

Sufism Reoriented

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November 18, 2011

BY HAND DELIVERY

Board of Supervisors
c/o Application and Permit Center
651 Pine Street
Second Floor - North Wing
Martinez, CA 94553

**Re: Limited Appeal Of Conditions
New Sanctuary For Sufism Reoriented
County File Nos. LP08-2034 and MS09-0008**

Dear Supervisors:

This letter pertains to the above applications for our new sanctuary to be built on Boulevard Way in the Saranap, an unincorporated Walnut Creek area of the County.

Sufism Reoriented, the applicant, appeals from one requirement included in the conditions of approval for this project. This appeal is brought pursuant to County Code section 26-2.2404(c)4, on the ground that the requirement is, because of factors apparently unknown to the Planning Commissioners, unreasonable. Our check for the \$125 filing fee is enclosed.

At the end of its last public hearing, the Planning Commission approved the use permit and minor subdivision. The motion to approve included additional conditions that were not recommended by staff and that were first discussed after the public hearing was closed. Therefore, the applicant did not have an opportunity to comment. All of the other conditions are acceptable.

However, one condition the Commissioners added limits the number of concrete and dump trucks on site to two at one time. Although apparently intended to reduce construction impacts (though construction impacts had already been rendered less than significant by mitigation measures developed in the EIR process), the additional requirement would have the unintended consequence of extending the excavation and making the concrete pour operation practically infeasible. This limitation would increase the time required for excavation by 10-15 working

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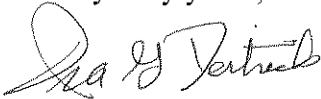
days. The requirement would also preclude the necessary and efficient practice of having continuous concrete pours from multiple pumps, especially for the large pours, such as the mat slab. In addition to making portions of the construction practically infeasible, this limitation would also extend the total duration of the pours by 40%-50%. The associated impacts on neighbors, though remaining less than significant, would be extended. We are also concerned that the requirement may jeopardize the quality of construction by requiring more concrete joints than are designed by the structural engineer. The requirement would increase the cost of the project, and would result in an inefficient and wasteful use of vehicles and manpower.

We believe that a proper balancing of the impacts of additional trucks on site versus the impacts of longer operations leads to a conclusion that it is better to allow more trucks in order to shorten the time of operation.

Moreover, other conditions already provide extensive protections against overly-intrusive construction traffic. Construction hours are generally limited to 8am to 5pm, which is a shorter construction day than is generally allowed by surrounding jurisdictions. Other conditions added by the Commissioners require that trucks be staged off-site, and prohibit workers' vehicles on site unless necessary for development. Most important, a staff-recommended condition requires that the applicant prepare a Traffic Control Plan, including a haul route, for the review and approval of the Public Works Department.

Because a two-truck limitation is not necessary to protect the area, because it would make portions of the construction extremely difficult and expensive, and because it would extend the construction period and be wasteful, we request that the limitation be increased to four haul trucks on site at once, and that concrete trucks be excluded from this limitation altogether.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Ira G. Deitrick", written in a cursive style.

Ira G. Deitrick

President



*Historical Contra Costa Railroad Station sign
along Sacramento Northern Railroad in the
vicinity of Olympic and Boulevard Way.*

Saranap Homeowners Organization

Post Office Box 2272

Walnut Creek, California 94595-0272

www.saranap.org

email: info@saranap.org

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CLERK BOARD OF SUPERVISORS
CONTRA COSTA CO.

November 18, 2011

Appeal by the Saranap Homeowners Organization of the Contra Costa County Planning Commission FEIR Certification and Approval of Sufism Reoriented Land Use Permit and Minor Subdivision – County Files LP08-2034 and MS09-0008 on November 8, 2011.

As outlined in the paragraphs below and based on legal and factual evidence presented during the hearings, Contra Costa County's own policies and code requirements were not satisfied.

1. The FEIR calculation of required parking spaces does not follow Contra Costa County Code Section 82-16.018 which specifies the gross floor area of the Prayer Hall will be used to calculate the required parking spaces. Within the FEIR for the proposed religious facility, only the gross floor area of the inner circle (the 5,000 sq. ft. area within the pillars) of the Prayer Hall is used to calculate the parking requirements when the gross floor area of the entire open and continuous Prayer Hall (11,848 sq. ft.) should be used to calculate the parking requirements. The subject pillars are 8-9 feet apart and certainly allow for people to participate in the meeting or worship service from the area labeled "foyer". A picture of the entire Prayer Hall (including the foyers) is shown in **ATTACHMENTS 1 and 2**. In churches, when there is not enough room in the seating area or within the church pews, people stand or sit on the floor in the background areas surrounding the seating area. The large area outside of the pillars will be used for overflow crowds or special meetings or events.

According to the descriptive words used to describe the Prayer Hall area in a backgrounder press release (listing Robert Carpenter as the contact) it states, "Around the Prayer Hall on the ground floor will be ... *a storage room primarily for chairs used in the Prayer Hall during meetings.*"¹ Note that it says during meetings and does not say chairs used in the Prayer Hall during devotional gatherings or worship or prayer service. There is no reason why the entire Prayer Hall could not be used during meetings. Also, if seating is not used during devotional gatherings, more people would fit within the area enclosed by the pillars than capacity based on seating.

¹ <http://sufismreoriented.org/press/Sanctuary%20Reflects%20Ideals.pdf>, BACKGROUNDER
New Sanctuary Reflects Ideals of Sufism Reoriented; Beauty and Love for God Inspire Famed Architect's
Design, p. 8

In this application, the fact that the applicant chooses to only label the area within the pillars as the "Prayer Hall" in their drawings does not reduce the Prayer Hall to only the 5,000 sq. ft. area when the entire Prayer Hall that is enclosed by walls occupies a space of 11,848 sq. ft. that is open and continuous and the applicant's own words and written descriptions explain that the Prayer Hall is the entire enclosed area occupying the ground floor except for the library, classroom, office, and storage room and that the front entrance (to the Prayer Hall) holds an elevator and a wide, circular grand staircase leading down to the concourse level. You will also notice that the applicant does not state that the "foyer area" holds an elevator and a wide circular grand staircase.

Here are descriptive words about their Prayer Hall contained in a backgrounder press release (listing Robert Carpenter as the point of contact) that are directly quoted from Sufism Reoriented's web site regarding their proposed religious facility: *"Around the Prayer Hall on the ground floor will be a library, a classroom, an office, a storage room primarily for chairs used in the Prayer Hall during meetings, and three spacious enclosed garden alcoves, visible from the Prayer Hall through wide windows. The front entrance holds an elevator and a wide, circular grand staircase leading down to the concourse level."*² Please note that the Applicant states that the library, classroom, etc. surround the Prayer Hall, and does not mention the large foyers which are way too large to be ignored as hallways.

Here are additional descriptive words about their Prayer Hall contained in a press release (listing Robert Carpenter as the point of contact) that are directly quoted from Sufism Reoriented's website regarding their proposed religious facility: *"The simple, unadorned **surface building, the Prayer Hall**, will be only a single story tall. It will be topped by a circle of 12 shallow "saucer" domes around a gently sloping central dome that will create tranquil and uplifting interior **spaces** for worship."*³ [Emphasis Added.] In this instance, they call the surface "building" their Prayer Hall. It also indicates it will have "spaces" for worship instead of just one space (inside the pillars) for worship.

Also, within Sufism Reoriented's website, under New Sanctuary, it states, *"In our design, the visible portion of the building is a single story, 20,010-square-foot structure that contains the Prayer Hall, a library, a classroom, an office with a guest reception area, storage rooms for Prayer Hall equipment and furnishings, and three garden alcoves, visible from the Prayer Hall through wide windows. This is the area where our worship services and spiritual lessons will be conducted."*⁴ These three garden alcoves are mainly visible from the area labeled "foyer" through wide windows. You certainly cannot see much of the garden alcoves from the center area inside the pillars that

² <http://sufismreoriented.org/press/Sanctuary%20Reflects%20Ideals.pdf>, BACKGROUNDER New Sanctuary Reflects Ideals of Sufism Reoriented; Beauty and Love for God Inspire Famed Architect's Design , p. 8

³ <http://sufismreoriented.org/press/New%20Sanctuary.pdf>, "A Still, Peaceful Place Apart"—Renowned Architect's Design for a Contra Costa Sanctuary, p. 2

⁴ http://www.sufismreoriented.org/new_sanctuary/look-inside.htm

the Applicant is claiming is the entire Prayer Hall. In reality, you can see the garden alcoves from the Prayer Hall because the entire area inside and outside of the pillars constitutes the Prayer Hall.

It seems odd that these multiple descriptions of the ground level building are otherwise thorough but somehow fail to mention the four significantly large spaces labeled “foyer” (four 1,737 sq. ft. areas consisting of a total of 6,848 sq. ft. of open and continuous space with the 5,000 sq. ft. area within the pillars) that occupy more than 25% of the ground floor building and together are a larger area than any other portion of the ground floor building. The four 1,737 sq. ft. foyers (larger than many people’s homes) are certainly not like hallways that one would not mention.

Perhaps the outer 6,848 sq. ft., that is a part of the Prayer Hall, was labeled “foyer” in order to reduce the required parking spaces for this proposed project since the Applicant may have been trying to find a way to deal with a very limited amount of parking space due to the extremely large size of their proposed religious facility and the physical space limitations for off-street parking on their 3.25 acre plot of land. It would be good to remember that the Applicant could satisfy an accurate and more appropriate off-street parking space requirement by using some of the other nearby land they have purchased for off-street parking and by using Grass Pave 2 as a parking surface for this additional parking lot to prevent it from detracting from the appearance of nearby properties.

Regardless of the Applicant’s claims that the Prayer Hall is only 5,000 sq. ft., the County should understand that the Prayer Hall is truly the entire open area (11,848 sq. ft.) of the ground floor that is bounded by walls and is not limited to the area within the pillars consistent with many descriptions of the Prayer Hall. This interpretation would be consistent with how Contra Costa County has treated other churches in terms of using gross floor area in calculating off-street parking space requirements. Does Contra Costa County really want to start a new loophole for calculating off-street parking requirements that does not include all of the gross floor area of the sanctuary or Prayer Hall since this precedence would apply to all future church applications regardless of how large of a continuous space the physical sanctuary or Prayer Hall would occupy? The County should not ignore open and continuous space when calculating required off-street parking spaces by using the gross floor area of the worship area that is enclosed by walls. This leads to consistency and prevents the County from making individual assessments that could later be determined discriminatory by a court. Please consider that an Applicant can specify any portion of an area as their “Prayer Hall” if no real boundaries are required. Request the required off-street parking be re-calculated based on the correct gross floor area. Please refer to ATTACHMENT 1 (Ltr from Patricia Perry dated October 24, 2011) and ATTACHMENT 2 (Ltr from Joyce Coleman dated October 2, 2011) and ATTACHMENT 3 (Ltr from Stuart Flashman dated October 17, 2011) and ATTACHMENT 4 (Ltr from Patricia Perry dated October 23, 2011).

2. Contra Costa County Code regarding R-10 setbacks is not being followed regardless of the fact that the Applicant and the County Planner and the FEIR have consistently stated to the public that the residential setbacks are being honored. The Applicant's drawings defining the proposed off-street parking show that 36 to 40 out of the 71 parking spaces extend into the yard setbacks. The R-10 setbacks are there to protect the residential neighbors, not the owners of the lot being developed. For Planning Staff to say it is okay for the off-street parking to extend into the setbacks because the religious facility development is "not" residential neglects the fact that the project spokespersons and the FEIR and the Planning Staff have stated to the public that the proposed religious facility project honors the residential setbacks and also the fact that the setbacks requirements are there to protect the residential character of the surrounding properties. In addition, nothing in the R-10 zoning provides for such an exemption. Staff is not allowed to unilaterally modify the zoning requirements. The public never received notice of the fact that the proposed religious facility would not honor the setbacks until very late in the hearing and approval process. These neighboring properties did not purchase lots and build their homes next to a church. The Applicant purchased existing residential properties that did follow the residential setbacks and now plans to place parked vehicles along the property border of the neighboring properties consequently reducing the property value of the neighboring properties. How desirable is it to have multiple vehicles parked next to your property boundary considering potential vehicle security alarms, vehicle fumes, or vehicle fires. Please refer to **ATTACHMENT 5** (Ltr from Patricia Perry dated October 25, 2011) and **ATTACHMENT 6** (Ltr from Joyce Coleman dated October 24, 2011) and **ATTACHMENT 3** (Ltr from Stuart Flashman dated October 17, 2011) and **ATTACHMENT 12** (Ltr from Stuart Flashman dated October 21, 2011).
3. Required ADA parking was miscalculated in the FEIR and therefore is in violation of federal law. Based on 125 parking spaces required (when the FEIR incorrectly used only 5,000 sq. ft. of gross floor area of the Prayer Hall), the proposed religious facility parking lot must have 5 handicapped spaces. The FEIR and the current Applicant drawing indicate only 2 ADA parking places. The ADA parking space requirements must be calculated based on the number of off-street parking spaces required prior to the reduction in necessary parking spaces due to the implementation of a Transportation Demand Management Program because people requiring ADA parking spaces will not be walking to the proposed religious facility. The ADA parking space requirement is likely based on the percentage of the public that will need a handicapped parking space. While the Applicant may claim they may only have two members that currently require a handicapped parking space, as the congregation ages and as new people join and due to accidents or injuries, the need for handicapped spaces will increase. It is also important to remember that the bookstore and gardens are open to the public and therefore the number of handicapped parking spaces should be adequate to also meet the needs of the public. Please refer to **ATTACHMENT 4** (Ltr from Patricia Perry dated October 23, 2011) regarding ADA Parking and Meher School Parking Lots referred to in TDMP.

4. The off-site parking agreement with the Meher School is invalid due to the fact that the site is not owned by the Meher School and is leased from the Lafayette School District. Therefore, the Meher School does not have the authority to enter into any agreement in perpetuity with Sufism Reoriented or any other entity. Please refer to **ATTACHMENT 4** (Ltr from Patricia Perry dated October 23, 2011).
5. The assumptions for the trucking impact (Impact 4.2-2 on page 2-6 of the FEIR) are grossly underestimated and many impacts have been omitted in regards to the amount of truck trips stated and the subsequent impact to air quality, vibration and noise. Registered engineers residing in this neighborhood believe the impacts are considerably greater due to the need for substantially more trucks to move more excavated soil than what was estimated and the need for more work days for the excavation crews. Expert assessments that were presented to the Planning Commission substantiated that substantially more material must be excavated and removed than what was included in the FEIR assessment. We also believe that entire aspects of the construction project have been omitted, such as the fact that a vast amount of equipment and materials germane to the construction phase will need to be trucked into the jobsite. This increases the workdays and haul trips. In addition, the haul route (see Figure 3-14 on page 3-35) includes using the on and off cloverleaf ramps at Pleasant Hill Road and State Highway 24. This route entails loaded and unloaded trucks crossing two crosswalks on the down slope and upslope portions of the cloverleaf that are used by a substantial number of school age children (intermediate and high school) and adults, especially on week days. There was not any evaluation or mitigation for this safety impact provided in the FEIR. Please refer to **ATTACHMENT 7** (Ltr from Terry Barnum dated October 31, 2011).
6. Sight distance for drivers exiting the proposed religious facility and turning west bound onto Boulevard Way is not adequate based on the California Department of Transportation Design Manual. You can refer to Sight Distance Impact (Impact 4.13-2 on page 2-24 of the FEIR) -- This Impact is in regards to the Sight Distance from the sharp corner on Boulevard Way to the entrance/exit of the Sufism Religious Facility east of the intersection of Boulevard Way and Kinney Drive. The sight distance is not adequate, regardless of what the County Public Works staff and Planning staff have said. This is especially true of vehicles leaving the proposed religious facility that turn west bound onto Boulevard Way. The traffic on Boulevard way traveling 35 MPH in an eastbound direction will be on top of the exiting car in a blink. This safety problem has been pointed out time after time with no regard for the seriousness of what may happen. For public works to say that neighborhood drivers will come to expect and watch out for the drivers exiting the proposed religious facility parking lot is not adequate. The setback of the proposed 6 foot high wall and elimination of all landscaping trees, and even the undergrounding of all telephone /power poles would help this situation but the fact remains that this driveway is still too close to the corner. Also, pedestrians walking along the proposed walkway between the parking lot exit and the sharp curve may actually impact the sight distance view for drivers exiting the proposed religious facility parking lot. It is our contention that the sight distance does not satisfy the safety requirements of Caltrans. See also Page 3-25 (Figure 3-8) of the FEIR that shows the issue in graphic

form. Please refer to **ATTACHMENT 8** (Ltr from Patricia Perry dated November 1, 2011)

7. CEQA requires that project alternatives be presented yet there were none given. Project Alternatives -- CEQA requires project alternatives that, "attain most of the basic objectives of the project in a feasible manner but avoid or substantially lessen any of the significant effects of the project." The Modified Right-of-Way alternative, for example, is the same alternative as the "General Plan" alternative with only minimal landscaping changes and setting back the boundary wall to avoid an acknowledged "sight distance" problem with the placement of the facility access and egress driveway. That maneuver is not acceptable according to CEQA provisions. The one feasible project alternative that was not provided is to reduce the size of this facility to enable more on-site parking, adequate ADA parking, relocation of the ingress and egress roadway further east to avoid a sight distance safety issue and saving some of the larger protected native oak trees. This alternative would be a compromise to the 66,000 square foot building where some of the special needs are reduced to substantially reduce the overall size of the project. In fact, a close examination of the space needs assessment provided by Sufism Reoriented indicates enormous room sizes to house functions, which can all easily be pared back to reduce neighborhood impacts. That is exactly what an alternative analysis is supposed to do but in this case it was not even attempted. Please refer to **ATTACHMENT 13** (Ltr from Stuart Flashman dated October 3, 2011).
8. There are unresolved issues regarding the drainage of this project to vulnerable properties downhill. See Figure 4.8-1 -- Storm Drain ST-10. This storm drain collects water from Drainage Area 1 that includes a sizeable portion of the Sufism religious facility acreage on the southeast corner of Boulevard Way and Kinney Drive and the southwest corner of Boulevard Way and Warren Road. According to the Drainage Report and various letters from Public Works officials spanning many years -- The existing off-site drainage facility (ST-10) is inadequate to handle even a 10-year storm event let alone a series of storm events like we witnessed in this neighborhood last year. However, the project applicant will NOT be required to repair and replace the failed drainage system as their consultants calculations indicate (at least on paper) that the storm water runoff from the Sufism Property will be less than or equal to what currently exists. Of course their design standard is the County's 10-year storm event, not a 100 year event or four 10 year events all within a few weeks of each other. This failure of the County to provide a more conservative design parameter associated with handling storm water from storms greater than a 1 in 10 year rainfall event is not in keeping with protecting downstream homeowners. In this particular case the prior letters from County Public Works and the resulting damage has been documented and provided to the applicant and to the County. The excuse provided by the County (the project will provide a net improvement in storm water for a 1 in 10 event) is not acceptable. Please refer to **ATTACHMENT 13** (Ltr from Stuart Flashman dated October 3, 2011).
9. The utilities for this project need to be undergrounded.
Utilities are not underground, except for new distribution facilities
Page 3-9 Vol. 1 FEIR

Table 3-2 "Project Variants: Key Differences" shows that neither Project Variant A nor B will underground utilities. The DEIR proposed undergrounding the utilities for Project Variant B, but in the FEIR it was edited out.

Condition of Approval #50, (p. 23)

Mitigation measure 4.14-1 Drought management program

Condition #72 Utilities/Undergrounding (p. 27)

All *new* utility distribution facilities shall be installed underground. Existing utility poles located along Boulevard Way shall be relocated to accommodate the required frontage improvements.

Utilities

County PWD will recommend conditions of approval requiring all existing and new utility distribution facilities (electric, communication, cable TV, etc.) be installed underground.

This condition would exclude transformers, terminal boxes, and meter cabinets, all of which County PWD recommends placing outside any sidewalk area to the maximum extent feasible. At minimum, if undergrounding is not feasible, the placement of all above-ground utility facilities shall conform with requirements of the Americans with Disabilities Act (ADA), meaning minimal intrusion upon adjacent sidewalks. FEIR p. 3-13

10. There are issues regarding the impact to the Property Access Easement off of Warren Road -- (Rasmussen and Odell Property) have not been satisfactorily addressed. See Impact 4.3-1 on page 2-6 of FEIR. These properties all have a "Limited Access Easement" that was provided to County Planning Staff and discussed in a letter from SHO attorney Stewart Flashman. But, when Public Works and Planning staff was asked about this easement by the Planning Commissioners they could not describe the terms of the access easement or respond to the issue of the applicant's project over-burdening the easement, which it clearly does. This residential access easement is only for use of the four original homeowners and it cannot be over-burdened as described in the FEIR through access and use by visitors or members of Sufism Reoriented wanting to visit the Parsonage. In addition, the Fire District and the County do not have any right to direct the Odell family or the Rasmussen family or anyone else to do anything that is not covered in the Limited Access Easement. In addition, the access easement cannot be further restricted or its use enabled for any 'conditions of use' beyond those described in the access easement. Please refer to ATTACHMENT 3 (Ltr from Stuart Flashman dated October 17, 2011) and ATTACHMENT 13 (Ltr from Stuart Flashman dated October 3, 2011).
11. The visual character of this site would be significantly degraded. Visual Character (Section 4.1.3 of the FEIR, Page 4.1-9 ... Part C). Contrary to the Planning Department comments in this regard, this proposed project WOULD significantly degrade the visual character of the site and the neighborhood characteristics. The proposed project could not be any *more* contrary to the existing character of the immediate neighborhood and in the larger sense, to the entire Saranap area. The Planning Department staff has not given this issue adequate consideration in our collective view. For example, the size, color and type of architecture is not similar to any other building in the Saranap Neighborhood except for the Price Storage facility that is adjacent to the Highway 24 freeway and

tucked away mostly out of sight in a commercial area. As the storage facility was pointed out by one of the members of the Planning Commission as a comparable structure in size and color, it is worthy to say that the Saranap neighborhood was not so adversely affected both because of the relatively hidden location and by virtue of the fact that it gets very minimal daily traffic. Also, why did the Applicant circulate drawings of the facility to the surrounding neighbors that show the exterior sound walls in a grey color when we are now told they will be white in color? Please refer to **ATTACHMENT 13** (Ltr from Stuart Flashman dated October 3, 2011).

