his life and work, including Meher Baba's major book describing his cosmology.

- ❖ The preservation of original films and photographic negatives of his life
- ❖ The development of an extensive teaching curriculum requiring members' study in weekly classes.
- Following this guidance, the spiritual directors of Sufism Reoriented have asked their members to undertake the following activities both as channels of service to others and also as avenues for their spiritual training:
 - ❖ Assist other Meher Baba organizations unaffiliated with Sufism Reoriented with video editing, preparing articles for publication in spiritual journals, providing curriculum materials for their spiritual study and helping them fulfill their respective spiritual mandates.
 - ❖ Produce devotional music programs as part of Sufism Reoriented's worship, which are recorded for personal and group prayer and meditations.
 - ❖ Create, produce, direct, perform and record multiple original productions each year to depict the lives of spiritual figures and dramatize the spiritual principles that underlie the spiritual curriculum.
 - ❖ Participate in service programs under the auspices of the Interfaith Council of Contra Costa County, the Interfaith Council of Rossmoor, and the Interfaith Council of the Presidio in San Francisco.
 - ❖ Create and support interfaith outreach projects that enhance the worship of other congregations, such as the *St. Francis in the Schools* program at the National Shrine of St. Francis in San Francisco.
 - ❖ Support neighborhood community programs such as the Saranap Community Association's *Neighbors Helping Neighbors* project and *Children's Free Toy and Clothing Boutique*.
 - ❖ Prepare, serve, participate in and clean up after church dinners as a means of learning to work in the spirit of self-giving cooperation.
 - ❖ Prepare and perform original programs of inspirational music and dance for religious congregations throughout the Bay Area in shared celebration of God and of the unity of all life in creation.

The Spiritual Importance of Bringing All of Sufism Reoriented's Activities Together Under One Roof

1. A core belief of Sufism Reoriented is that its spiritual mission will be carried out most successfully when members of the congregation can perform their spiritual devotions and practices and undertake their sacred duties in the beneficent, spiritually-charged atmosphere that manifests when the membership worships and works together in unity.

- All religions create spaces they believe are holy. Sufism Reoriented believes that when its congregation comes together to worship and glorify God in its church building – with the Prayer Hall at its sacred center – the atmosphere of the building is charged with the force of divine radiance, love, and grace. Comparable beliefs are found in all religious traditions.
- One major reason why Sufism Reoriented is building this new sanctuary is to bring its diverse spiritual activities together under one roof where they will be imbued with this sanctified atmosphere. Having worshipful activities take place alongside those aimed at serving the world enables members to recognize both personal spiritual practice and service to humanity as inseparable and to perform both with a focus on God in their hearts.
- A core belief of Sufism Reoriented is the essential unity of all, and the purpose of its spiritual practice is to enliven the experience of that truth in its members. Just as it is of paramount importance to this congregation that the principle of unity be embodied in the architectural design of its Sanctuary through the symbolic meaning of circular forms and domes, so Sufism Reoriented believes that it is crucial to bring all its members together in one unified space both for worship and all related spiritual activities.

Sufism Reoriented's General Space Needs

1. Like all churches and temples, Sufism Reoriented requires space for worship, religious instruction, counseling, community activities, a religious bookstore, and administrative functions.

These functions are enabled through the use of the following spaces:

- The Prayer Hall (which is designed to accommodate 400 people)
- One Classroom
- Private counseling office
- The spiritual director's office
- The Kitchen and pantry
- The Plaza (Community Dining and spiritual performance area)
- The bookstore
- Administrative offices
- Multi-purpose rooms

- Building storage areas

2. Non-utilitarian spaces are needed to provide an uplifting and spiritually inspiring environment.

Houses of worship traditionally create open and soaring spaces to lift the hearts of worshipers and attune their minds to divinity. Therefore, not every space is justified by a utilitarian use. A portion of the new sanctuary's space will be devoted to creating an environment of beauty and inspiration. In addition to the Prayer Hall itself, the below ground Concourse with its skylight, benches, and plants, will be wrapped with 11-foot high inspirational murals inspired by Giotto's murals in the Basilica of St. Francis in Assisi. These murals begin and end at the great Rotunda at the east end of the Concourse and depict the theme of creation and the soul's journey originating and ending in God. These murals provide both inspiration through their majestic beauty and spiritual instruction through their thematic content. The open Concourse area, with its large skylight in the Rotunda, also serves an architectural purpose by diminishing the sense of being below ground.

Sufism Reoriented's Specialized Space Needs

1. As a religious order that uses the fine and performing arts to deepen worship and spiritual practice for its own members and to create shared religious celebrations with other congregations, Sufism Reoriented requires specialized spaces for the development, staging, rehearsing, and recording of devotional programs.

These purposes are enabled through the use of the following spaces:

- The Music Composition Room
- The Fine Arts studio
- The Dance rehearsal room
- The Chorus rehearsal room (for its 70-member chorus)
- The Audio/Visual Control room
- The audio post-production studio
- The video post-production studios

2. As a religious order that is responsible for the long-term preservation and archiving of unique objects of religious importance, Sufism Reoriented requires specialized spaces that provide temperature, humidity and light control for documents, books, photographs, negatives, movies, videos, sound recordings, and sacred objects.

These responsibilities require the use of the following spaces:

- A temperature and humidity-controlled archive storage room
- A location for specialized freezers for archival film stock and photo negatives
- An archival art storage room
- An archive display room

Conclusion

Sufism Reoriented's religious practice requires the space its architect designed and the Planning Commission approved; and its core beliefs require that the space be unified under one roof.

Ira G. Deitrick
President, Sufism Reoriented