12. The FEIR traffic and parking analysis, in regards to worst-case scenarios, is totally inaccurate and insufficient. The FEIR does not begin to consider and take into account events that will likely occur quite regularly at the new facility when a significant number of people beyond the current membership will attend or the public will attend. The traffic and parking impacts for this 66,000 sq. ft. religious facility are solely being based on previously scheduled membership events where the membership and no more than 50 non-members attended and on the Applicant's stated planned use of the new facility which did not include any large events involving a significant number of non-members. Within the FEIR, the Applicant's Transportation Demand Management Program (TDMP) is said to minimize any traffic and parking impacts for the new facility because 50% of the membership have promised to walk.

However, when events involving a significant number of the public attending the Applicant's events, the TDM program fails as the Applicant acknowledged in their letter signed by Ira Deitrick, representing Sufism Reoriented, and dated October 21, 2011, where they state, *"But having events that are open to the public where we could not fully guarantee the successful implementation of our TDMP would not be workable at the new sanctuary. Therefore, we now have no plans to repeat these events. In addition, our realization that an additional permit would be required for certain outdoor events at the new site only confirmed our decision."*⁵ [Emphasis Added.] Please note their words within this letter, "we have no plans" to repeat these events. This is not a strong statement like, "we will not repeat these events" or even a promise to never repeat these events. In the recent years, the Applicant "Sufism Reoriented" held large public events in the neighborhood for multiple years without obtaining an event permit including a Spring Party, a Halloween Party, a Holiday Party, and a Holiday Bazaar. Because the FEIR did not include impact analysis of these events and because the Applicant is unwilling to provide significant additional parking for its proposed religious facility as would be required if their previous events had been analyzed with the FEIR, please include a condition of approval that runs with the property for the proposed religious facility that states, **"the Applicant 'Sufism Reoriented' will not hold any events within the Saranap neighborhood that are open to more than 50 non-members"** unless the FEIR is amended to re-evaluate the impacts of these events and the Applicant is willing to provide a

⁵ Sufism Reoriented letter signed by Ira Dietrick dated October 21, 2011.

significant number of additional parking places based on non-member attendance of events at their facility.

The only reason the TDMP plan is said to reduce the parking requirement for this project is because it is based on member attended events with not more than 50 non-members. The reason we ask you to request that the Applicant hold no events within the entire "Saranap neighborhood" is because the Applicant, while stating in this same letter that, ***"Being able to meet in one place, at a location that allows each member to find and easily explore all church activities, is central to implementing these beliefs. Continuing to conduct activities in houses and other buildings outside our sanctuary limits and burdens our religious practices"*** [Emphasis Added.] goes on to state, ***"The reference (on page B-31) is to use of the kitchen to prepare foods that might be used in the plaza area or at other locations such as The Meher Schools. While as with any church, members may occasionally hold wedding ceremonies or other celebratory events at the church, attendance at such events would be necessarily limited by our TDMP. The numbers attending a member wedding or who are invited to attend a dinner we sometimes host for Meher School graduates, are fewer than the numbers studied for our annual celebration in the EIR and monitored for the TDMP. Finally, we occasionally assist in or host events at other locations, such as ... Halloween parties in the area. Those other locations would not be regulated by this Land Use Permit and thus are not relevant to this application."*** [Emphasis Added.] On the one hand, the Applicant says the ability to conduct their activities in one place is central to their religious beliefs and that is why they need this new sanctuary, but then the Applicant goes on to state that they intend to host what has been an "annual Halloween Party" at other locations. It is also important to note that events attended by more than 50 non-members are not evaluated for impacts within the FEIR because the Applicant did not mention these annual events within their table of previous or planned uses of the new sanctuary.

The Applicant also hosted their annual Halloween Party at the Meher School this year (2011) causing tremendous parking problems for the nearby neighborhood as stated in ATTACHMENT 9 (Ltr from Patricia Perry dated October 31, 2011) when it had hosted the annual Halloween Party in the Boulevard Way neighborhood in previous years. For the Applicant to say events held at other locations would not be regulated by this land use permit is counter to their claim that all of their activities need to be held at one location for their religious beliefs to not be burdened and it will take impacts that should be associated with and evaluated within the FEIR of this proposed religious facility land use permit and moves those impacts to another area of the Saranap neighborhood for the sole reason that the Applicant can continue to hold these events while evading having the impacts evaluated by the FEIR that grants their approval to locate all of their functions in one location. This cannot be allowed to happen and this is why we are asking for a condition of approval that prevents Sufism Reoriented from holding events where more than 50 non-members attend within the Saranap neighborhood. It would be much better for all concerned if the Applicant would agree to provide adequate parking, maybe by

dedicating an additional lot to parking for these types of events. It is also important to note that for events like the Meher School graduation party and reunions that have been held at their sanctuary in the past, almost all prior graduates and their families will not be members participating in the TDMP and if more than 50 non-members attend, the current TDMP program will not be adequate to prevent impacts that were not evaluated within the FEIR. Please also refer to ATTACHMENT 10 (Ltr from Patricia Perry dated October 21, 2011) and ATTACHMENT 11 (Ltr from Joyce Coleman dated October 20, 2011) and ATTACHMENT 13 (Ltr from Stuart Flashman dated October 3, 2011).

13. Pre-construction and post-construction inspections regarding the condition of roadways and other infrastructure must be independently conducted and not conducted by the applicant. This should be a Condition of Approval. Please refer to ATTACHMENT 3 (Ltr from Stuart Flashman dated October 17, 2011)
14. Many of the trees on site scheduled to be removed fall into a protected category. Page 4.3-3 Re: Protected Trees on-site -- See Figure 4.3-1. This figure shows the location of the protected status trees that will be removed. There are 58 of them in total as shown in pictures during the Planning Commission hearings. Some are quite large in diameter and very tall. The provision for the protection of these trees is provided in County General Plan Policies 8-21 and 8-28. In addition, the proposed planting of 165 small boxed trees, most of which are not drought tolerant native trees completely misses the important county objective to conserve native oak trees.

Sincerely,

A handwritten signature in black ink that reads "Wayne Fettig". The signature is written in a cursive, flowing style with a large, stylized "W" and "F".

Wayne Fettig
President, Saranap Homeowners Organization

October 24, 2011

Ms. Lashun Cross
Senior Planner, Contra Costa County
Dept. of Conservation and Development
651 Pine Street, North Wing, 4th Floor
Martinez, CA 94553

Subject: Calculating Parking at the Sufism Reoriented Facility

Dear Ms. Cross:

The purpose of this letter is to explain why I think the parking for this project should be calculated using both the area outside the columns and the area inside the columns of the Assembly Hall. The Assembly Hall is known in this application as the Prayer Hall.

Contra Costa County is not the first public entity to struggle with issues like this. This is why I suggest that the Planning Commission seek reasoned, researched legal advice related to the dilemma you face, because what you determine to be the size of the Assembly Hall is the issue that precedes the parking calculation.

I would remind you that the Contra Costa Department of Conservation and Development took the position on the B'nai Tikvah Expansion application that permits run with the land. The Department stated:

"Although the current property owners may not immediately maximize the use of the new addition, future owners may.

Furthermore, the land use permits run with the land and its approval must consider optimal use of the site."¹

If the Planning Commission does not base the parking for this application on the area outside and inside the columns on the ground floor, it will be setting a dangerous precedent.

In both the B'nai Tikvah Synagogue and the Sikh Temple Applications, the applicant requested a variance. And, both applicants wanted their parking to be based on the worship area rather than the entirety of the application. But, neither applicant tried to get the County to use any less than the square footage of the room in which the worship took place. The Sikh Temple, like the Sufism proposal has columns in the worship area. There are columns to both the left and right of the main area. But, the Sikh application did not seek to exclude the areas beyond the columns. This is what the Sufism proposal asks you to approve.

¹ Traffic Study B'Nai Tikvah, Page S-8



The key to your decision is that for a space to be excluded from any calculations, it must be an enclosed space which is completely separated from the Assembly Hall. The area outside the columns of the Sufism project cannot meet this test.

The remainder of this letter will give information about how fire and building codes affect your decision. And, the letter will also review statements of the applicant about how they view the space on the ground floor which includes the Prayer Hall.

The Situation

The applicant is requesting that the parking for this project to be based on the size of the prayer area inside the columns, or 5,000 square feet.

Using the Assembly Hall classification² of the County's Off-Street Parking Code and assuming the prayer area is 5000 sq. ft., 125 parking places would be required on site. The applicant is proposing 71 parking places for use by the Sanctuary portion of the facility,³ or 54 less than would be required if the square footage of the Assembly Hall was considered to be 5,000 sq ft.

CCC Off-Street Parking Ordinance Specification for Assembly Halls⁴

It is important to note that the Contra Costa County Off-Street Parking Ordinance was last amended in 1966 according to the Municode website for Contra Costa County.⁵ The Off-Street Parking Ordinance says in Section 82-16.018 of the Zoning Code that:

² Contra Costa County Code, Chapter 8, Zoning, Section 82-16.018

³ Another three parking spaces will be onsite, but they are for the use of the parsonage, not the Sanctuary

⁴ Contra Costa County Code, Chapter 8, Zoning, Section 82-16.018

⁵ <http://library.municode.com/index.aspx?clientId=16286&stateID=5&statename=California>
(Ord. 2031 § 1(j), 1966; prior code § 8119(j); Ord. 1027)

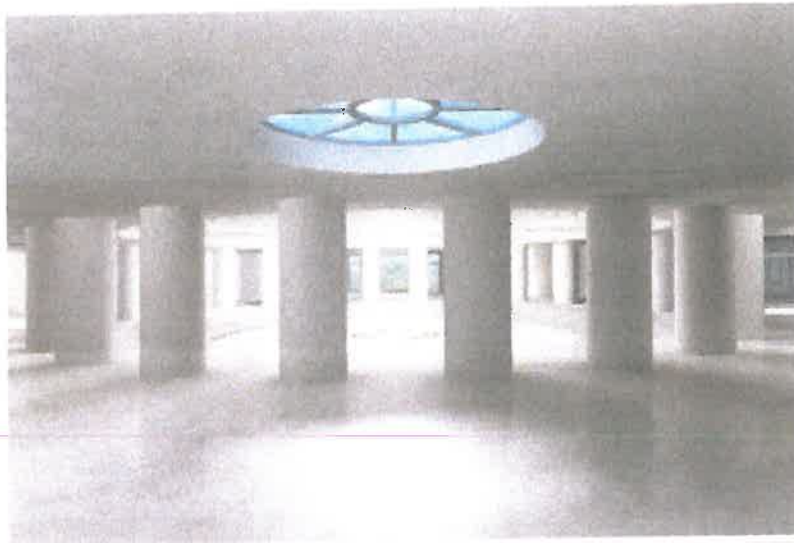
Off-street parking spaces shall be provided for each land use on the basis of the following schedules:

- (18) Assembly halls without fixed seats:
One space for each forty square feet of gross floor area

So, accepting for the moment, the choice of Assembly Hall as the correct designation, at issue is the size of the hall. The applicant contends that the entirety of the Assembly Hall is the 5,000 sq ft within, and to the outer edges of, the 24 columns in the center of the ground floor.

The area outside the columns is a total of 6,940 sq ft.⁶ That area has been labeled in the application as foyers.⁷

The 24 columns are approximately 8-9 feet apart. The space between each column is also included in the 5,000 square foot total by the applicant because that space is shown in the seating diagrams from Appendix B as being where disabled attendees in wheelchairs will be seated. Some additional seats are shown between the columns as well.



⁶ Four foyers at 1,735 sq ft each, or a total of 6,940 sq ft.

⁷ The term "foyer" shall mean an enclosed space surrounding, or in the rear of, the auditorium of a theater or other place of assembly which is completely separated from the auditorium and is used as an assembly or waiting space for the occupants. In Use Group A-1, a foyer, waiting space or lobby shall be provided with a *net floor area*, exclusive of stairs or landings, of not less than 1½ square feet (0.14 m²) for each occupant having access thereto. The use of foyers and lobbies and other available spaces for harboring occupants until seats become available shall not encroach upon the clear floor area herein prescribed or upon the required clear width of front exits. (Building Code, Boston MA)

If the Assembly Hall were considered to be only the 5,000 sq ft prayer area, then the parking would be calculated:

$$5000 / 40 = 125 \text{ parking spaces}$$

Were the parking for the Assembly Hall to be calculated using 5,000 sq ft within the columns and the 6,940 square feet outside the columns, the parking calculations would be:

$$(5000 + (1735 \times 4)) = 11940 \text{ and } 11940 / 40 = 298.5$$

So, given the assumption that the parking for the building is going to be calculated on the size of the Assembly Hall rather than the entirety of the building, the parking will either be 125 or 299.⁸

For the purposes of this application the Assembly Hall is being called the Prayer Hall by the applicant.

Therefore, the way one interprets the size and extent of the Prayer Hall is of great importance. After considering the following information, I hope you will agree that the Prayer Hall should be considered as both the area outside and the area inside the columns.

Contra Costa County Fire Protection District

When I spoke to the Contra Costa Fire Protection District, the Fire Marshall⁹ stated that while he did not know about parking codes, he knew about building codes and fire codes. And, he said that, under those codes, both the area outside the columns and the area inside the columns would be considered one space. The reason for this is that there is no formal separation between the two spaces, no fire wall, no corridor, etc.

Applicant Statements Regarding the Prayer Hall

To my mind, the applicant has also made statements that indicate that the foyers are part of the Prayer Hall. In a background piece for the press, Sufism spokesman Robert Carpenter described the ground floor of the Sanctuary. He states:

“Around the Prayer Hall on the ground floor will be a library, a classroom, an office, a storage room primarily for chairs used in the Prayer Hall during meetings, and three spacious enclosed garden alcoves, visible from the Prayer Hall through wide windows. The front entrance holds an

⁸ Partial parking spaces of .5 or more are rounded up. Therefore, parking would be 299 spaces.

⁹ Telephone conversation on October 13, 2011 with Fire Marshall Lewis Broschard.

elevator and a wide, circular grand staircase leading down to the concourse level.”¹⁰

Note the statement says “around the Prayer Hall will be a library, a classroom, an office, a storage room....” Those named spaces are rooms which form much of the exterior of the building. The applicant indicates that the remainder of the ground floor is the Prayer Hall and that it includes both the space outside the columns and inside the columns. So, Mr. Carpenter’s description creates a visual image for the reader of an interior space where the area outside the columns is part of the Prayer Hall. And, what else could the area outside of the columns be--in the readers’ mind--than part of the Prayer Hall? The area outside of the columns is certainly not part of the other spaces: the library, the classroom, the offices, or storage.

Mr. Carpenter also remarks that there are “three spacious enclosed garden alcoves, visible from the Prayer Hall.” This statement again creates a visualization that assumes that the area outside of the columns is part of the Prayer Hall, not adjunct to it. And, think about how much of the garden alcoves can be seen from just the space inside the columns. When people sit in the area within the columns, the view to the garden alcoves from those seated will be very much constricted.

If the area outside of the columns is not part of the Prayer Hall, wouldn’t a space of such proportions called out in the description? After all, the area labeled “foyers” is almost 7,000 square feet.

Another statement by Sufism Reoriented evokes a similar visualization. The Sufism website, in the discussion of the new Sanctuary, describes the ground floor thusly:

“In our design, the visible portion of the building is a single story, 20,010-square-foot structure that contains the Prayer Hall, a library, a classroom, an office with a guest reception area, storage rooms for Prayer Hall equipment and furnishings, and three garden alcoves, visible from the Prayer Hall through wide windows. This is the area where our worship services and spiritual lessons will be conducted.”¹¹

The ground floor is described mentioning the entirety of its planned square footage. Again, the ground floor is described in terms of the rooms that surround the Prayer Hall, namely the library, the classroom, the office, and the storage

¹⁰ http://sufismreoriented.org/_press/New%20Sanctuary.pdf p 3

¹¹ http://sufismreoriented.org/new_sanctuary/look-inside.htm

rooms. The Prayer Hall is visually portrayed to the reader as all of the open space, not just the portion within the circle of columns. And, the statement says this is "where our worship services and spiritual lessons will be conducted."

And, as in the first quote by Mr. Carpenter, the quote from the website states that the garden alcoves are visible from the Prayer Hall.

In both statements, the reader is invited to visualize the ground floor as a series of small rooms and a large interior area which is comprised of the area outside the columns and the circular area within the columns.

Building Code Terminology Reinforces the Concept of a Single Space

Using standard building terms and their definitions reinforces the interpretation that the area inside the columns and the area outside of the columns should be considered together as one space.

Understanding Relevant Code Sections

Neither Contra Costa County's Off-Street Parking Ordinance nor the Zoning Chapter contains a definition of the terms "Assembly Hall" or "Gross Floor Area."

So, when the Off-Street Parking Code was adopted, what would the framers of this ordinance have considered the meaning of a term like "Assembly" or "Gross Floor Area?" Surely, if the meaning of these terms was considered uncertain, they would have been defined. Over fifty terms are defined in the Contra Costa County Zoning Code.¹²

It is important to understand that both the California Building Code and the California Fire Code contain a definition of these terms, going back over many years. The definitions rarely change. Therefore, I would contend that the terms "Assembly" or "Gross Square Footage" are generally accepted terms known to be defined in the California Building Code. The same definitions are present in the California Fire Code. Most cities and counties have not adopted a different definition than the one adopted by the State of California.

In other words, while we might have forgotten the context in which the Contra Costa County Off-Street Parking Code was crafted, it was created by people who were familiar with the California Building Code and had access to the definitions within that code and which are generally accepted meanings throughout California and the United States.

¹² CCC Zoning Code, Section 82.4

It is difficult to explain how the codes work together, but I will try to start at the top and work down. Remember, in the case of the Contra County Off-Street Parking Ordinance the calculation of parking is supposed to be based on the Gross Floor Area.

Definitions

- 1) The term "Place of Assembly" is defined in the California Building Code:

PLACE OF ASSEMBLY: The term 'place of assembly' shall mean a room or space within a building/tent in which more than fifty (50) persons assemble for religious, recreational, educational, political, fraternal, social or amusement purposes, or for the consumption of food or drink.

Note: A place of assembly is not limited to worship. It can also include other functions. The parking for the Sufism Project is based on the classification "Assembly Hall" without fixed seating.

- 2) A-3 Assembly Classifications are uses intended for worship, recreation or amusement and other assembly uses not classified elsewhere in the A Group.¹³

A3 ASSEMBLY OCCUPANCY: Amusement arcades, Art galleries, Bowling alleys, Places of religious worship, Community halls, Courtrooms, Dance halls (not including food or drink consumption), Exhibition halls, Funeral parlors, Gymnasiums (without spectator seating), Indoor swimming pools (without spectator seating), Indoor tennis courts (without spectator seating), Lecture halls, Libraries, Museums, Waiting areas in transportation terminals, Pool and billiard parlors

Note: The Sufism Reoriented Sanctuary is classified as an A3 Assembly Occupancy.

- 3) The term "Gross Floor Area" carries the following definition in the California Building and Fire Codes:

FLOOR AREA, GROSS: The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.¹⁴

¹³ <http://www.everglow.us/pdf/2007-ca-building-code-sections-1011.6-and-1011.7.pdf>

¹⁴ An interior court is an enclosed portion of the building that has walls around it. It is not like the space in the proposed building between the columns. An example of an interior court would be a garden open to the elements with glass walls separating it from the interior.

Note: Gross Floor Area is the measure specified in the Off-Street Parking Ordinance.

- 4) The term "Net Floor Area" is also defined in the California Building Code:

FLOOR AREA, NET: The actual occupied area not including unoccupied accessory areas such as corridors, stairways, toilet rooms, mechanical rooms and closets.

Note: I included this definition so that the reader can see that the only applicable deduction, in calculated parking for the Sufism project, might be corridors. I also found the following statement: Usually the "Net Floor Area" represents the total floor area of an empty room. However, if the room contains a stage, a display case, a large table or chair, or any other permanent or semi-permanent fixture, the space occupied by the obstruction must be subtracted from the total area of the room to arrive at the "Net Floor Area".¹⁵

- 5) Corridors are defined in the California Building Code as enclosed spaces.

CORRIDOR: Corridor is defined as an enclosed exit access component that defines and provides a path of egress travel to an exit.

Note: So, since the square footage of corridors could possibly be deducted (see Net Floor Area), could the space outside the columns be defined as a corridor? No, because Corridors are defined in the California Building Code as an enclosed exit access component. Since, the area outside the columns in the Prayer Hall is not an enclosed separate space, it cannot be considered a corridor. Therefore, the area outside the columns, using the classification of corridors, cannot be excluded from the calculated size of the Assembly Hall.

Conclusion

I hope you will have the time to give consideration and study to the arguments that I have raised in this paper. As you can see, this is a complex matter deserving of reasoned, researched legal advice. And, I hope that you will agree that it is matter upon which the County must construct a defensible posture.

Please feel free to contact me if you have any questions.

Sincerely,

Patricia R Perry
30 Meek Place
Lafayette CA 94549

¹⁵ The applicant could possibly deduct the area occupied by the columns using "Net Floor Area"

Letter to Lashun Cross
October 24, 2011
Page 9

cc: Contra Costa County Planning Commission

County Counsel Sharon L. Anderson

• Hon. Gayle B. Uilkema
Contra Costa County Board of Supervisors

October 2, 2011

Ms. Catherine Kutsuris
 Director, Department of Conservation and Development
 Contra Costa County
 651 Pine Street
 North Wing, 4th Floor
 Martinez, CA 94553

Subject: Proposed 66,074 sq. ft. Sanctuary Project in Contra Costa County, County File #'s
 LP082034 and MS090008

Dear Ms. Kutsuris:

This letter requests the County Zoning Administrator to not certify the current version of the Final EIR, for the above-reference proposed Sanctuary Project, because the off-street parking requirement is inadequate based on the following reasons:

1. Page 2-26 of the Final EIR, Volume II, Master Response 7, states, *"At about 5,000 square feet in area (including the space between pillars as well as the space encompassed by the pillars), the prayer hall would thus trigger a requirement of 125 parking spaces under County Code Section 82-16.018 ... This application of County standards represents the manner in which the County typically applies and interprets its requirements, including the interpretation of "gross floor area" to encompass only the prayer hall space. County practice is not to include space that does not comprise part of the assembly area, such as hallways, foyers, or the ambulatory surrounding the prayer hall."* [Emphasis Added]

I take exception to the typical application of Contra Costa County (CCC) Code Section 82-16.018 with regard to the Prayer Hall because this proposed building is not typical. It is highly unusual for an assembly area to be surrounded by such a large continuous areas (termed foyers in this instance) that is not being counted toward gross floor area in order to determine required off-street parking. The FEIR incorrectly claims that the Prayer Hall building only triggers a parking requirement of 125 spaces under CCC Code Section 82-16.018. I call into question the validity of following what was said to be the "typical" application of CCC County Code Section 82-16.018 in this particular instance where the foyers are a continuous part of the assembly area and amount to an additional 6,848 sq. ft. of assembly hall space (four continuous foyers at 1,737 sq. ft. each that are continuous with each other and are a part of the "assembly area"). Please refer to the photo below labeled Figure 1. Contra Costa County should not follow their stated "typical" application of the off-street parking code because the foyers are continuous and together dwarf the limited 5,000 sq. ft. of Prayer Hall "assembly area" space that CCC is using to calculate required off-street parking spaces for this project. When CCC is dealing with an "assembly hall" with no fixed seating, how many times have they encountered such large multiple foyers continuous with each other and a part of the "assembly area"? Contra Costa County Code Section 82-16.018, which is very clear about the off-street parking requirement, states: *"Assembly halls without fixed seats: One space for each forty square feet of gross floor area"* [emphasis added]. This CCC code makes no exception for hallways, foyers, or ambulatory surrounding area.

If CCC feels the design of the proposed sanctuary prayer hall is typical, I request CCC to provide an example of a religious facility where a continuous foyer, larger than the "calculated assembly area," was not included in the final calculation to determine required off-street parking places. I suggest that, in this particular case, the proposed prayer hall pillar design does not separate the continuous foyers from the assembly area adequately to qualify for what CCC says is a "typical" application of CCC Code regarding foyers. Based on CCC code, using the continuous gross floor area of the assembly area would require 246 off-street parking places instead of the 125 required off-street parking places stated as required with this FEIR. While someone may be able to understand or accept a minor exception to the CCC off-street parking code, it is not acceptable to evaluate parking requirements based on 5,000 sq. ft. of an "assembly area" when 11,948 sq. ft. of continuous and usable "assembly area" exists for planned events at the facility (such as weddings as mentioned in paragraph 2 below).



Figure 1. Interior of Prayer Hall building showing continuous foyers continuous and a part of the "assembly area"

2. Page 2-7 of the Final EIR, Volume II, Master Response 3, states, *"The Draft EIR evaluates the environmental effects of the project based on the program of uses presented in Table 3-1. Based upon historical use of the existing facility at 1300 Boulevard Way as well as uses in the surrounding neighborhood, this program of activities represents a reasonable forecast of the use of the new facility. The project does not include a large outdoor spring event. Such events, if proposed, would be subject to the County's Temporary Events Ordinance (Chapter 82-44). The comments proposing that activities may change or that membership may increase are not relevant to the significance of the environmental impacts of this project. The streets have sufficient capacity that even a theoretical, several-fold increase in membership would not cause traffic to exceed the established Level of Service Standard. Such a theoretical event would affect the need for parking, but as explained below, the need for parking is not an impact under CEQA."* [Emphasis Added]

This FEIR statement, in Master Response 3, explains that an event mentioned in the Comments to the DEIR (that is not currently listed in historical or surrounding uses within Table 3-1 of Volume I of the FEIR) would affect the need for parking. Regardless of this fact, CCC continues to limit its FEIR evaluation of required parking spaces to uses listed within Table 3-1 (historical use at 1300 Boulevard Way and uses in the surrounding neighborhood). Regarding the need for adequate parking at the proposed facility, CCC must consider **planned usage** information (which is not theoretical) provided by the applicant that was included on page B-8 of Appendix B to the DEIR which states the proposed facility **"will also be used for special occasions, such as weddings, bazaars, the Meher Schools graduation dinners, and so forth."** Also, on May 22,

2011, the applicant held a "Children's Spring Party" open to the general public at their current parsonage on Boulevard Way that was advertised to the general public via a large sign on the outside wall of their current sanctuary and could be read by all Boulevard Way drivers (approx. 4,500 Average Daily Traffic). At a minimum, Contra Costa County is required to take these types of events into account when calculating the required parking spaces for the proposed off-street parking lot. The uses I have mentioned above are historical SR activities or planned uses of the proposed facility and cannot be ignored when determining the appropriate number of spaces for the proposed off-street parking lot.

For the above reasons, the FEIR, as is, should not be certified.

Sincerely,

Joyce A. S. Coleman
781 Hilton Road
Walnut Creek, CA 94595
925-408-4638

cc: County Counsel Sharon L. Anderson
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Hon. Gayle B. Uilkema
Contra Costa County Board of Supervisors
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October 17, 2011

Contra Costa County Planning Commission
c/o Community Development Division
Department of Conservation
and Development
651 Pine Street, 2nd Floor-North Wing
Martinez, CA 94553-0095

RE: Agenda Item 2 – Sufism Reoriented Sanctuary Project (County Files LP08-2034
and MS09-0008).

Dear Chairman Snyder and Commissioners:

I am writing on behalf of the Saranap Homeowners Organization to comment on the above-referenced agenda item for your October 18th Special Meeting. As you may be aware, the Saranap Homeowners Organization ("SHO") represents homeowners in the Saranap area of Contra Costa County, where the proposed sanctuary project is located. SHO and its member have a very strong interest in this project and it and its members have vigorously participated in the administrative process leading up to this hearing.

Let me start by addressing two related procedural issues. As you know, the Final Environmental Impact Report for the project was released late last month. Since then, my client and its members have been reviewing it. More recently, the one hundred-ninety page staff report for this agenda item was released last week, including a proposed resolution approving the project that includes eighty-six conditions of approval with multiple subparts. To be able to review, digest, understand, and intelligently comment upon all this material in a week's time is asking a lot of both the commissioners and my client's members. My client would respectfully request that the Commission give serious consideration to bifurcating the proceedings for this project; dealing with the environmental impact report on the 18th, and then the merits of the project at a subsequent meeting.

A second and related issue is communications to the Commission regarding this project. In talking to Ms. Cross, the planner handling the project, a member of SHO was told that written communications about the project submitted by members of the public would not be delivered to commissioners until the time of the meeting. Ms. Cross later modified that statement, in an e-mail responding to my objections, to state that she would attempt to provide written communications "in a timely manner", but for documents received on Friday or later, most likely only on the day of the hearing. Especially given the volume of material the commissioners are being asked to review in the staff report alone, to not allow sufficient time for commissioners to read and consider submittals from the public (including this one) would make a mockery of the public hearing process and of due process.

As you know, this is a large project that will potentially impact many property owners who are members of SHO. Due process requires that they be given notice and a meaningful opportunity to be heard. (*Burns v. United States* (1991) 501 U.S. 129, 137-138; *Armstrong v. Manzo* (1965) 380 U.S. 545, 552; see also, *Scott v. City of Indian Wells*, 6 Cal.3d 541 [use permit proceeding implicated due process rights of adjoining neighbors].) A meaningful opportunity to be heard, under these circumstances, involves more than being able to stand up and speak for three minutes at a public hearing. It

requires sufficient time for those whose property rights will be affected to be able to effectively prepare and present their objections. That has not been provided prior to this meeting, at least not insofar as it would consider and take action on the project approval and the accompanying conditions. For this reason as well, action on the project itself should be put over to a future meeting.

While my client has not been able to review all of the project documentation, including the staff report, findings, and conditions of approval, in detail yet. I am submitting the following preliminary objections and concerns on its behalf.

First, the EIR has not adequately addressed several important potential project impacts. As I have already indicated in previous letters, the project would have significant impacts on fire protection, especially in terms of the proposed Emergency Vehicle Access Routes ("EVA"). One of these routes proposes to use a narrow private driveway with a mutual easement intended to be shared among several single-family private residences. The project proposes that this easement use be expanded to cover large County fire trucks and other emergency vehicles. This will overburden the easement as well as potentially causing damage to water and sewer lines underlying the driveway. While the County fire marshal may have approved use of the driveway, he did so without full knowledge of the easement involved, and certainly without consideration of private property rights.

Further, review of the detailed project plans indicates not only that some of the EVA routes may not allow sufficiently close approach to the sanctuary building to provide effective fire access, but that portions of the routing would be over "grasspave2", permeable paving system that involves layers of sand and gravel, planted with grass. (Project Plans, p.4.4.) I am submitting with this letter several photographs from a test of driving a Contra Costa Fire Protection District fire truck over grasspave2 (at a site in Pleasant Hill) showing extensive rutting that could make the driveway impassible upon multiple use¹. At the very least, use of grasspave2 could result in an unsightly mess after even a single call for service. Who would be responsible for repairing the damage is unclear, but it could well be the County. It is not apparent whether the fire district personnel who reviewed the project plans are aware of the potential consequences of using grasspave2 on EVA routes for this project.

A second issue involves traffic impacts, especially those associated with Alternative 3. At the moment, staff is recommending Project Variant B for approval by the Commission. Nevertheless, Alternative 3 remains "on the table." That alternative calls for removing the stop sign on Kinney Drive at its intersection with Boulevard Way, and replacing it with a stop sign for northbound Boulevard Way traffic at that intersection. (See FEIR, Volume I, Figure 5-2) This would address the conflict between northbound Boulevard way traffic and traffic entering Boulevard way from Kinney Drive. However, it would not address the conflict between that entering traffic and southbound through traffic on Boulevard Way. While one might argue that the continuing Boulevard Way traffic, as turning traffic, would be required to yield to the entering traffic from Kinney Drive, the fact remains that technically this is still an intersection, and through traffic has the right-of-way over traffic entering the roadway. In addition, the EIR proposes placing a new crosswalk at this intersection, further complicating the picture. It should be obvious that this is a confusing situation that would need to be resolved before Alternative 3 could be seriously considered.

Alternative B, the staff-preferred alternative, retains the stop sign at the end of Kinney Drive, but traffic trying to enter Boulevard Way from Kinney Drive currently has difficulty because of the through traffic in both directions on Boulevard way. While this difficulty is addressed in Alternative 3, it remains unaddressed in Variant B. Especially

¹ It should be mentioned that the paver manufacturer asserts that the installation was done incorrectly. However, there is no indication of how that would be prevented for future installations.

with the widening of the right-of-way for Boulevard Way at that intersection in Variant B, pedestrian crossing will be extremely dangerous. One way of dealing with this problem would be to remove the crosswalk across Boulevard Way at this intersection and replace it with a curbside fence and chain, with a sign indicating that pedestrians should cross Boulevard Way at a crosswalk at the project driveway. This would require sidewalks on both sides of Boulevard Way at least between Garden Court and the project driveway, and preferably over the whole distance between Molly Way and the Warren Road. Any associated impacts (resulting from the taking of property or reducing the width of travel lanes, etc.) should be discussed in the EIR. Further, there should be a pedestrian-activated signal at the project driveway to allow safe crossing of Boulevard Way at that point. These mitigation measures are particularly important given the emphasis on pedestrian traffic in the project's TDM plan.

A third issue is the location of the parking spaces on the project site in relation to setbacks. The project site is in the R-10 zoning district. The R-10 zoning regulations state that off-street parking requirements are the same as for the R-6 district. (Contra Costa Ordinance Code §84-8.1202.) The regulations for the R-6 district state that off-street parking spaces, "... shall be entirely outside the setback or side yard areas of the principal structure." (Contra Costa Ordinance Code §84-4.1202(b).) The plans for the project indicate a 10' setback from adjoining parcels along Warren Road (Project Plans, p. 3.0.) Those same plans show that many of the parking spaces along that frontage extend into the setback area, in apparent violation of the zoning requirements. It should also be noted that the R-10 side yard requirement is a minimum of ten feet, but front setback and rear yard requirements (the same as for R-6) are respectively twenty feet and fifteen feet. The plans do not appear to show any rear yard areas, only side yard areas, and parking spaces appear to extend into the front setback area, and whatever rear yard there may be.

It should also be noted in regard to parking requirements that the plans propose a reduction in the number of handicapped spaces required, based on the project's TDM plan. However, the TDM plan calls for most visitors to walk to and from the sanctuary. This is obviously not going to be the case for the handicapped. Therefore, the number of handicapped spaces should not be allowed to be reduced. Consequently, additional handicapped parking spaces are needed.

Another issue relating to parking is the total number of on-site parking spaces required. The County's parking ordinance sets its required number of spaces based on gross square footage. In calculating the required number of spaces, the County only considered the main sanctuary, and then only the central area up through the columns surrounding it². However, to determine maximum occupancy under the fire code, the entire area is included. This leads to the peculiar and illogical result that many more people can actually be accommodated in the sanctuary building than would be able to get there using the on-site parking spaces and TDM plan devised by the applicant. My client would suggest that either the parking requirement be revised to reflect maximum building occupancy according to the fire code or maximum occupancy for the entire building should be specified in the use permit's conditions of approval and based on the same area used to calculate the parking requirement.

Finally in regard to parking, there is the issue of special events. The FEIR glosses over the question of special events, even though the Sufi group regularly holds such special events, which have attendance far in excess of their regular weekly services and events, by indicating that such events would require a separate special permit from the County. However, even if one were to consider these events a separate

² Peculiarly, the County appears to have applied a different standard in its consideration of the B'nai Tikvah synagogue several years earlier. There, the County considered the total potentially-usable area, even though part of the area did not, as yet, have uses planned for it. This apparent inconsistency needs to be explained.

project from approval of the building itself, they are reasonably foreseeable future projects. Refusing to look at impacts related to those events, especially traffic and parking issues, is just the kind of "piecemealing" that the CEQA case law repeatedly warns against. (*Environmental Protections & Information Center v. California Dept. of Forestry & Fire Protection* (2008) 44 Cal.4th 459, 503.) In particular, the County's Ordinance No. 2005-25 [now County Ordinance Code Chapter 82-44] governing "temporary events" requires that, where more than four events are held at a site per year, or more than 300 people will be present at an event in a residential zoning district, a land use permit is required³. (§82-44.416.] Impacts associated with these events, and the granting of the associated land use permit, should have been identified and discussed in the EIR, rather than being put off for later consideration. (FEIR, Vol. II, p. 2-7.)

Of course, this brings up the more general question of enforcing permit conditions. Normally, it might be expected that the public could be relied upon to call out any use permit condition violations. However, in this case the applicant prohibits anyone except members of the congregation from entering its buildings. The County should insist that an exception must be made to allow County employees to enter the buildings, without prior notice, in order to check on permit compliance.

My client is also concerned by the EIR's proposal that inspections of nearby structures before and after construction to determine possible damage would be done by the applicant or its contractor (DEIR at pp. 4.5-12-13; Use Permit COA #35.) This would result in a conflict of interest, where identification of damage caused by the construction would lead to liability of the very people doing the inspection. All inspections should be done by County employees or an independent contractor hired by the County, with the costs for the inspections being paid for by the applicant. An additional concern is whether there will be sufficient funds available to repair any damage caused by the construction in a timely manner. To assure this, Condition 35 should be modified to require the applicant to post a bond in sufficient amount, as determined by the County building official in consultation with the project geotechnical consultant, to assure full repair of any damage that might be caused by the construction. The bond would be recovered once construction had been completed and a post construction inspection had assured that any damage caused by the construction had been fully repaired to the satisfaction of the county building official.

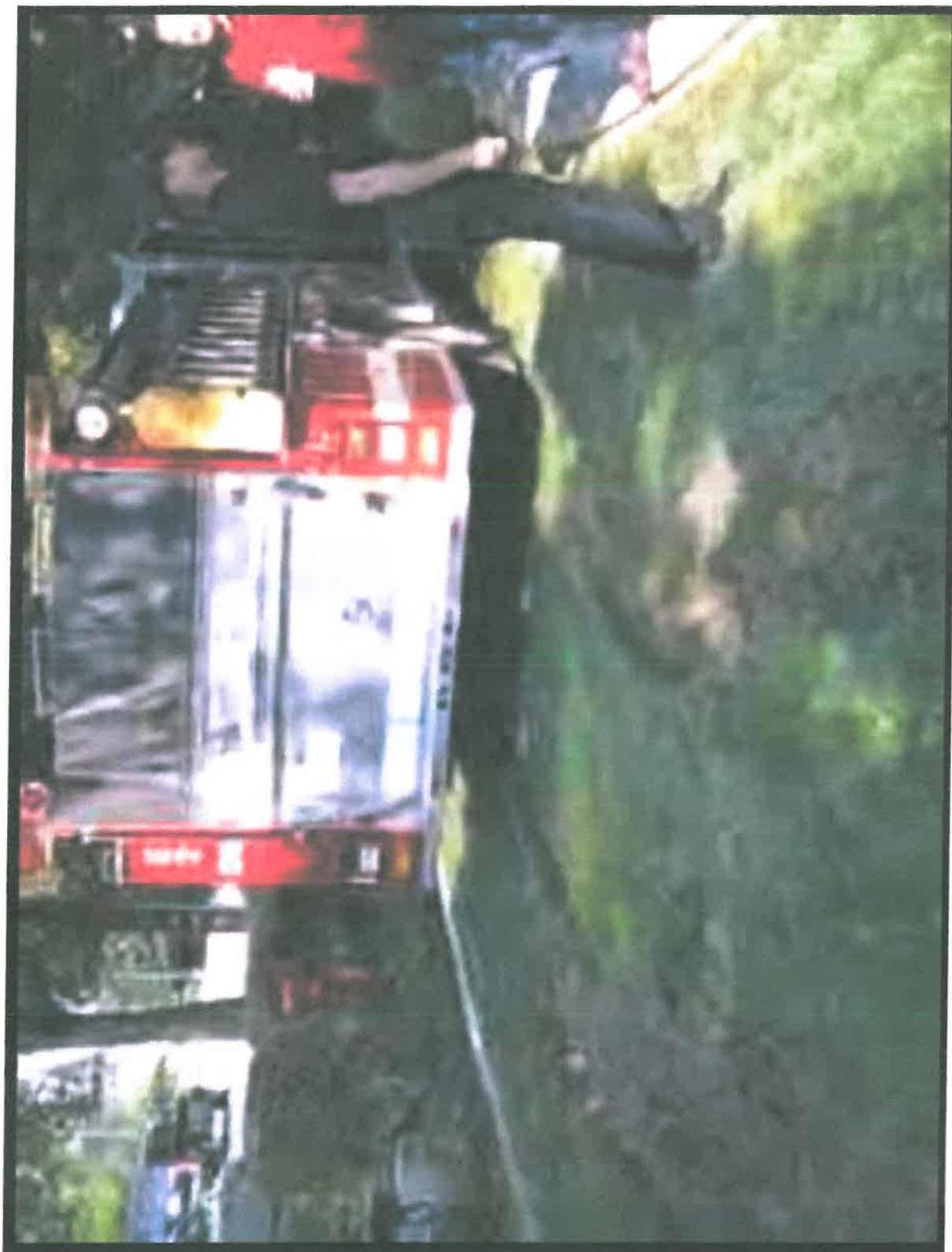
As I indicated at the beginning of this letter, there has been insufficient time to fully review the final staff report and associated findings and conditions. The comments made herein represent no more than a preliminary assessment of the remaining problems associated with the project. Even so, the problems should cause the Commission to pause and reconsider whether this large a facility belongs in a single-family residential district.

Most sincerely,

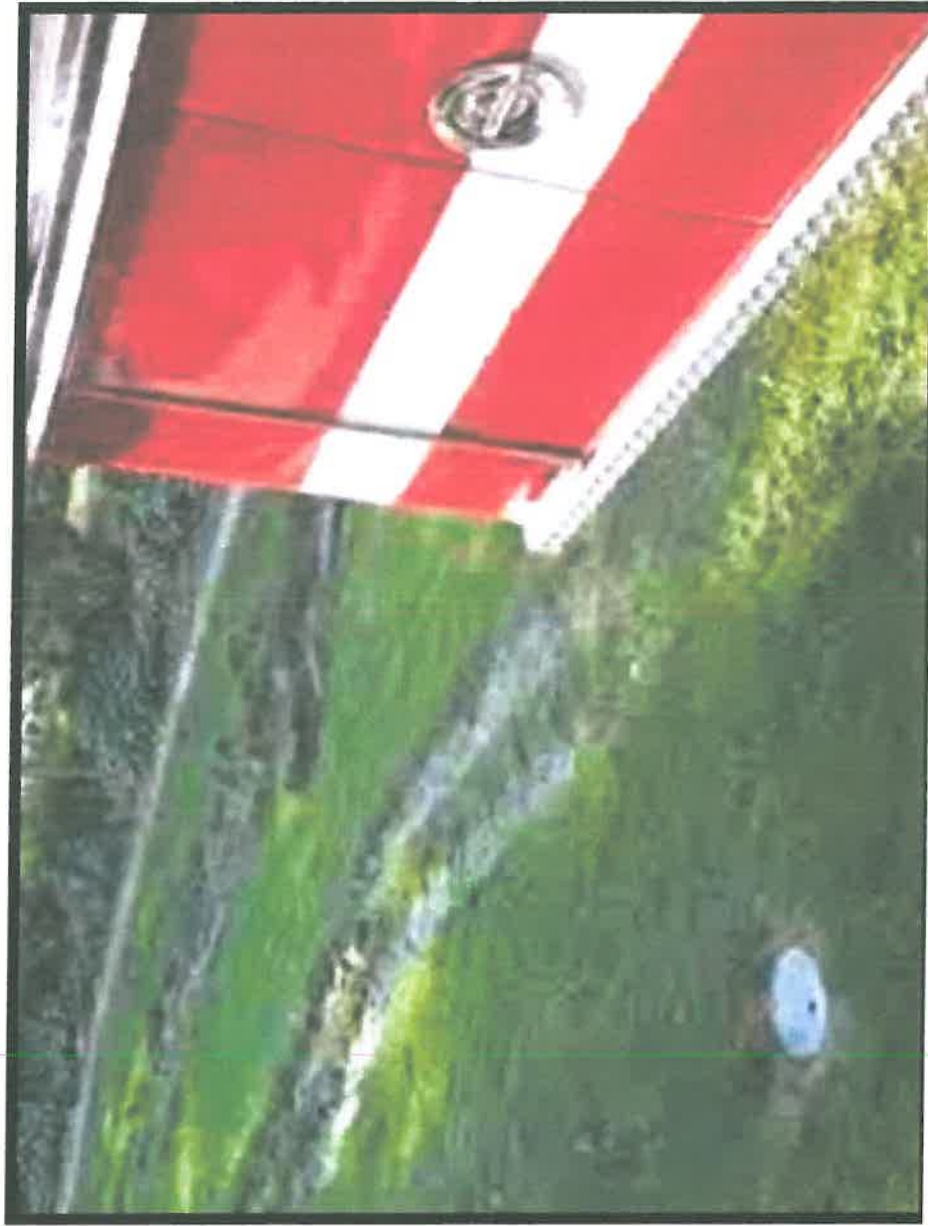


Stuart M. Flashman

³ The applicant may argue that its events are exempt from the ordinance's provisions under §82-44-404 (g) as a religious entity. However, that exemption requires that the event be consistent with the underlying land use entitlement. Here, the entitlement is a use permit for a religious facility in a residential zone and is subject to numerous conditions and restrictions, including implied restrictions based on the size of the sanctuary area and the associated parking requirement. The applicant's special events fall outside of those restrictions, and therefore outside of the underlying use permit entitlement. Thus, such large events are not exempt from the ordinance.



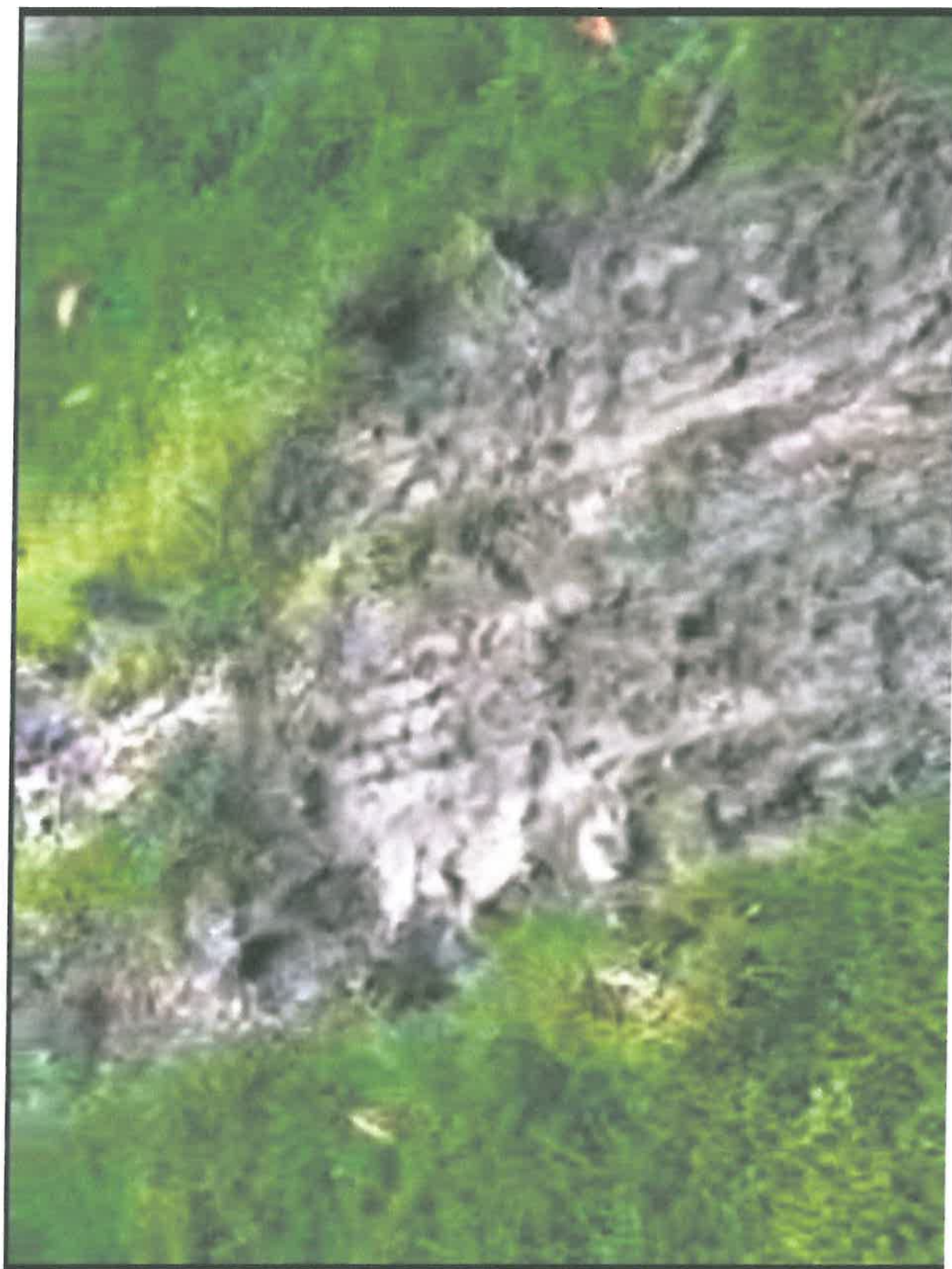
grasspave2 after initial truck entry



grasspave viewed from rear of truck, after entry



Ruts in grasspave2 after firetruck access



close-up of ruts in grasspave2 after firetruck passage



grasspave2 area after truck entry and exit

989

October 23, 2011

Ms. Lashun Cross
Senior Planner, Contra Costa County
Dept. of Conservation and Development
651 Pine Street, North Wing, 4th Floor
Martinez, CA 94553

Dear Ms. Cross:

Subject: Overflow Parking at The Meher School

The FEIR needs to be revised to accurately depict the parking availability at The Meher School. If this is not done, I believe that the FEIR will have overstated the amount of parking at this site.

The FEIR refers to there being 63 parking spaces at The Meher School. The TDM plan states that there are 40 parking places at The Meher School.¹

My count is that there are 31 marked spaces in the front lot and 9 marked spaces in the staff lot right next to the school.² That is a total of 40 spaces and agrees with the TDM plan as submitted. The remaining 23 spots are apparently supposed to be in the upper, third lot which is signed for "staff parking only." However, there are only 12 marked parking spots in that lot.

Therefore, the actual capacity of all three of The Meher School parking lots, in terms of marked parking spaces is:

- 31 spaces in front of the school,
- 9 spaces in the staff parking lot, and
- 12 spaces in the upper, third parking lot designated for staff parking.

The total is 52 parking spaces, not 63. And, since the uppermost lot was not included in the TDM plan, then the number of spaces should be reported as 40, not 63, in the FEIR.

I believe that any count of 63 parking spaces at The Meher School includes unmarked spots which do not meet legal standards and which would involve liability because they are partly in unpaved, poorly lit areas, etc. Also of note is that four of the parking spaces in the uppermost lot are next to shrubbery so that the only exit, once the car is parked, is on the driver's side.

¹ FEIR, Appendix P, p P-16

² The lower staff lot has what appear to be 10 marked spaces, but the entrance to the last parking space in the line, nearest to the school is too narrow to be considered a legal parking space, in my opinion. It should serve as an entrance to the school.

The entrance to that third, upper lot is a narrow driveway with an opening of 14-15 feet near the street. The entrance to that lot can be chained to restrict access. The chain was up today, Saturday October 22, 2011.



On school days, people park cars along the right edge of the driveway in the upper, third lot in unmarked spots which I do not assess to be legal parking spaces because there are no markings and half the space is in the dirt. This upper, third lot does not have sufficient lighting for evening parking in my opinion.

Another matter that needs answering is should TDM parking be allowed in lots labeled as being for staff use only? The two upper lots are so designated by signs. Without the two upper lots, only 31 spaces are available to the public.

ADA and The Meher School Parking Lots

None of the 31 spaces in the lower Meher lot are signed or striped as ADA spots, nor is there any provision for ADA accessibility. ADA spots must have either a 9-ft. van accessibility zone or a 5-ft. hatched zone to facilitate persons with walkers, wheelchairs, etc. Neither are there are designated ADA spots in the two staff parking lots.

If the applicant proposes to have some of its ADA parking at The Meher School lot, I do not believe this should be allowed.

Whether not this is allowed, the parking lot/lots will have to be restriped to allow for van accessible ADA parking and normal ADA parking. This will reduce the capacity of the below 52 spaces. In the front lot, at least two ADA spaces would have to be designated, separated by a nine-foot, hatched zone for van accessible loading. The lot might be required to contain three spaces ADA spaces based on total parking at the facility. This would reduce overall capacity by two parking places. If ADA spots are required for the staff lots, the number of parking spaces will be even further reduced.

What Has the School District Said About Using the Lot?

The school district has said in a letter, not a contract, that The Meher School may allow the use of its parking lots to Sufism Reoriented, among other traditional users such as the Sun Valley Swim Club, as long as:

“the quantity and frequency of facility use remains relatively constant in keeping with the use experienced at the school site over the last 30 years.”

I cannot grasp how the agreement shown in Appendix Q, between the Meher School and Sufism Reoriented, can possibly be considered in keeping with the “use experienced at the school site over the last 30 years.”³

Based on the letter from the Lafayette School District, The Meher School is acting as if it has the authority to give Sufism Reoriented permission (in a contract form⁴) to use the school parking lot 365 days a year for overflow parking. And, the hours of the parking are 8 am to 11 pm on weekends and holidays and 6:30 pm to 11 pm Monday through Friday. This is not in keeping with the “use experienced at the school site over the last 30 years.”

³ FEIR Appendix Q, p 4

⁴ FEIR Appendix Q, p 3

And, I doubt that The Meher School has the authority from the school district to enter into a subcontract of this magnitude.

I live very near the Meher School. I have lived here for 33 years. I can attest that no use to this level of 365 days a year has ever gone on at the school parking lot. There are times when the parking lot and the surrounding area are totally full for swim meets, soccer games, and some school activities. But, that is not often. Perhaps, I have been unaware whether an activity was a school activity or a Sufism activity, but school activities are at predictable times like the last day of school, etc. Nevertheless, I still contend that the level of use being allowed in the agreement is nothing like the present use.

Shuttle Loading and Unloading

I wish to note another uncertainty of the TDM Plan. It does not have a subplan for how the shuttle bus will be loaded and unloaded at the proposed Sanctuary site. If the parking lot is full, and that must be assumed, to invoke overflow parking shuttles, where are shuttle buses going to unload and load? Given the tight nature of the parking lot design, it is imperative that this be a known element which decision makers can visualize when determining the feasibility of the TDM plan.

None of The Meher School lots is striped for shuttle bus service. Shuttle buses are to serve the able-bodied public as well as the disabled. How will shuttle bus service be signed and accommodated? Where will people safely assemble while waiting for the shuttle bus? How well is the front school lot lit at night?

Since the applicant proposes to shift ADA parking to this front, a matter with which I strongly disagree, will the applicant provide sturdy seating in the school lot for the disabled while they wait for the shuttle bus? I recently fractured my ankle. I would not have been capable of standing for very long as I was supposed to be non-weight bearing on that leg.

The FEIR should consider the logistics of shuttle bus loading and unloading. This step should not be postponed because overflow parking is such an important component of the applicant's solution for the Sanctuary site being so small.

Facts that apply to why the matter should not be postponed:

- The design of the parking lot is very tight with little leeway for movement and changes
- If the entirety of the curb in front of the church is a fire lane and painted red, it would not be permissible to load and unload the shuttle bus at that point.

Letter from Patricia R Perry
Meher School Parking and Shuttle Bus Service
October 22, 2011
Page 5

- Will the shuttle buses unload on the pervious pavers or GrassPave2?
- The ADA spaces cannot be assumed to be shuttle bus loading zones unless the shuttles are carrying ADA passengers.

As to the issue of overflow parking at The Meher School lot, I request that the FEIR will be revised to include information on:

- how many legal parking spaces are actually available at the school as assessed by someone other than the applicant,
- how many spaces would remain after restriping each lot to meet ADA requirements,
- whether the school district will allow staff parking lots to be used by the public,
- how the applicant proposes to provide for the upper lot being unchained on short notice,
- how the applicant proposes to provide adequate lighting for the upper lot,
- how overflow signing will be signed in the neighborhood and at the Meher school parking lots,
- how shuttle bus loading and unloading will be signed and handled in the parking lot of the Meher School,
- how shuttle bus loading and unloading will be signed and handled in the parking lot of the Sufism facility including the matter of whether the loading will be on pavers or grass,
- whether the County Counsel considers the letters in Appendix Q to be of a degree to be legally enforceable.

I appreciate your time and attention in considering the points that I have raised. Please feel free to contact me if you have any questions.

Sincerely,

Patricia R Perry
30 Meek Place
Lafayette CA 94549

cc: Contra Costa County Planning Commission
County Counsel Sharon L. Anderson
Hon. Gayle B. Uilkema, Contra Costa County Board of Supervisors

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Letter from Patricia R Perry
Meher School Parking and Shuttle Bus Service
October 22, 2011
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ADA chart

http://www.dot.ca.gov/hq/esc/oe/project_plans/highway_plans/stdplans_US-customary-units_06/viewable_pdf/rspa90a.pdf

October 25, 2011

Ms. Lashun Cross
Senior Planner
Department of Conservation and Development
Contra Costa County
651 Pine Street
Martinez, CA 94553

Subject: Does this Project Really Meet R-10 Zoning Requirements?

Dear Ms. Cross,

I would appreciate your forwarding this letter to the Planning Commission.

Either the Sufism Reoriented Sanctuary project meets R-10 Zoning Requirements, or it doesn't. It is that simple.

I do not see how an average person reading the DEIR or FEIR could possibly understand that 36 of the 71 parking spaces extend into the side yard setbacks. After all, this is what the FEIR says:

- As proposed, the project site would conform to required setbacks of the R-10 zoning district (FEIR Page 4.1-7)
- Both Project Variants would meet all setback and height requirements of the zone district, and would therefore be of a size that is allowed within the R10 district. (FEIR Page 6-3)
- Both Project Variants would be consistent with all R-10 zone district requirements, including height restrictions and setback requirements, as shown in Table 4.9-2. (FEIR Page, 4.9-4)

Minimum Yard Setback

Required: Front yard: 20 feet	Project: 20 ft
Required: Each side yard: 10 feet	Project: 10 ft to 13 ft, 4 inches
Required: Rear yard: 15 feet	Project: 152 ft, 8 inches

And, if there were a rear yard setback indicated for this odd shaped lot, the number of parking spaces in the setbacks would be more like 40 out of 71.

I have been told that the County's explanation is that, being a non-residential use, the Sanctuary would not have to meet parking setbacks.

Letter to Regarding Misleading Statements About Setbacks

October 25, 2011

Page 2

How would an average person be able to figure that out and comment intelligently, given the above statements? Neither the DEIR or the FEIR discussed this determination.

And, when one examines the Contra Costa County Code, what does it say should happen when an applicant needs a Land Use Permit? Section 82-6.002 says that the applicant needs an exception! Here is the abridged version¹ of what that section says:

“A modification or variance in the requirements of lot setback necessary to the consideration of a tentative map of a subdivision shall be considered and granted or denied as an exception. Notice of the hearing of the exception shall be given.”

How can anyone interpret that to mean that some applicants need an exception and some don't. I think that the Contra Costa County Code makes a very clear statement. Here it is in words that the average person understands: *If you want a Land Use Permit, and you cannot meet the setbacks, you need to get an exception.*

Approving this application without any written disclosure of why the county would not require an exception is a betrayal of the approval process. Why would we rely upon the EIR as a true and accurate analysis of the facts if the statements within are misleading.

I request that this major defect be remedied and the FEIR recirculated. And, the revised FEIR should fully discuss and disclose county determinations regarding this project.

Sincerely,

Patricia R Perry
30 Meek Place
Lafayette CA 94549

cc: Catherine Kutsuris, Department of Conservation and Development
Contra Costa County Planning Commission
County Counsel Sharon L. Anderson
Hon. Gayle B. Uilkema, Contra Costa County Board of Supervisors

¹ “A modification or variance in the requirements of lot area, side yards, height, or setback necessary to the consideration of a tentative map of a subdivision shall be considered and granted or denied as an exception, under Title 9; notice of the hearing of the exception shall be given as for notice of the hearing on an application for a land use permit.”

October 24, 2011

Ms. Lashun Cross
Senior Planner
Department of Conservation and Development
Contra Costa County
651 Pine Street, North Wing
Martinez, CA 94553

Subject: Sufism Reoriented Sanctuary – Draft and Final EIRs stated the Proposed Project Complied with the R-10 Property Line Setbacks – Now the Public Discovers the Proposed Project Does Not Comply

Dear Ms. Cross,

It is very important to remember the context of this sanctuary building proposal. The subject sanctuary is proposed to be located immediately next to residential properties and will be built on property that was previously seven individual R-10 residential housing lots. Neighbors to the proposed sanctuary, instead of having seven houses in compliance with the R-10 zoning ordinance, will endure a 66,000 sq. ft. sanctuary building along with its considerable heavier use and substantial traffic and parking impacts.

Now, at this extremely late stage in the approval cycle, it has now become apparent to the public that, **contrary to what was stated within the Draft EIR and Final EIR**, Sufism Reoriented's sanctuary project will not comply with the R-10 property setbacks. **How can this be acceptable to Contra Costa County? By placing off-street parking within the R-10 setback areas, Sufism Reoriented is violating the setback requirements of the R-10 zone district.** The public now feels it has been misled by the applicant and Contra Costa County. The public carefully reviewed the Draft and Final EIR which stated multiple times that the proposed project would comply with the R-10 setback requirements and now discovers that the proposed project is not in compliance.

The R-10 zoning regulations state that "*Off-street parking provisions for the R-10 district shall be the same as those for the R-6 district.*"¹ The regulations for the R-6 district state that off-street parking spaces, "... *shall be entirely outside the setback or side yard areas of the principal structure.*"² The plans for the project indicate a 10' setback from adjoining parcels along Warren Road.³ Those same

¹ Contra Costa Ordinance Code Section 84-8.1202.

² Contra Costa Ordinance Code Section 84-4.1202(b).

³ Project Plans, p. 3.0.

plans show that many of the parking spaces along that frontage extend into the setback area, in apparent violation of the zoning requirements. It should also be noted that the R-10 side yard requirement is a minimum of ten feet, but front setback and rear yard requirements (the same as for R-6) are respectively twenty feet and fifteen feet. The project plans do not appear to show any rear yard areas, only side yard areas, and parking spaces appear to extend into the front setback area, and whatever rear yard there may be.

The surrounding neighbors are losing the normal traffic associated with seven single family homes for a sanctuary which will hold numerous high attendance events. The R-10 setback requirements must be honored! Why hasn't Contra Costa County required the Applicant to comply with the R-10 setbacks when the Draft EIR and Final EIR and Lashun Cross' recent Staff Report (dated Tuesday, October 18, 2011⁴), states that the setbacks will be complied with? As explained above, placing an off-street parking lot within the setback is not allowed according to the Contra Costa County Code regarding R-10 residential lots.

According to the Final EIR, "***Both Project Variants would meet all setback and height requirements of the zone district, and would therefore be of a size that is allowed within the R10 district.***"⁵ [Emphasis Added]

Also, according to the Final EIR, "***As proposed, the project site would conform to required setbacks of the R-10 zoning district and would be landscaped with trees, shrubs, and planters.***"⁶ [Emphasis Added]

Under Project Consistency, the Final EIR states, "***With issuance of a land use permit, the religious facility would be an acceptable land use within the R-10 district. Both Project Variants would be consistent with all R-10 zone district requirements, including height restrictions and setback requirements, as shown in Table 4.9-2.***"⁷ [Emphasis Added]

⁴ Lashun Cross Staff Report to the Contra Costa County Planning Commission dated Tuesday, October 18, 2011, page S-14, paragraph VIII-B, states, "The project as described above in section IV of this staff report is consistent with County Codes for building height and setbacks."

⁵ Final EIR, page 6-3.

⁶ Final EIR, p. 4.1-7

⁷ Final EIR, p. 4.9-4

Table 4.9-2 Project Consistency with R-10 Zoning District⁸

	<u>Requirement</u>	<u>Project Variant A and Project Variant B</u>
Min. Lot Size	10,000 square feet	135,000 square feet
Max. Bldg. Height	35 feet	20 feet to 35 feet
Min. Yard Setback	Front yard: 20 feet Each side yard: 10 feet Rear yard: 15 feet	20 feet 10 feet to 13 feet 4 inches 152 feet 8 inches

If the project applicant will not modify its off-street parking lot to comply with the R-10 property setbacks, the Final EIR needs to be amended to reflect the fact that the proposed project will not comply with R-10 setback requirements and that an exception will be required and the EIR will then need to be re-circulated.

Contra Costa County code indicates the County must require the applicant to apply for an exception to the R-10 setback and the County will notice and conduct a hearing to determine whether to grant the exception. Contra Costa County Ordinance Code states, "*A modification or variance in the requirements of lot area, side yards, height, or setback necessary to the consideration of a tentative map of a subdivision shall be considered and granted or denied as an exception, under Title 9; notice of the hearing of the exception shall be given as for notice of the hearing on an application for a land use permit.*"⁹

Regarding the granting of an exception, Contra Costa County code states, "*Before granting any such exception, the advisory agency shall find:*

- (1) *That there are unusual circumstances or conditions affecting the property;*
- (2) *That the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant;*
- (3) *That the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the territory in which the property is situated.*"¹⁰

⁸ Table 4.9-2 from Final EIR, p. 4.9-4. Source: Contra Costa County Code.

⁹ Contra Costa County, California, Ordinance Code, Title 9, Section 82-6.002 – Qualified Applicant

¹⁰ Contra Costa County, California, Ordinance Code, Title 9, Section 92-6.002 – Advisory agency findings.

Letter to Ms. Lashun Cross
October 24, 2011
Page 4

Granting an exception to the R-10 setbacks would constitute a grant of special privilege to the applicant when the same R-10 setbacks apply to the surrounding R-10 properties. Also, the strict application of the R-10 zoning ordinance would not deprive the applicant of the proposed project of rights enjoyed by other properties in the vicinity and within the identical land use district since the project applicant could supply off-street parking on a lot near the proposed sanctuary.

Please modify and re-circulate the Final EIR and require an exception application and hearing for the proposed sanctuary project.

Sincerely,

Joyce A. S. Coleman
781 Hilton Road
Walnut Creek, CA 94595

cc: Catherine Kutsuris
Department of Conservation and Development

Contra Costa County Planning Commission

County Counsel Sharon L. Anderson

Hon. Gayle B. Uilkema
Contra Costa County Board of Supervisors

Contra Costa County Ordinance Codes Cited:

84-8.1202 - Off-street parking—Space requirements.

Off-street parking provisions for the R-10 district shall be the same as those for the R-6 district (Section 84-4.1202).

(Ord. 71-59 §§ 4, 5, 1971; Ord. 1569; prior code § 8144(j); Ord. 1269; Ord. 1179).

Article 84-8.14. Land Use and Variance Permits

84-4.1202 - Off-street parking requirements.

(a)

In R-6 districts every dwelling unit shall have at least two off-street automobile storage spaces on the same lot; except that there shall be at least one such space where the lot was legally created before September 9, 1971, or was part of a tentative or parcel map filed before September 9, 1971, and upon which a final subdivision or parcel map was subsequently approved and recorded.

(b)

Such spaces shall have a covered or open surfaced area of at least nine by nineteen feet, and shall be entirely outside the setback or side yard areas of the principal structure.

(Ords. 77-107, 71-59 §§ 4 and 5; prior code § 8142(j); Ords. 1179 § 3, 1039, 1028, 928).

Article 84-4.14. Land Use and Variance Permits

82-6.002 - Qualified applicant.

A qualified applicant may apply for a land use permit to apply to land in any land use district established in Division 84, for one or more of the uses for which land use permits may be granted in the district. A "qualified applicant" is any person having a freehold interest in land, a possessory interest entitling him to exclusive possession, or a contractual interest which may become a freehold or exclusive possessory interest and is specifically enforceable. An application shall be filed with the planning department.

A modification or variance in the requirements of lot area, side yards, height, or setback necessary to the consideration of a tentative map of a subdivision shall be considered and granted or denied as an exception, under Title 9; notice of the hearing of the exception shall be given as for notice of the hearing on an application for a land use permit.

(Prior code § 8106(a); Ord. 1268; Ord. 918).

92-6.002 - Advisory agency findings.

Subject to the Subdivision Map Act, the advisory agency may authorize exceptions to any of the requirements and regulations set forth in this title. Application for such exception shall be made by the subdivider, stating fully the grounds for the application and the facts relied upon, and the subdivider shall grant such additional time as may be required by the advisory agency for the consideration of the exception. Before granting any such exception, the advisory agency shall find:

- (1) That there are unusual circumstances or conditions affecting the property;
- (2) That the exception is necessary for the preservation and enjoyment of a substantial property right of the applicant;
- (3) That the granting of the exception will not be materially detrimental to the public welfare or injurious to other property in the territory in which the property is situated.

(Ord. 78-5)

92-6.004 - Advisory agency conditions.

In granting any such exception, the advisory agency shall designate the conditions under which the exception is granted.

(Ord. 78-5)

92-6.006 - Modification of requirements.

The standards and requirements of these regulations may be modified by the planning commission in the case of a plan or program for a new town; or for a complete community or neighborhood unit which the planning commission finds provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the subdivisions when fully developed and populated, and which also provides such other provisions as will assure conformity to and achievement of the adopted general plan.

(Ord. 78-5)

ATTACHMENT #7

October 31, 2011

Contra Costa Planning Commission
651 Pine Street, North Wing
Martinez, CA 94553

Dear Sirs,

My name is Terry Barnum and I reside at 400 Center Street, Walnut Creek. I am a contractor, construction superintendent and a LEED A.P. For the last 26 years I have been erecting commercial buildings around the bay area.

I have read the request for a land use permit (#LPO8-2034) for the proposed Sufism Reoriented Sanctuary and the submitted geotechnical reports and have found some large discrepancies. The discrepancies are in the volume of soil necessary to be removed and the number of truckloads to move through the neighborhood. The land use request states "the excavation and removal of soil (approximately 40,000 cubic yards of soil) and an estimated 3300 truck loads of soil to be exported." if you follow the details outlined in the 2007 geotechnical report the soil to be removed is approximately 4600 cubic yards and 4182 trucks. This report fails to point out that once this excavation has reached the desired depth there will be more excavating for a sub surface drainage system, elevator pit, sanitary sewer sump, sanitary sewer lines and structural foundations. These additional excavations could easily add another 2000 cubic yards, especially if the foundation is revised to a mat slabs they have indicated in the submitted appendixes of the December 2010 and August 2011 geotechnical reports.

The landscape and parking details submitted for the proposed project calls for the traffic and parking area to have 24" of the soil removed for placement of engineered fill and paving materials. This adds approximately another 3300 cubic yards of soil to be removed. This increases the total soil to be removed to approximately 51300 cubic yards and 4664 trucks moving through the neighborhood.

There will be other excavating required on the proposed project. This includes site irrigation, lighting, electrical service conduits, sanitary sewer, storm drains, curbs, gutters, sidewalks and perimeter fencing. Most of this list requires engineered fill and native soil will be exported.

The county seems only concerned with the excavation but let's talk about the volume of material required to *fill* the hole that has been excavated.

The contractor will import a shoring system for the excavation. The 2007 geotechnical report calls for a soldier site and lagging board system. This requires importing approximately 100 steel beams 40' long, 130 yards of concrete and 86040 board feet of lagging board. This could equal another 40 trucks moving through the neighborhood.

The subsurface drainage system as detailed in the 2007 geotechnical report would require importing approximately 2,048 cubic yards of rock and 871 yards of sand. This adds another 242 trucks traveling through the neighborhood.

1 of 3

Now we are ready for concrete and reinforcing steel. The foundation and building structural details are not complete or available but I have estimated using the available architectural drawings. Approximately 30 to 40 semi truck loads of reinforcing steel and 8000 to 12000 cubic yards of concrete will need to be imported. This will require the pick up and delivery of concrete trucks, wash out boxes and multiple trips for the concrete pumps. This could easily add an additional 1300 trucks traveling through the neighborhood.

All this concrete work requires form work for the walls, beams and slabs. This material will be imported and off hauled when removed. The amount of this material depends on the structural design and forming systems the contractor chooses. This could easily be another 50 semi truck loads (30 in and 20 out) traveling through the neighborhood.

The interior rough in will follow the removal of the concrete forms and re-shoring material. The amount of material delivered to complete the project far exceeds the estimated 1632 truck loads of material previously mentioned that will travel through the neighborhood to complete the concrete shell that fills the excavation.

All the delivered material has to be unloaded, stored and installed. This will be done by the different trade personnel involved in the project. The site personnel will start at about 20 people and increase to a maximum of approximately 100 to 120 site personnel. Each person employed on this site will drive to and from work each day.

This is a lot of vehicles traveling through the neighborhood. Where will they park?

I have only mentioned some of the obvious materials and quantities. This is by no means a complete list of everything necessary to complete this project.

The schedule requires some discussion. I read that the estimated construction schedule is 16 to 18 months. A project of this size and complexity will require 24 to 30 months. The 60 truck per day cap on the excavation means it will take 70 days of hauling soil to complete the mass excavation and this work will have to follow the installation of the shoring system. The mass excavation could take 120 days or 6 months.

The structural excavation that follows the mass excavation and work necessary to construct the structural shell to grade (the underground section) could easily take 18 months. That only leaves 12 months to build the above ground portion, complete all rough-in, finishes and site work.

Building site logistics and access are another issue that complicates this project. The only access is via the west end, which opens to Boulevard Way. The excavation which is 160' x 278' x 30' deep leaves very little area for a job site trailer, toilet and wash facilities, material storage, subcontractor field offices, lock boxes or parking.

This project is too large for a residential infill project. The scale of this project is much too large for the location. It is not right to inflict this massive project on our neighborhood.

Yours truly,

Terry Barnum
400 Center St.
Walnut Creek, CA 94595

cc: Ms. Lashun Cross
Senior Planner
Department of Conservation and Development

Catherine Kutsuris
Department of Conservation and Development

Contra Costa County Planning Commission

County Counsel Sharon L. Anderson

Hon. Gayle B. Uilkema
Contra Costa County Board of Supervisors

October 31, 2011

Ms. Lashun Cross
Dept. of Conservation and Development
County of Contra Costa
651 Pine Street, North Wing
Martinez CA 94553

Subject: Sight Distance for Driver's Exiting the Proposed Sufism Facility

Dear Ms. Cross,

Last week Steven Siegel wrote the Planning Commission about the safety of people exiting the facility being compromised. He was pointing out that drivers do not have enough sight distance as specified by the Caltrans Design Manual.

The purpose of this letter is to further explain why our homeowner's organization believes that the FEIR's analysis of this issue is inadequate. I will explain below why this is true. But, no matter how professionals interpret the Caltrans Design Manual, what we all want to achieve is a reasonably safe situation.

I have spoken to County staff about the sight distance issue. What I have determined is that the County does not have its own written standards for road design. The County relies on the Caltrans Design Manual.

Just yesterday, I met with a member of the County Public Works department who told me that, after the proposed facility is built, the position of the Public Works Department is that drivers on Boulevard Way, coming from Olympic, will learn the intersection and anticipate the Sufism facility driveway as they come around the curve.

When I got home from that meeting, I was inundated by people calling and emailing me to tell me of an accident that morning,¹ at this very curve on Boulevard Way. The accident involved two neighbors who live near the intersection of Boulevard Way and Kinney Drive and use the intersection on a daily basis. Why did those neighbors hit each other? Because that curve is incredibly unsafe already, and there is insufficient time to see oncoming cars before deciding to enter the intersection.

According to the FEIR, when people start to enter and exit the proposed Sufism facility, those driving Boulevard Way from Olympic will have 250 feet of sight distance, exactly the amount recommended as a minimum by Caltrans, and not one foot more.

However, the people who are exiting the new facility and turning left will have less than the amount of *stopping* sight distance proscribed by Caltrans, and way less than the amount of *corner* sight distance which Caltrans recommends. Would you want to have to depend on the other driver to anticipate your car and stop rather than

¹ Report taken by the California Highway Patrol, October 31, 2011.

Letter from Patricia R. Perry
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November 1, 2011
Page 2

you, the driver exiting the proposed sanctuary, being able to determine when it is safe to make a left turn?

The amount of sight distance available to the driver exiting the Sufism facility and turning left is not discussed in the FEIR or analyzed whatsoever .

Different members of our group have tried to estimate the amount of sight distance that drivers will have exiting the facility. They have estimated from 180 to 233 feet using Caltrans criteria. The variation has to do with having incomplete,² small drawings, the scale of which is not known.

Whether the sight distance for those exiting will be 180 or 233 feet, the number is less than the 250 feet recommended by Caltrans in its considered, published standards to which most of the State adheres.

If the FEIR fails to examine this issue, the public's right to know is diminished.

If the County fails to consider this issue, and assumes that the Caltrans standards should be superceded, it will open itself to liability for every accident that occurs.

I request that the FEIR be revised to discuss sight distance as it applies to drivers exiting the facility and turning left. This is a matter of import. The public has a right to know accurate details and plans as well as the County's assumptions.

Please circulate this letter to the Planning Commission before the November 1 hearing.

Sincerely,

Patricia R Perry
30 Meek Place
Lafayette CA 94549

Attached: Caltrans Sight Distance Specifications

² Figure 3-8 in the FEIR does not accurately depict where the new fence/wall will be located in relation to the parking. One can assume the location looking at the sight distance lines, but the diagram does not depict the corresponding fence/wall location.

October 31, 2011

Ms. Lashun Cross
 Dept. of Conservation and Development
 County of Contra Costa
 651 Pine Street, North Wing
 Martinez CA 94553

Subject: Parking for the Halloween Party at The Meher School, October 30, 2011

Dear Ms. Cross,

Please forward this letter to the Planning Commission before the November 1 meeting.

Sunday, October 30, 2011, a Halloween Party was held at The Meher School. The party was held from 4:00 pm to 7:00 pm with the invitation, "All Are Welcome!" I counted 199 cars parked in the neighborhood, beyond what I believe to be normal parking when school is not in session. Here is the count of parked cars by street:

Halloween Party Parking 2011 ¹	
13	Carolyn Court
10	Meek Place
5	Sunset Loop (betw Meek & Kinney)
4	Sunset Loop Remainder
14	Condit Drive (hill portion)
4	Condit Drive (beyond Windsor)
17	Windsor Drive
31	Leland (right side of street)
28	Leland (left side of street)
10	Sun Valley Pool Lot
4	In front of School Lot on street
19	Upper Staff Lot
10	Lower Staff Lot
30	School Lot
199	Total

This is how I happened to count the cars. It was not something that I planned in advance.

I live two houses from the Meher school, and have lived there for 33 years. I was having a meeting at my house at 4:30 pm. Three people were in attendance. They reported, upon their arrival, that they had to park in my driveway because they could not park on the street. Why? Every single parking place on my street and the nearby streets was taken up by Halloween Party attendees.

At the conclusion of the meeting, a little before 5:30 pm, I drove around the streets by the school to count cars. I can report that people were leaving the Halloween Party as early

Letter about Parking for 2011 Halloween Party
October 30, 2011
Page 2

as 5:30 pm and a few were still arriving as late as 6:15 pm. Therefore, the number of cars that I counted is an understatement. I am very familiar with normal parking in my neighborhood, so I have a very good idea where there would normally be cars, and where there would not be cars during non school times and on weekends.

There was a shuttle bus stop at the school for party attendees. Most people did not use the shuttle bus. One of the parking places for the main school parking lot was labeled "Shuttle Bus," thereby removing a parking place from use. I stayed until 6:30 pm to observe the shuttle bus activity. It seemed to me that the few shuttle bus users knew the shuttle driver, and I believe they were mostly members of Sufism Reoriented. I did not see any families with children board the shuttle bus while I watched.

While it is uncertain who was the actual sponsor of the event, the signs and flyers did say: "This Year's Party." Since Sufism Reoriented Newsletters and statements have claimed for the last several years that the Halloween parties were their events, what occurred in terms of parking should be of interest to the Planning Commission.

Sufism Reoriented proposes that its 71 parking places and a remote lot with 54² can handle the parking demand from an event that includes the public. Given that almost 200 cars were observed at the 2011 Halloween Party, even if a few belonged to residents of the neighborhood, the parking plan for 125 cars would not have handled this situation.

The claimed attendance at the Sufism Halloween Party for 2008 was 400. I believe that an estimated attendance of 400 for this year would be fair, although I suspect that it was even higher. The attendance was certainly not as low as 200 from my observation. Most people seemed to be attending in family groups of 3-4 people.

Since the TDM plan and the traffic analyses for the Sufism project assumed a worst case scenario of 400 people at a member's only event, clearly this year's Halloween party shows that the worst case scenario is inadequate. The analyses in the FEIR must be based on foreseeable, likely information. As my earlier letter documented, there are a great many events where the public is included and which were not analyzed in terms of traffic.

Given deficiencies like this, the FEIR be revised and recirculated.

Sincerely,

Patricia R Perry
30 Meek Place
Lafayette CA 94549

Halloween Party Parking 2011 Sufism Reoriented/Meyer School Vehicle Count 5:30 to 6:00 pm		
<u>Oct. 30</u>	<u>Street</u>	<u>Oct. 31</u>
13	Carolyn Court	3
10	Meek Place	0
5	Sunset Loop (betw Meek & Kinney)	0
4	Sunset Loop Remainder	2
14	Condit Drive (hill portion)	0
4	Condit Drive (beyond Windsor)	0
17	Windsor Drive	3
31	Leland (right side of street)	1
28	Leland (left side of street)	0
10	Sun Valley Pool Lot	0
4	In front of School Lot on street	0
19	Upper Staff Lot	Not surveyed
10	Lower Staff Lot	Not surveyed
30	Main School Lot	Not surveyed
199	Total	9

I did not survey parking at the school on October 31, because the issue is will parking demand possibly exceed 125 spaces. The event on October 30 demonstrated our contention that the parking plan for the Sufism facility is not adequate and the FEIR's traffic and parking analysis need to be revised and recirculated.

¹ Extent of Street surveyed = Carolyn Court, first four houses of street; Meek Place, entire street; Leland Drive up to 10+2; Sunset Loop first three houses, both ends of loop; Windsor, first 4 houses from stop sign; Condit Drive, entire hill portion; Condit Drive beyond stop sign. 3 houses

² There are fewer than 54 legal, marked parking spaces at the Meher School, and many fewer spaces if you do not include staff parking areas. There will also be less than 31 spaces in the main lot if it is restriped for ADA parking and shuttle bus loading and unloading. At present there is no ADA parking in any of the Meher school lots.

October 21, 2011

Ms. Lashun Cross
Senior Planner, Contra Costa County
Dept. of Conservation and Development
651 Pine Street, North Wing, 4th Floor
Martinez, CA 94553

Dear Ms. Cross:

The purpose of this letter is to explain why I think the EIR for the Sufism Reoriented Sanctuary should assume a different scenario of future use than has been assumed. My conclusions are based on statements by Sufism Reoriented and its members about their:

- existing activities, and
- future, planned use of the proposed project.

First, it is important to point out that the proposed FEIR does not assume any use beyond what occurs now at the existing facility.¹ In Appendix O, the FEIR states that

“The basis for determining the proposed project’s traffic and parking impacts is dependent upon their current membership and activity schedule.”

Then the FEIR goes on to state:

“Based on meetings with County staff and the project applicant, both membership and yearly activity schedule are *not* expected to change or increase with the proposed project.”

According to the applicant,² the FEIR³ and the TDM⁴ plan, the facility is expected to serve 400 people, or 350 members and 50 guests. According to Table 8 in Appendix O,⁵ only one special event is held per year, and it is not an event attended by many members of the public. That event is labeled “Annual Celebration” and is held in March. No other special events are reported or included in the TDM plan and its calculations.

¹ Methodology paragraph, Appendix O to Draft EIR, p. O.1-19, states, “As part of a comprehensive analysis of proposed project trip generation and parking demand, existing traffic counts, parking surveys, and pedestrian observations were conducted at the current Sufism Reoriented facility at 1300 Boulevard Way. The basis for determining the proposed project’s traffic and parking impacts is dependent upon their current membership and activity schedule. Based on meetings with County staff and the project applicant, both membership and yearly activity schedule are *not* expected to change or increase with the proposed project ... Therefore, it was critical to collect existing traffic and parking data to be used as a baseline for proposed project uses.”

² FEIR, Appendix B, p B-4

³ FEIR, Vol. 1, p 7-7

⁴ FEIR, Appendix P, p P-7

⁵ FEIR, Appendix O, p O.1-27

Letter from Patricia R Perry
Future Use of Sufism Facility
October 21, 2011
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TABLE 8 from Appendix O

Appendix O describes the worse case parking scenario which was assumed for this project. It says that the "worst case" scenario was based on vehicle trip generation and parking demand for the "Annual Celebration" event, and was measured on the weekend of March 20-22, 2009. Based on attendance data supplied by the project applicant for that evening, approximately 395 Sufism members and guests were in attendance that night. At that time, membership was estimated to be 357, so fewer than 50 guests were probably in attendance.

Please note that the Annual Celebration is a member event and is not an event open to the public. It has an announced, known start time. Therefore, people who are arriving can be assumed to arrive within a predictable time frame. This is not like events such as the 2011 Children's Party where the party is being held between 11:00 am and 2:30 pm--or the 2008 Children's Holiday Party which was held from 1-4 pm. The public may show up any time within the announced hours. There is no exact expectation as to number of people who will be attending and no exact time when they are expected to show up.

How can using the Annual Celebration be considered the "worse case scenario" for this project since the general public is not in attendance?

When I visited a synagogue during my research about the adequacy of this FEIR, I was told that they had a funeral where over 500 showed up. The number of attendees could not be known exactly beforehand. While this was quite out of the ordinary for that facility, it does show that some events will have extraordinary attendance.

Therefore, I request that the FEIR be revised to include a worst case scenario which involves attendance of varying amounts of the public. That analysis should include 200, 400, 600, and 800 people. It certainly must include 400 members of the public since that number has already occurred at a Sufism event.⁶ And, a higher number should also be considered because the building occupancy does support a large number of people at any one time.⁷ Another reason that a higher number should also be analyzed is that more people will be curious about Sufism Reoriented and the facility, once it is built and in operation.

I believe that, if a true worse case scenario is included in the FEIR, decision-makers and the public with a more realistic picture of how traffic and parking will need to be handled.

⁶ http://www.sufismreoriented.org/_brochures/neighborhood-newsletter-winter-08.pdf p 8

⁷ Using a Concentrated Ratio of 1 person per 7 square feet, the ground floor alone could accommodate 1,700 people. Using the Non-Concentrated 15-sq ft ratio for tables and chairs, the ground floor could accommodate 796. The open spaces on the Concourse Level, being larger, can accommodate even more.

Inferences about Events Included in TDM Calculations: Taverns

To reiterate, the County does not assume increased usage of the new site compared to the old site. However, even Sufism Reoriented seems to be assuming that some of its events will have more attendees in the new building than they do now.

Sufism Reoriented holds "Taverns" twice a year for five nights. A Tavern event includes a dinner and theatrical portrayal of some aspect of Meher Baba's life.

In Appendix B, submitted in 2008, the Taverns are reported to have 85 attendees⁸ on each of five successive nights.⁹ That makes sense, given a membership of 350. The fact that 28 staff are assumed to act in the production, create and serve the dinner, and handle the audio/visual equipment, means that those people are counted five times because they have to be there for each of the five nights.¹⁰ So, it would seem that almost all the members attend with a few invited guests added in.

However, for the TDM calculations, Sufism reports 175 persons a night will be involved. Therefore, attendance is assumed to increase markedly over the earlier estimates of 85 a night at the existing facility.

The Taverns are expected to be held on the Concourse Level.¹¹ Since the Concourse Level has 9,100 square feet for church socials and skits,¹² having an event for 175 would not be undoable or unimaginable. In Appendix B of the FEIR, Sufism Reoriented estimates that 125 dinners¹³ will be served per night during the semi-annual "taverns." While I cannot know what will occur, it does seem like the applicant is indicating that the membership of 350 will be augmented by more outside guests when the event is held in the new facility.

If Sufism Reoriented is assuming an increase in attendance when it occupies the new facility, why is the County unwilling to consider that the new 66,000 square foot facility will have more usage than the existing 5,000 square foot facility?

⁸ FEIR, Appendix B, p B-18

⁹ FEIR, Appendix B, p. B-8

¹⁰ FEIR, Appendix B, p B-16

¹¹ FEIR, Appendix B, p. B-8 and B-19

¹² Appendix O.1-26

¹³ FEIR, Appendix B, p. B-8

Special Events Held by Sufism Not Included in TDM Calculations

The Sufism proposal is for a 66,000 square foot facility which needs a major deviation from normal parking requirements in order to fit on the proposed site. The applicant is asking to be excused from having 125 parking places onsite because it is proposing a Transportation Demand Management Plan (TDM). The TDM plan is the primary basis for justifying fewer than 125 parking places. The plan was based on the regular activities of the organization and a plan to have one special event per year. However, Sufism Reoriented does hold other special events not reported in the TDM calculations. These special events are open to the public and do not require reservations as far as we know.



Photo: Joyce A. Coleman, May 22, 2011.

These are the sorts of events that Sufism Reoriented is already holding which are, according to statements by Sufism Reoriented, open to the public or the neighborhood:

- Children's¹⁴ Party in the Spring¹⁵
- Halloween Party¹⁶
- Children's Holiday Party¹⁷
- Holiday Bazaar¹⁸
- Performances by The Meher Schools Children's Chorus¹⁹
- Concerts²⁰
- Meher School Reunions²¹

It is our contention that these events should have been included in the traffic and TDM calculations because they represent probable and predictable use of the new facility.

¹⁴ http://www.sufismreoriented.org/meher_schools/index.htm

"When the school was founded, it served primarily the children of members of Sufism Reoriented. Today only two percent of the students are children of members, and 98 percent are from families in the wider community."

¹⁵ http://www.sufismreoriented.org/_brochures/neighborhood-newsletter-spring08.pdf p 1

"It was April 6 (2008) and it was starting to feel a lot like spring—time for our annual children's celebration. Held in previous years in a smaller setting nearby, this year it was held on the lawns of White Horse Court to accommodate the 300 or so neighbors, friends, and their children who joined us."

And from: http://www.sufismreoriented.org/_press/Sanctuary%20Reflects%20Ideals.pdf p 9

Another quote: "The church has sponsored spring lawn parties for more than 200 neighborhood children and their families, complete with music, puppet shows, games and face-painting."

¹⁶ http://www.sufismreoriented.org/_brochures/neighborhood-newsletter-winter-08.pdf p 8

"The second gala Halloween party for neighborhood kids, parents, and friends will be held Saturday, Oct. 31 from 4 until 7 p.m. in the driveway of the Boulevard Terrace condos (1308–1318 Boulevard Way)."

¹⁷ http://www.sufismreoriented.org/_brochures/neighborhood-newsletter-winter-08.pdf p 2

"In this season of sharing, Sufism Reoriented has three events that we're delighted to share with our families, friends, and neighbors—a Holiday Bazaar, a performance by The Meher Schools Children's Chorus, and a Children's Holiday Party. You're invited!"

Newsletter insert statement: Children's Holiday Party, Sunday, December 21, 1–4 pm, at the Sufi Center.

"A Holiday Party for the neighborhood children of all ages and their parents...Music, dancing, games and cookie decorating...Ornaments can be made to take home."

Another quote: "We warmly invite all children from the Saranap area and their parents to the party."

¹⁸ http://www.sufismreoriented.org/_brochures/neighborhood-newsletter-winter-08.pdf p 2

Newsletter insert statement: Sunday, December 14, 10 am – 4 pm.

¹⁹ http://www.sufismreoriented.org/_brochures/neighborhood-newsletter-winter-08.pdf p 2

Newsletter insert statement: Regarding the Holiday Party, "The Meher Schools Children's Chorus will perform"

²⁰ http://www.sufismreoriented.org/_press/Sanctuary%20Reflects%20Ideals.pdf, p 9

"The congregation has also welcomed neighboring families to Halloween parties and to their holiday celebrations, concerts and bazaars."

Newsletter insert statement: Choral Concert, Sunday, December 14, 4–5 pm, Chorus of Sufism Reoriented and special guest singers.

²¹ http://www.sufismreoriented.org/_brochures/neighborhood-newsletter-fall-09.pdf p 1–2

In addition to the events listed above, the applicant has also described in FEIR Appendix B some of the other events that will be held at the facility, including:

“weddings, bazaars, Meher School graduation dinners, and so forth.”²²

In the Winter 2008/2009 Newsletter, there is a statement made by the applicant about their upcoming events:

”In this season of sharing, Sufism Reoriented has three events that we’re delighted to share with our families, friends, and neighbors—a Holiday Bazaar, a performance by The Meher Schools Children’s Chorus, and a Children’s Holiday Party. You’re invited!”²³

A further statement from the insert in that newsletter inviting neighborhood attendance at the holiday bazaar, the children’s party, and the choral concert:

“All of our Saranap friends, neighbors, and families are cordially invited to share with us the special joy of this holiday season.”²⁴

Further, in April 2008, a letter from Sufism Reoriented member Mike Meleyco which was distributed to neighbors, stated:²⁵

“We have more than 350 members, and our organization brings people to the neighborhood when we have activities. We also draw many people from out of town...”

There are Meher Baba centers across the United States.²⁶ While these centers are unassociated with Sufism Reoriented, it is reasonable to assume that, when their members come to the San Francisco Bay Area, they will want to visit this beautiful place of worship. Since the bookstore will be open to the public on certain hours on certain days,²⁷ it would be possible for visitors to come to the facility.

How much information does the County need to conclude that this facility will have more use than the current facility? “Build it, and they will come” should be the motto.

²² FEIR, Appendix B, p B-31.

²³ http://www.sufismreoriented.org/_brochures/neighborhood-newsletter-winter-08.pdf p 2

²⁴ The insert did ask people to walk. If that was not possible, they were told that valet parking would be available.

²⁵ Letter dated April 2008, signed by Mike Meleyco, depicted Sufism Reoriented Letterhead at the top.

²⁶ <http://www.avatarameherbaba.org/info6.html>

Flagstaff AZ, Fayetteville AR, Central California, Northern California, Southern California, Atlanta GA, Chicago IL, Boston MA, St. Louis MO, Billings MT, Missoula MT, Delaware Valley NJ, Buffalo NY, Manhattan NY, Oregon, Brentwood TN, Twin Cities MN.

²⁷ FEIR, Appendix B, p B-6

TDM Plan Adequacy

How can the TDM plan be considered an adequate mitigation for having less than 125 spaces if it does not have a plan for events which involve the public and for which the number of registrants is uncertain? Is TDM intended to be just a plan for how workers and members reach a facility? If so, then the parking for the facility should not be permitted to be less than the 125 spaces that the applicant calculates are required.

Vehicle handling at special events must be considered now when impacts on the neighborhood are being evaluated. That is the point of the EIR process. It is imperative that the FEIR recognize and analyze the probable impacts on the community of this facility. It cannot be denied that Sufism annually holds several events that involve the public. Those events and the others referenced above are not a matter to be ignored and pushed off as an insignificant issue appropriate for a separate land use permit under the Temporary Event Ordinance.

Details of Special Events

The applicant reports holding its Children's Party in 2008.²⁸ The applicant also held a Children's Party in 2011 as documented in the banner pictured above. Please note that the picture of the banner says, "All are Welcome!" Robert Carpenter, in a dated background piece for the press, reported that Sufism Reoriented has "sponsored spring lawn parties for more than 200 neighborhood children and their families, complete with music, puppet shows, games and face-painting."²⁹

Sufism Reoriented reports that its Halloween Party in 2008 was attended by about 400 neighbors.³⁰ The second Halloween Party was to be held in 2009. Who could attend? Sufism said, "Everyone is Invited."³¹ The party was for the neighborhood. The newsletter which announced this event was, we believe, sent to approximately one thousand households.

Sufism Reoriented also reports, in one issue of its newsletter, a Children's Holiday Party.³² And, a Reunion for the former attendees and teachers of The Meher School appears to have been held at the existing Sufism Facility, 1300 Boulevard Way.³³ Over 200 people were in attendance including 50 teachers and 150 students. Students attended from as far away as Santa Cruz. Isn't it likely that future reunions will be held at the new facility rather than at the school? I am told that the school does not have an auditorium.

²⁸ http://www.sufismreoriented.org/_brochures/neighborhood-newsletter-spring08.pdf

²⁹ http://www.sufismreoriented.org/_press/Sanctuary%20Reflects%20Ideals.pdf, p 9

³⁰ http://www.sufismreoriented.org/_brochures/neighborhood-newsletter-winter-08.pdf

³¹ http://www.sufismreoriented.org/_brochures/neighborhood-newsletter-fall-09.pdf

³² http://www.sufismreoriented.org/_brochures/neighborhood-newsletter-winter-08.pdf

³³ http://www.sufismreoriented.org/_brochures/neighborhood-newsletter-fall-09.pdf

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The above described events are not included in the TDM calculations. Given this number of "special events," the FEIR should anticipate, not ignore, events of some magnitude, which do not require reservations, and which include the public.

I appreciate your time and attention in considering the points that I have raised. Please feel free to contact me if you have any questions.

Sincerely,

Patricia R Perry
30 Meek Place
Lafayette CA 94549

cc: Contra Costa County Planning Commission
County Counsel Sharon L. Anderson
Hon. Gayle B. Uilkema, Contra Costa County Board of Supervisors

October 20, 2011

Ms. Lashun Cross
Senior Planner
Department of Conservation and Development
Contra Costa County
651 Pine Street, North Wing
Martinez, CA 94553
Fax: 925-335-1250

Subject: Sufism Reoriented Events and Their Lack of Consideration in the EIR

Dear Ms. Cross,

I'm writing you to request that the Final EIR be revised to acknowledge and analyze Sufism Reoriented events which were not included and not analyzed in the EIR or the project's Transportation Demand Management (TDM) Program. This includes actual, historical, and planned events about which the applicant has made public statements but which were not reported for inclusion in the EIR's traffic analyses.

I doubt that Contra Costa County was aware of the **applicant's frequent and regular holiday events open to the public** because:

a) The applicant never applied for an Event Permit with Contra Costa County in at least the past five years.¹

b) These large public events were not included in Table 8² of Appendix O of the Draft EIR. That table was used to calculate the impacts of this project and determine whether the applicant's TDM Program would be adequate to reduce the size of the parking lot to 71 parking spaces. The source citation of that table includes both Sufism Reoriented and DC&E Associates.

1 I verified with Contra Costa County Event Permit planning staff that no Event Permits were obtained from Contra Costa County by 1300, 1308, or 1318 Boulevard Way, or 11 White Horse Court, all in Walnut Creek during at least the past five years.

2 Table 8, Proposed Sufism Reoriented Sanctuary Use and Frequency Patterns, Appendix O to Draft EIR, p. O.1-27

However, large, repeat events have been a regular part of the Sufism Reoriented's historical activities in the Boulevard Way neighborhood. These events have included:

- A Halloween Party (attended by around 400 neighbors in 2008 per Sufism Reoriented's own neighborhood newsletter and held at least in 2008 & 2009)³
- An annual Spring Party for the children (attended by around 300⁴ neighbors, friends, and children per Sufism Reoriented's own neighborhood newsletter),⁵

In addition, Sufism Reoriented also has held a Children's Holiday Party⁶ and a Holiday Bazaar⁷ open to the public, according to their neighborhood newsletters. I am not aware of the location used to hold these events.

The Event Permit Ordinance (2005)⁸, states that a residential property holding an event for more than 300 people⁹ must obtain a land use permit. Also, as stated above, some of the Sufism Reoriented events, by their own admission, have more than 300 attendees. Therefore, an Event Permit is not appropriate for such a large group. The ordinance also states that a residential property holding four or more events¹⁰ within a year must obtain a land use permit in order to hold these events.

The current Final EIR unknowingly suggests that if the applicant *theoretically* wants to hold a Spring Party, they must apply for an Event Permit. One of the purposes of this letter is to bring to your attention the fact that these events are

³ Sufism Reoriented Neighborhood Newsletter Winter 2008-2009, p. 8; Sufism Reoriented Neighborhood Newsletter Fall 2009, p. 3

⁴ In Appendix O, Table 8, Sufism does report a Spring Celebration on Sunday Afternoon in March, however the attendance of that Celebration is only shown to be 200 and does not indicate members of the general public are involved.

⁵ Sufism Reoriented Neighborhood Newsletter Spring 2008, p. 1

⁶ Sufism Reoriented Neighborhood Newsletter Winter 2008-2009, p. 8

⁷ Sufism Reoriented Neighborhood Newsletter Winter 2008-2009, p. 2

⁸ Contra Costa County, California, Ordinance Code, Title 8- Zoning, Division 82, General Regulations, Chapter 82-44, Temporary Events

⁹ Chapter 82-44, Temporary Events, subsection 82-44.416(a)(5)

¹⁰ "Event" means an occasion on private property organized for a particular and limited purpose and time and is an organized outdoor assemblage that exceeds seventy-five persons at a venue in a residential zoning district or at a residence in any other zoning district, or exceeds one hundred fifty persons at a venue in any other zoning district. Events include athletic events, arts and crafts shows, garden parties, carnivals, circuses, fairs, festivals, musical concerts and other cultural or live entertainment events, and swap meets. "Persons at a venue" means the total of all attendees, invitees, caterers, event monitors, security, and all other persons who are at an event venue. An outdoor assemblage of seventy-five or fewer people at a venue in a residential zoning district or at a residence in any other zoning district, or one hundred fifty or fewer people at a venue in any other zoning district, is not an "event" for purposes of this ordinance.

not theoretical. Since the County can now be considered to be aware of the applicant's public statements to the neighborhood about the size and frequency of these events, it is appropriate for the Final EIR to be amended to reflect this information. And, how these larger events will be mitigated needs to be modified as the County's temporary event ordinance cannot be assumed to ameliorate this situation.

In addition, imagine a situation where the public is showing up for an event for which they have not registered in advance, like the Children's Spring Party. How is the TDM ordinance to handle the overflow parking demand?

People show up and attempt to enter the parking lot. The applicant's statements about a party of 400 demonstrate that the 71 spaces in the lot and the 63 spaces at the Meyer school will likely not accommodate the demand of members and guests. And, once the Sanctuary is built, it is likely that many members of the public will be curious and want to attend functions which are open to the public. Therefore, it is fair to assume that future attendance at these events will be more, not less than before.

How is the TDM program going to work for guests? It may work for the members, but not for an unknowable number of guests and members of the public. The public is not a signatory to the TDM Program. The public likely will not even be aware of the TDM Program. They see a banner publicizing an event, and they just show up, unless an event is restricted to advance registration.

The parking demand for these events where the public attends cannot be assumed away and its resolution postponed. This is inappropriate in the midst of an EIR process and unfair to the community. The whole point of analyzing environmental impacts in an EIR is to anticipate and plan for situations where surrounding neighborhoods will be affected by a proposed project. Imagine a multitude of cars circling, looking for parking, and parking in lots owned by others or parking in nearby neighborhoods. Who is to say that people seeing a backlog of people trying to enter the lot will not take it upon themselves to find parking in the neighborhood and then walk over, thereby circumventing the proposed, remote lot at the Meher School and the planned shuttle bus service?

Frequency of Events and Attendance is Different than Analyzed in DEIR

Draft EIR does not assume any use beyond what occurs now at the existing facility.¹¹

I also doubt that Contra Costa County noticed the half sentence within the DEIR Appendix B,¹² page B-31, stating that Sufism Reoriented planned to use their proposed sanctuary facility for other events such as:

"weddings, bazaars, The Meher School graduation dinners, and so forth."

The analyses and conclusions in the EIR do not account for the implications of this statement. Once again, Sufism Reoriented did not list these public events within Table 8¹³ that was used to calculate the impacts of this project and to determine parking demand. It is highly possible that events such as weddings, bazaars, graduation dinners, etc. will bring in members of the public, the numbers of which cannot be exactly anticipated.

The proposed conditions of approval suggest that the site not be allowed to be leased or rented. But, the above events are ones that can be scheduled by members of the Sufism Reoriented community and do not involve leasing or renting the facility to outsiders.

In conclusion, thank you for allowing me to bring these facts to your attention. Now that Contra Costa County is aware that Sufism Reoriented is conducting and planning events not included in the scope of the EIR's analyses, the Final EIR must be revised. It must include an adequate parking plan that recognizes and anticipates the impacts of these events. I suggest that, unless the Final EIR is amended to anticipate these actual, historical, and planned events, the impact

¹¹ Methodology paragraph, Appendix O to Draft EIR, p. O.1-19, states, "As part of a comprehensive analysis of proposed project trip generation and parking demand, existing traffic counts, parking surveys, and pedestrian observations were conducted at the current Sufism Reoriented facility at 1300 Boulevard Way. The basis for determining the proposed project's traffic and parking impacts is dependent upon their current membership and activity schedule. Based on meetings with County staff and the project applicant, both membership and yearly activity schedule are *not* expected to change or increase with the proposed project ... Therefore, it was critical to collect existing traffic and parking data to be used as a baseline for proposed project uses."

¹² Appendix B to Draft EIR, p. B-31

¹³ Table 8, Proposed Sufism Reoriented Sanctuary Use and Frequency Patterns, Appendix O to Draft EIR, p. O.1-27

Letter to Ms. Lashun Cross
October 20, 2011
Page 5

analysis in the Final EIR will be deficient and misleading. The parking demand of these events has to be acknowledged, and particularly since guests at open events not requiring advance registration will not and cannot be expected to participate in the TDM Program.

Sincerely,

Joyce A. S. Coleman
781 Hilton Road
Walnut Creek, CA 94595

cc: Catherine Kutsuris
Department of Conservation and Development
Fax: 925-335-1250

Contra Costa County Planning Commission
Fax: 925-335-1299

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Contra Costa County Board of Supervisors
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October 21, 2011

Contra Costa County Planning Commission
c/o Community Development Division
Department of Conservation
and Development
651 Pine Street, 2nd Floor-North Wing
Martinez, CA 94553-0095

RE: Agenda Item 2 – Sufism Reoriented Sanctuary Project (County Files LP08-2034
and MS09-0008).

Dear Chairman Snyder and Commissioners:

This letter is a follow-up to my presentation at your October 18th meeting on behalf of the Saranap Homeowners Organization. At that meeting, I pointed out that many of the parking spaces at the rear of the project site, and directly abutting residential properties, intruded into the required setback, in violation of the zoning ordinance.

One of the points I made about this violation is that it would result in noise impacts on the neighboring properties beyond what the zoning ordinance considered proper. I want to elaborate on the effects of placing cars that close to the property line in terms of noise impacts.

Noise is nothing more than vibrations. As such, noise and its properties have been studied in great detail in physics. One of the properties of a point source of noise, such as, for example, a car alarm on a parked car, is that it disperses with distance from the source. In fact, it can be proven that noise intensity decreases by six decibels with every doubling of the distance from the source. Thus, a noise source two feet away will be six decibels louder than the same source placed four feet away. As I noted in my previous letter, rear setbacks should be fifteen feet, just one foot short of sixteen feet. The significance of sixteen feet is that it is four doublings of two feet. ($2 \times 2 \times 2 \times 2 = 16$.) Thus a noise source sixteen feet away will be $6 + 6 + 6 + 6 = 24$ decibels softer than one two feet away. Sixteen decibels is an enormous difference. In practical terms, it is close to the difference between a shout and a whisper.

Proponents of the Sufi project may point to the wall separating the project from adjoining properties as mitigating the increased noise from the closely-parked cars. It may, to some extent, but the mitigation will be far from complete. The attached excerpts from the Federal Railway Administration's discussion of noise and vibration assessment contains useful information in this regard.¹

Noise barriers, or soundwalls as they are commonly called, can indeed decrease noise intensity. To be most effective, however, they need to be designed so that they will either reflect or absorb noise. Otherwise, much of it may be transmitted through to the other side of the wall. Further, as the excerpt explains, noise will tend to diffract around a barrier – essentially “sneaking past” it. Thus even though the noise source may not be in the line of sight, some of its noise will still be heard.

In general, a well-constructed sound wall can be expected to decrease noise levels by somewhere between five and ten decibels, depending on the specifics of the

¹ While the manual focuses on train-related noise and vibration, the properties of noise are general.

type of noise, the composition of the wall, and the geometry involved. Thus, the noise impacts of placing cars two feet from the property line, as opposed to the fifteen feet that the zoning ordinance requires, may be reduced somewhat, but Cannot be expected to be fully mitigated. In ahrt, in spite of the wall, violating the zoning ordinance's prohibition on placing parking spaces in the residential setback area will still result in significant noise impacts on adjoining properties, in violation of the zoning ordinance's intent.

This discussion does not consider other impacts related to violating the prohibition on parking spaces in the setback, including fire risk and nuisance caused by odors (such as exhaust fumes) on adjoining properties. Those impacts further reinforce the wisdom of prohibiting parking in the setback area.

My clients would again ask that that the Commission reject this project as proposed, both due to its impacts on the neighborhood and its violations of the zoning ordinance, and ask that the sponsor revise its project so that it fits in its proposed site, or choose another more suitable place to put it.

Most sincerely,

A handwritten signature in cursive script, appearing to read "Stuart M. Flashman".

Stuart M. Flashman



High-Speed Ground Transportation Noise and Vibration Impact Assessment

U. S. Department
of Transportation
**Federal Railroad
Administration**

October 2005



Office of Railroad Development

2.3 SOUND PROPAGATION PATH

This section contains a qualitative overview of noise-path characteristics from source to receiver, including attenuation along these paths. Sound paths from source to receiver are predominantly air-borne. Along these paths, sound reduces with distance due to (1) **divergence**, (2) **absorption/diffusion**, and (3) **shielding**. The general equation for the prediction of the A-weighted sound level at various distances from the track can be expressed as follows:

$$L_{A,i} = L_A(ref) + C_d + C_a + C_g + C_b$$

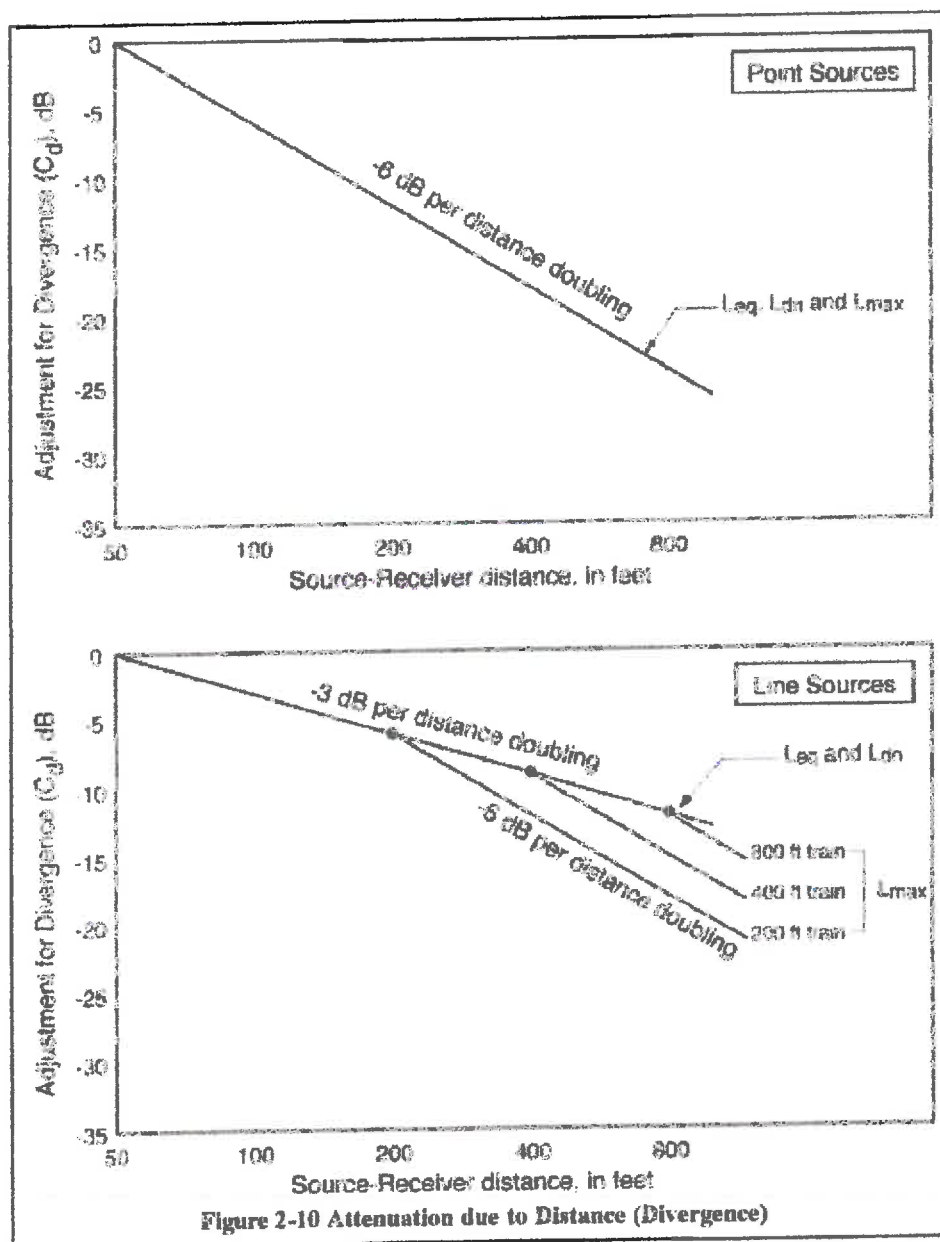
where: $L_A(ref)$ = a known A-weighted sound level at some reference distance *ref* from the source
 C_d = adjustment factor for attenuation due to divergence
 C_a = adjustment factor for excess attenuation due to atmospheric absorption
 C_g = adjustment factor for excess attenuation from ground absorption
 C_b = adjustment factor for excess attenuation due to obstacles such as barriers, berms, and buildings.

In nearly all cases, the adjustment factors are negative numbers due to the nature of the reference conditions. Each of these adjustment factors are discussed in Sections 2.3.1-2.3.3 in terms of their mechanisms of sound attenuation. Specific equations for computing noise-level attenuations along source-receiver paths are presented in Chapters 4 and 5. Sometimes a portion of the source-to-receiver path is not through the air, but rather through the ground or through structural components of the receiver's building. Ground-borne and structure-borne noise propagation are discussed in Chapter 6.

2.3.1 Divergence

Sound levels naturally attenuate with distance. Such attenuation, technically called "divergence," depends upon source configuration and source-emission characteristics. Divergence is shown graphically for point sources and line sources separately in terms of how they attenuate with distance in Figure 2-10. The divergence adjustment factor, C_d , for the receiver is plotted vertically relative to the sound level 50 feet from the source. As shown, the sound level attenuates with increasing distance due to the geometric spreading of sound energy.

For sources grouped closely together (called point sources), attenuation with distance is large: 6 decibels per doubling of distance. Most individual noise sources on a moving high-speed rail vehicle radiate sound as point sources. When many point sources are arrayed in a line, all radiating sound at the same time so any one source is not distinguishable, the arrangement is called a line source. For line sources, divergence with distance is less: 3 decibels per doubling of distance for L_{eq} and L_{dn} , and 3 to 6 decibels per doubling of distance for L_{max} . A train passing along a track or guideway can be considered a line source. In Figure 2-10, the line source curve separates into three separate lines for L_{max} with the point of departure depending on the length of the line source. For example, close to a short train, it behaves like a line source; far away, it behaves as a point source. The curves shown in Figure 2-10 are for illustrative purposes only, and the exact equations for these curves given Chapter 5 should be used for quantitative analyses.



Some sound sources, such as warning bells, radiate sound energy nearly uniformly in all directions. These are called nondirectional, or monopole, sources. For train noise, however, the rolling noise from wheel-rail interactions, as well as some types of aerodynamic noise, is complicated because the sources do not radiate sound equally well in all directions. This unequal radiation is known as **source directivity**, which is a measure of the variation in a source's radiation with direction. Studies have shown that wheel-rail noise can be modeled by representing the source as a line source (or continuous row of point sources) with dipole directivity.¹⁰ A dipole radiation pattern has also been observed in the turbulent boundary

¹⁰E.J. Rathe, "Railway noise propagation," J. Sound Vib. 51, 371-388 (1977).

layer near the sides of a train.¹¹ Typically, a dipole source radiates a directivity pattern such that the sound pressure is proportional to the cosine of the angle between the source orientation and the receiver. Consequently, wheel-rail noise is propagated more efficiently to either side of a moving train than in front, above or behind it.

2.3.2 Absorption/Diffusion

In addition to the attenuation from geometric spreading of the sound energy, sound levels are further attenuated when sound paths lie close to absorptive or "soft" ground, such as freshly plowed or vegetation-covered areas. This additional attenuation, which can be 5 decibels or more within a few hundred feet, is illustrated graphically in Figure 2-11. In this figure the adjustment factor, C_g , is plotted vertically as a function of distance. At very large distances, wind and temperature gradients can alter the ground attenuation shown here; such variable atmospheric effects generally influence noise levels well beyond the range of typical railway noise impact and are not included in this manual. Equations for the curves in Figure 2-11 are presented in Chapter 5.

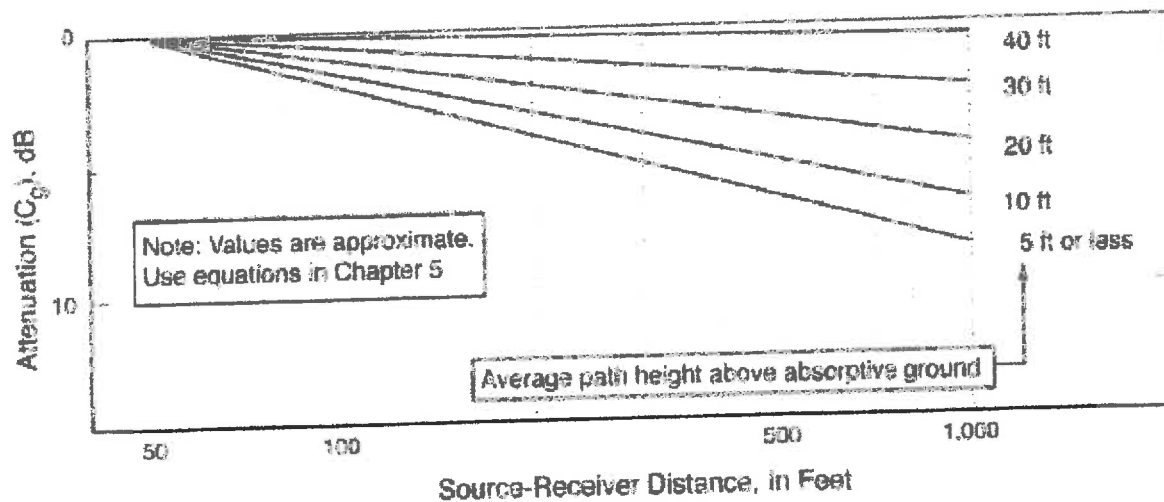


Figure 2-11 Attenuation due to Soft (Sound-Absorptive) Ground

2.3.3 Shielding

Sound paths are sometimes interrupted by noise barriers, by terrain, by rows of buildings, or by vegetation. Noise barriers, usually the most effective means of mitigating noise in sensitive areas, are the most important of these path interruptions. A noise barrier reduces sound levels at a receiver by breaking the direct path between source and receiver with a solid wall; vegetation, in contrast, hides the source but does not reduce sound levels significantly. Sound energy reaches the receiver only by bending (diffracting) over the top of the barrier, as shown in Figure 2-12. This diffraction reduces the sound level at the receiver.

¹¹W.F. King, "On the boundary layer contribution to wayside noise generated by high-speed tracked vehicles," *Inter-Noise '94 Proceedings* (1994), pp.175-180.

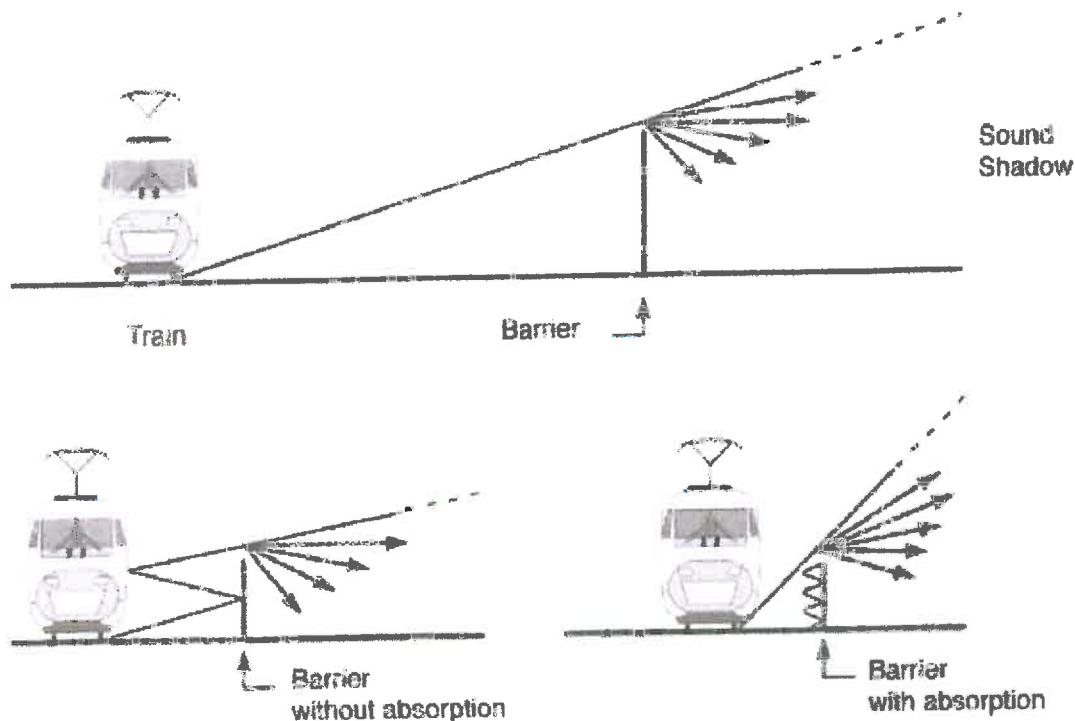


Figure 2-12 Noise Barrier Geometry

Noise barriers for transportation systems typically attenuate noise at the receiver by 5 to 15 dBA (which corresponds to an adjustment factor C_1 range of -5 to -15 dBA), depending upon receiver and source height, barrier height, length, and distance from both source and receiver. The attenuation of noise by a barrier also is frequency dependent, i.e., all other factors being the same, the higher the frequency of the noise, the greater the barrier attenuation. As discussed in Section 2.2, the peak frequencies and source heights of high-speed ground transportation noise vary according to the dominant noise source in a particular speed regime. In general, aerodynamic noise has lower peak frequencies than does wheel-rail noise, which means that a barrier is less effective at attenuating aerodynamic noise. In addition, aerodynamic noise sources tend to be located higher up on the train than wheel-rail noise sources. As a result, a noise barrier high enough to shield aerodynamic noise will be relatively expensive compared to a barrier for controlling wheel-rail noise, since it must extend 15 feet or more above the top of rail. For operating speeds up to about 160 mph, a barrier high enough to shield wheel-rail and other lower car body sound sources would normally provide sufficient sound attenuation.

Barriers on structure very close to the source, provide less attenuation than predicted using standard barrier attenuation formulae, due to reverberation (multiple reflections) between the barrier and the body of the train. This reverberation can be offset by increased barrier height, which is easy to obtain for such close barriers, and/or the use of acoustically absorptive material on the source side of the barrier. These concepts are illustrated in Figure 2-12. Acoustical absorption is included as a mitigation option in

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October 3, 2011

Hearing Officer
 Contra Costa County Dept. of
 Conservation & Development
 651 Pine Street, 4th Floor – North Wing
 Martinez, Ca 94553

RE: Final Environmental Impact Report for New Sanctuary for Sufism Reoriented Project (SCH #2010032038).

Dear Hearing Officer,

I am writing on behalf of my client, the Saranap Homeowners Organization, to comment on the Final Environmental Impact Report ("FEIR") for the above-referenced project (hereinafter "Project"). While my client appreciates the time and effort that the County and its consultants have put into preparing the FEIR, We must protest the proposed certification of the FEIR as being adequate under the California Environmental Quality Act ("CEQA"). As explained more fully below, the FEIR fails to fully document the Project's potentially significant impact. Further, contrary to the FEIR's conclusions, the proposed mitigation is not sufficient to reduce all potentially significant project-associated impacts to a level of insignificance. Finally, especially because the FEIR cannot demonstrate, based on substantial evidence, that all project impacts can and will be mitigated to a level of insignificance, the FEIR is inadequate in its consideration of project alternatives. Each of these points will be explained in greater detail below.

THE FEIR FAILS TO IDENTIFY ALL POTENTIALLY SIGNIFICANT IMPACTS

I, and others, submitted numerous letters during the scoping of this EIR identifying potentially significant project impacts. When the Draft EIR was released, many comment letters, including one that I wrote on behalf of my client, were submitted. Both the scoping and comment letters identified potentially significant impacts beyond those the County identified in its Notice of Preparation and in the DEIR. Nevertheless, the FEIR has refused to acknowledge the additional potentially significant impacts, and has therefore failed to consider how these impacts might be mitigated or avoided. Potentially significant impacts that the FEIR failed to acknowledge include the following:

- Visual and aesthetic impacts
- Public services (fire protection) impacts
- Land use impacts

In terms of visual impacts, the FEIR claims that the large white domes making up the project will have no significant visual or aesthetic impact, other than a potentially significant night time impact as a source of glare. The FEIR fails to consider the Project's visibility and the inconsistency of the proposed architectural style and scale of the facility with the surrounding architectural style and scale. The FEIR also underestimates the visual impact of the Project buildings due to their scale and incongruous style, which will combine to make them "stick out like a sore thumb."

Unlike *Bowman v. City of Berkeley* (2004) 122 Cal.App.4th 572, 589-590, this project is not being placed in the midst of a highly-urbanized city center. Rather, it is being placed in the context of an existing residential community made up almost entirely of small, single-family homes. The proposed complex of large domed buildings, plus the very long, six-foot high white barrier wall surrounding the property, will be entirely out of keeping with the visual style and scale of the surrounding structures. Based on this, the EIR should have identified a potentially significant visual impact and should have considered, in its alternatives section, alternatives that might reduce that impact, including a project made up of structures with a reduced maximum height or with an architectural style more harmonious with the surrounding structures, as well as the proposed “campus” alternative that would reduce the Project’s visual impact by spreading it through the community, rather than concentrating it at one site. As it stands, the Project fits in about as well as a modern office building would in historic Williamsburg.

As to public services impacts, it was pointed out in my DEIR comment letter that the proposed emergency vehicle access (“EVA”) would use a driveway that is subject to a private easement. The FEIR points to a letter from the County fire marshal indicating that the proposed EVA would be acceptable from a fire protection standpoint so long as certain conditions were met. (FEIR Appendix C.) However, that letter does not address the question of whether the use of the driveway is feasible from a property impacts standpoint. As noted in my comment letter, extending the existing mutual private driveway easement, intended to service four private dwellings, to service a large religious complex would overburden the easement and be objectionable on that basis. The FEIR provides no evidence to indicate that the easement has been modified by the written and recorded mutual consent of all the participating property owners to allow its expansion to an EVA for the Project. Without that, the proposed EVA, in violation of the existing easement, cannot be considered feasible. The fire marshal’s letter did not address the question of whether the Project would be acceptable without this EVA or an alternative EVA, but the implied answer (given his insistence on required conditions on the EVA) is that it would not. Thus, barring evidence showing use of the EVA would be feasible from a property rights standpoint, there is an unacknowledged significant fire protection impact.

Finally, as to land use impacts, the County’s zoning ordinance specifies findings that must be made in order to grant the required use permit. In particular, the DEIR failed to address the non-religious uses that would be included within the Project and whether those uses would satisfy the requirements for a use permit. The failure to address these questions not only violates CEQA, it leaves the Planning commission without the necessary information to consider whether to grant the requested use permit.

THE PROPOSED MITIGATION MEASURES ARE INADEQUATE

For those uses identified as potentially significant, the FEIR sets forth mitigation measures which it claims will suffice to reduce Project impact to a level of insignificance. However, many of these mitigation measures are either inadequate on their face or include insufficient details or requirements to assure the mitigation of significant Project impacts. The mitigation measures need to be revisited or revised to assure that potentially significant Project impacts will be adequately mitigated.

Aesthetics (light & glare)

While the FEIR identifies the need to ensure that night time lighting of the domes does not result in significant light and glare, it does not identify how that mitigation measure will be monitored or enforced. Nor does it identify clear, objective, and enforceable standards for the mitigation that would assure mitigation of the Project's night time glare impacts¹. These need to be identified in the EIR and included in the Mitigation Monitoring and Reporting Program ("MMRP"). The monitoring and enforcement needs to be such that it will continue to be effective in the long-term, (i.e., monitoring and compliance cannot be limited to assuring compliance prior to issuance of an occupancy permit, because the type of lights used and the timing of the lights turning on and off could be changed at a later time) and independent of County budget cutbacks.

Air Quality

During construction, either excavated soil should not be allowed to be stored on-site, or any on-site soil storage areas must be watered twice daily and covered to avoid creating dust. This mitigation measure needs to be added to those identified in the FEIR.

Geology & Soils

The mitigation measure requiring the applicant to repair or correct any damage caused to surrounding buildings due to soil shifting, subsidence, groundwater changes, or construction-related vibrations cannot be relied upon unless a sufficient bond is provided to assure that money will be available to make necessary repairs. The size of the bond should be identified through a licensed professional's consideration of the potential costs to repair the structures on lots close enough to the Project site to have a significant risk of structural damage due to any of the above-referenced project-related impacts. The bond should be held for a minimum of one year after the finish of construction to take into account the potential for delayed or latent damages.

Hydrology

The EIR notes that the Project will decrease impermeable surface coverage of the Project site, and assumes this, plus the SCP for the Project, will mitigate any groundwater impacts. As pointed out in my comment letter, both the pervious pavers and the SCP are intended to reduce surface stormwater run-off from the site. The presumption is that once stormwater goes below the surface and becomes groundwater, it is no longer of concern. This is incorrect. It is well known that, depending on the subsurface hydrology, groundwater can resurface elsewhere at a lower elevation as springs or seeps and re-enter the surface water system, potentially contributing to downstream flooding. This potential is neither considered nor analyzed. The FEIR includes no analysis of off-site groundwater flows and makes the unwarranted assumption that the additional stormwater run-off shunted underground through the use of pervious pavers will not have any significant impact on groundwater or surface water flows off-site. The analysis needs to be revised to explain what will happen to

¹ The FEIR identifies loss of night sky visibility as the only significant impact to be mitigated. Night time visibility and visual obtrusiveness should also have been identified. Brightly lit monuments may be appropriate in Washington D.C., but they do not fit in a suburban residential community.

stormwater flows that are diverted underground, and provide assurance, especially with the disturbance in groundwater flows introduced by placement of the large underground foundation, that there will be no off-site impacts from increased or diverted groundwater flows.²

Traffic

The FEIR's analysis of the Project's potential traffic impacts was conducted under the assumption that the project's proposed TDM Program as well as on the location of most of the Project sponsor's members walking to and from activities occurring at the Project. However, there is no long-term requirement that members of the Project sponsor continue to walk to and from activities at the Project. A condition of approval needs to be added as a mitigation measure requiring that the Project sponsor demonstrate, on an annual basis, that the number of members driving to and from Project activities on a regular basis not exceed 200 during any peak hour period. Violation of this condition would require re-evaluation of the Project sponsor's TDM program and the imposition of additional requirements and incentives designed to reduce the number of vehicles entering or leaving the Project during peak hours. Incentives should include the potential to require paid parking for onsite parking spaces, at least during peak hours, with the proceeds to be used to promote alternative travel modes in the area.

ADDITIONAL ALTERNATIVES SHOULD HAVE BEEN CONSIDERED

Given the Project's significant visual and aesthetic impacts (see above), at least one alternative should have been considered that would have decreased these impacts. In particular, an alternative that reduced the maximum height of the Project's building and/or required that the Project buildings be redesigned to be less obtrusive in their architecture (e.g., building shape and color) should have been considered and discussed. As also noted above, a campus alternative should also have been discussed, rather than just being dismissed as not achieving all of the Project sponsor's objectives. Just because an alternative does not achieve all the project sponsor's objectives does not make it infeasible and is not a sufficient reason, in itself, for refusing to consider an alternative. (CEQA Guidelines §15126(d)(1); *Friends of the Eel River v. Sonoma County Water Agency* (2003) 108 Cal.App.4th 859, 873; *Citizens for Responsible Government v. City of Albany* (1997) 56 Cal.App.4th 1199, 1222.)

Given the potential infeasibility of the current proposed EVA, an alternative should have been added that looks at an alternative EVA or other way of mitigating the Project's potentially significant impact on fire safety and fire protection.

CONCLUSION

The current FEIR fails to meet CEQA's mandate of providing a good faith effort at full disclosure of significant project impacts and how they could feasibly be mitigated or

² It should be noted that comments from nearby neighbors indicate that there are already problems with basement flooding from existing subsurface flows. These problems are likely to be exacerbated if the project increases those flows. In addition, increased subsurface flows could increase slope instability, leading to the potential to foundation damage or even slides. These risks should have been investigated and discussed in the EIR.

County Hearing Officer – Sufism Reoriented Sanctuary Project DEIR
10/3/2011
Page 5

avoided. The EIR should be rewritten to address the flaws identified in this letter and the revised EIR recirculated for additional public comments.

Most sincerely,

A handwritten signature in cursive script, appearing to read "Stuart M. Flashman".

Stuart M. Flashman

October 18, 2011
Contra Costa Board of Supervisors
651 Pine Street
Martinez, CA 94553-1229

Appeal of the Sufism Reoriented Land Use Permit and Minor Subdivision
County Files Lp08-2034 and MS09-0008

My appeal is based on the fact that I am a licensed family daycare provider. My business has been established for 22 years and I am licensed for 12-14 children. Their health and safety is my primary concern. I provide care for these precious infants and toddler from my home on Warren Road. Providing child care is life's work and my sole source of income.

Numerous significant environmental factors were identified in the Environmental Impact Report including those related to air quality and sustained high decibel noise generated by the excavation process and truck fumes. These very young children are still developing and highly vulnerable to the constant high decibel noises that will be unavoidable during the extensive excavation and construction processes required for the proposed 66,000 square foot project. The FEIR claims that the project's impacts have been mitigated to less than significant. Yet, these mitigations do not consider the fact that children are far more susceptible to certain impacts such as noise. The standards cited or implied are relative to adults and are even more destructive to the delicate ears and lungs of preschool children in their formative years.

The quiet and serene setting of the outside play area on my property that has been an asset to my business for years will be gone. The lightly used road will be on the route of constant truckloads of dirt, building materials, equipment and workers. The soft voices of the toddlers at play will be overshadowed by the harsh sounds of excavation construction and heavy equipment.

I am very concerned for the whole neighborhood regarding the constant truckloads of dirt, building materials, equipment which will be coming and going down our street. How will our children cross the street going to and from the school bus stops? How are they being protected? There will be a constant parade of trucks transporting loads parcels of 3,000 cubic yards of gravel, 7,000 cubic yards of concrete, 3,600 or more truckloads of dirt, 40 loads of steel and that is just for starters.

And, **ex**actly where will workers park? And where will trucks idle? These are questions which the FEIR did not answer. It may not matter when a project like this is in a commercial or industrial area, but it matters to our semi-rural neighborhood. The FEIR did not consider these impacts, and the neighborhood has a right to comment on any proposed plan.

The Sufism Reoriented Land Use Permit and Minor Subdivision imposes conditions that have the very real potential to adversely affect both the short term and long term health of the infants and toddlers of the ^{other} two child care locations on my street. The children are outside for a major part of the day. The risk to infants and toddlers with bronchial issues and asthma are particularly problematic and can result in irreversable damage that mitigations have unintentionally not considered. Elevated noise levels can also stimulate aggression and anti-social behaviors for both children and adults.

Concerned parents may choose to take their children elsewhere to protect them from the ongoing sounds, smells and dust of heavy equipment and fumes that cannot be fully mitigated. How does the FEIR propose to mitigate this impact? Where is the threat to my income considered? I know that I am not the only person with a home business or a home day care center. Building this project will be a very real threat to our livelihoods. The impact of this project on my income is a very real threat not only to my livelihood but also to others who conduct business from surrounding homes, apartments and condominiums.

For me, building this huge project translates into the loss of the property value of my home and reduced income from my child care business since they are integrated together.

Please do not approve the land use permit for this project.

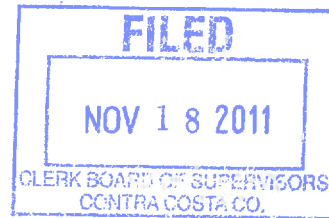
Sincerely,

A handwritten signature in cursive script that reads "Sherilyn Fry".

Sherilyn Fry
2346 Warren Road
Walnut Creek, California 94595

November 18, 2011

Contra Costa Board of Supervisors
651 Pine Street
Martinez, CA 94553-1229



Subject: Appeal of the Sufism Reoriented Land Use Permit and Minor Subdivision
LP08-2034 and MS09-0008

Members of the Board of Supervisors:

I am appealing the Planning Commission's approval of the FEIR, the land use permit, and the minor subdivision.

I contend that the Final Environmental Impact Report is incomplete, contains substantive errors, and is based on a misinterpretation of the county codes. I also contend that the conditions of approval are incomplete in regards to events. I also contend that the numerous statements and letters from the community document that the findings required for a land use permit cannot be made in regards to this project.

I am particularly concerned about the manner in which the County has interpreted its own ordinances. Any student of zoning in America knows that setbacks are not just a condition of the lot in question, but an artifact which protects the neighbors and the community.

Further, the alternatives selected for analysis in the FEIR are woefully inadequate. How can any average citizen believe that the only reasonable alternatives for this 66,000 square foot proposal are either 7 dwelling units or 15 dwelling units. The way in which the alternatives were framed borders on the absurd.

And, the failure to include at least five, if not more, ADA parking spaces onsite, is a total obfuscation of what Congress intended when it adopted the Americans with Disabilities Act. The whole point of this act was to not discriminate against those with disabilities.

Last, the county will be setting a dangerous precedent if it strays even further from its adopted ordinances by allowing the parking to be calculated on only 5,000 square feet of this project. What new "standard" is being created?

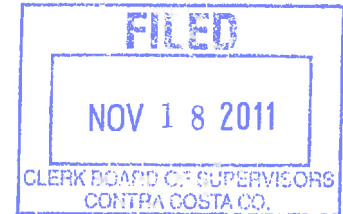
I look forward to addressing the Board regarding these points.

Sincerely,

Patricia R. Perry
30 Meek Place
Lafayette, CA 94549

November 18, 2011

Contra Costa Board of Supervisors
651 Pine Street
Martinez, CA 94553-1229



Subject: Appeal of the Sufism Reoriented Land Use Permit and Minor Subdivision
LP08-2034 and MS09-0008

Members of the Board of Supervisors:

We are appealing the Planning Commission's approval of the FEIR. It is not adequate and it is not complete. In addition, it includes numerous errors.

The alternatives selected for analysis in the FEIR are not adequate. Refusing to study any alternative with a greater intensity than 15 dwelling units is a disservice to the neighborhood and the decisionmakers. It does not meet the standard of being a reasonable range of alternatives under CEQA.

CEQA provides for analyzing alternatives which do not meet all the project applicant's objectives. Instead of formulating reasonable alternatives such as a reduced amount of square footage, or an alternate location, these ideas are rejected. And, the concept of a campus alternative is refused as well.

We are also appealing the decision of the Planning Commission because the decision is based upon a narrow and legally unsupported reading of the zoning ordinance in regards to setbacks, parking, and parking calculations.

Sincerely,


Sally Wood
1380 Dewing Lane
Walnut Creek, California 94595


I. Harold Houseley
1370 Dewing Lane
Walnut Creek, California 94595

*APPEAL OF THE SUFISM REORIENTED LAND USE PERMIT AND MINOR
COUNTY FILES LPOB-2034 AND MSDQ-0008 SUBDIVISION*

Contra Costa County Board of Supervisors
651 Pine
Martinez, CA

Supervisors:

MY APPEAL IS BASED ON THE WARRE ROAD DRIVEWAY AGREEMENT
The driveway agreement was meant to service four parcels each with a house (see attached). *APPROX 1/4 ACRE*

Sufism Reoriented purchased the property at 2428 Warren Road and adjacent parcels from the Kenneth Nazari trust. That property became the parsonage and ingress/egress access was changed from Warren Road to Boulevard Way. The property address was changed to 11 White Horse Court.

The parsonage has not used the driveway off of Warren Road for over 10 years, but to bring refuge containers to and from the street. I consider the easement to be abandoned. I do not want the driveway used for ingress/egress – either for pedestrian, motor vehicle or EVA.

Another concern is the future use of the driveway. It is my understanding after talking to Sufi members, that Carol Conner (hereinafter "Murshida") has absolute powers and control over all things concerning the religion and its members. I was also told that she will choose who her successor will be and the individual revealed at her passing.

My concern is a new leader may change policy on the driveways' use. Current leadership claims in testimony before the commission that the driveway will only be used for ingress/egress associated with the parsonage, and that no EVA access is now necessary from that point of entry. My concerns are as follows:

- Service functions such as gardening and commercial refuge pick up will begin after construction is completed. The size vehicles required are too large to be accommodated on a regular basis.
- Construction crews and material delivery is will commence to use the driveway because of limited staging area due to crater necessary for basement.

This point was presented to both Staff and Planning Commissioners. It appeared to be lost by all thus far and I hope that it is not lost on the board of supervisors. I respectfully request that the Board of Supervisors overturn the planning commission's decision to approve the project.

Respectfully

Marvin B. Rasmussen
Carol Rasmussen

Marvin and Carol Rasmussen
2434 Warren Road
Walnut Creek, CA 94595

CONTRA COSTA
201 NOV 18 PM 1:52
RECEIVED

February 18, 2011

Ms. Lashun Cross
Contra Costa County Community
Development Division
651 Pine Street, 4th Fl., North Wing
Martinez, CA 94553

RE: Sufism Reoriented Sanctuary Project EIR Scoping (Project files LP08-2034 and MS09-0008).

Dear Ms. Cross,

I am writing once again on behalf of my client, The Saranap Homeowners Organization, to provide some further information and comments on the above-referenced project in terms of the forthcoming draft environmental impact report (DEIR). As you may recall, my previous letter provided scoping comments on the DEIR on a variety of topics. This letter provided some additional information that was recently brought to my attention and may affect the analysis of several impact areas.

The information, which I have included in the attached documentation, concerns a private road easement leading from Warren Road onto the project site at the existing parsonage¹. This private road was built on a mutual appurtenant easement to serve four residential parcels, which, at the time of the easement's creation, were owned by the following parties: Sutherland, Gilmore, and Roth & Hufft, Inc. (2 parcels). Subsequently, the parcels have passed to different ownerships. As indicated on project plans, one of the parcels (designated "I" in the easement map provided) is now used as the parsonage for the Sufism Reoriented group. A second parcel (parcel II) is now designated as the "Schwartz" parcel (#184-450-023). The third parcel (III) is now designated as the "Rasmussen" parcel (#184-450-020). The fourth parcel (IV) is now designated as the "Odell" parcel (#184-450-022). All four parcels also participate in a recorded road maintenance agreement, and all four properties have equal rights to use of the easement according to both the easement and the maintenance agreement.

According to the plans for the above-referenced proposed project, this private road will be used both as the sole vehicle access for the parsonage building in the project and as an emergency vehicle access (EVA) for the entire project. These uses appear likely to overburden the easement involved, and therefore may not be permissible without amendment of both the easement and the road agreement.

Both the easement and road agreement were premised on the four parcels being used for their then-existing uses, as private residences. The conversion of parcel I to use as a parsonage is a change in use. In itself, however, that might not overburden the easement, so long as that use had equivalent access impacts to a private residence. Its conversion to part of a much larger "sanctuary" complex may, however, be associated with increased use beyond that allowed in the easement. In addition, the proposal to use this private road as the EVA for the entire complex would appear to be an expansion of use well beyond what was contemplated in the original easement and maintenance agreement. While an EVA would not be expected to be used on a daily

¹ The easement covers both the roadway and underlying utilities.

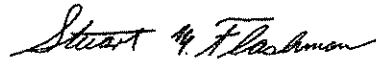
Ms. Lashun Cross – Contra Costa County CDD
Sufism Reoriented Sanctuary Project
2/18/2011
Page 2

basis, it can be expected that such use for a large complex would go well beyond any emergency vehicle use that would be associated with a single private residence.

The DEIR should therefore consider whether the proposed use of the private roadway as part of the project is consistent with the existing agreements governing its use. If it is not (as appears likely), the project will need to be revised to provide an alternative access, especially as an EVA.

Thank you for accepting this additional input into the project's environmental review process. Please keep me informed about the progress of the process

Most sincerely,

A handwritten signature in cursive script, reading "Stuart M. Flashman".

Stuart M. Flashman



FINANCIAL TITLE COMPANY

1955 MT. DIABLO BLVD., P. O. BOX 244, WALNUT CREEK, CALIF. 94597 PHONE: 932-1555

APPLICATION NUMBER 16605
(Paul C. Nelson)
Buyer-Clinton A. Leiper
MAC/hs

PRELIMINARY REPORT
NO LIABILITY HEREUNDER

Bill Hayward Real Estate
P. O. Box 511
Walnut Creek, California, - Mrs. McGinley

AN EXAMINATION OF THE RECORDS OF THE OFFICE OF THE RECORDER OF CONTRA COSTA COUNTY DISCLOSES THAT THE TITLE TO THE LAND HEREINAFTER DESCRIBED IS AT 8:00 A.M. ON January 26, 1965

VESTED IN.. ROBERT AVALON and VIRGINIA AVALON, his wife,
as joint tenants

SUBJECT TO:

- 1- 1964-65 County taxes: Code Area No. 98007; Tax Bill No. 184-450-22; Assessed Value: Real Estate, \$380.00; first installment, \$19.89, paid; second installment, \$19.89 due February 1, 1965, becomes delinquent April 10, 1965. The premises are assessed separately.
- 2- A right of way for roadway and incidental purposes, as granted in the deed from Roth & Hufft, Inc., et al, to Flora L. Hook, recorded December 2, 1955 in Volume 2663 of Official Records, at page 411 and other documents of record.
- 3- A right of way for sewer lines and incidental purposes, over the west 5 feet of the premises, as granted in the deed from Roth & Hufft, Inc., et al, to Flora L. Hook, recorded December 2, 1955 in Volume 2663 of Official Records, at page 411 and other documents of record.
- 4- The road maintenance agreement executed by Samuel T. Sutherland, et al, recorded February 21, 1956 in Volume 2711 of Official Records, at page 581.
- 5- The rights of the public and the County of Contra Costa over the southerly 20 feet lying within Warren Road.

(over)

ROAD MAINTENANCE AGREEMENT

GERALD R. TROUNCE and LYNNETTE J. TROUNCE, his wife, are the owners of the parcel of land described in the deed recorded April 13, 1960 in Book 3597 of Official Records at page 452, said parcel being herein referred to as Parcel A;

GERALD R. TROUNCE and LYNNETTE J. TROUNCE, his wife, are the owners of the parcel of land described as Parcel 1 in the deed recorded July 3, 1958 in Book 3188 of Official Records at page 51, said parcel being herein referred to as Parcel B;

EDNA G. GILMORE and WILLIAM K. GILMORE, her husband, are the owners of the parcel of land described as Parcel 1 in the contract recorded August 16, 1956 in Volume 2827 of Official Records at page 40, said Parcel being herein referred to as Parcel C;

ROBERT AVALON and VIRGINIA AVALON, his wife, are the owners of the parcel of land described in the deed recorded September 8, 1964 in Book 4698 of Official Records at page 42, said parcel being herein referred to as Parcel D;

There exists, as an appurtenance to said parcels, a right of way for road purposes over portion of Lots 26 and 31, Floraland Subdivision, filed July 19, 1913, in book 10 of Maps, page 241, in the office of the County Recorder of Contra Costa County, described as follows:

Beginning on the northern line of the parcel of land described as Parcel One in the deed from Flora L. Hook to Ernest D. Gilmore, et ux, recorded December 15, 1955 in book 2673 of Official Records, page 179, distant thereon South 89° 55' West, 30.24 feet from the northeast corner thereof; thence from said point of beginning South 0° 05' East, 10 feet; thence North 89° 55' East, to the southwestern line of Parcel Five as described in said deed; thence southeasterly along said southwestern line to the western line of the parcel of land described as Parcel Three in the deed from Roth & Hufft, Inc., et al to Flora L. Hook, recorded December 2, 1955 in Book 2663 of Official Records, page 411; thence South 1° 33' East, along said western line, to the center line of Warren Road; thence North 76° 52' East, along said center line, to the eastern line of said Hook parcel three; thence North 1° 33' West, along said last mentioned eastern line and its direct northerly extension to a point which bears North 0° 05' West, 10 feet from the northern line of said Hook Parcel Three; thence South 89° 55' West, to a point which bears North 1° 33' West, from the point of beginning; thence South 1° 33' East, to the point of beginning.

EXCEPTING THEREFROM: That portion thereof lying within Warren Road.

THEREFORE, in consideration of each others mutual promises, the undersigned agree to contribute to the maintenance, repair, or resurfacing of said roadway so that said roadway maybe kept in a good and passable condition under all traffic and weather conditions.

The cost of said maintenace, repair or resurfacing shall be borne by the owners of parcels A, B, C, and D in the following proportions:

The owners of Parcel A,	25%
The owners of Parcel B,	25%
The owners of Parcel C,	25%
The owners of Parcel D,	25%

Any subdivision of any one of said parcels shall proportionately increase the percentage of cost charged to said parcel.

The determination to repair or resurface said right of way by the owners of three of said four parcels shall be binding on the owners of all four parcels.

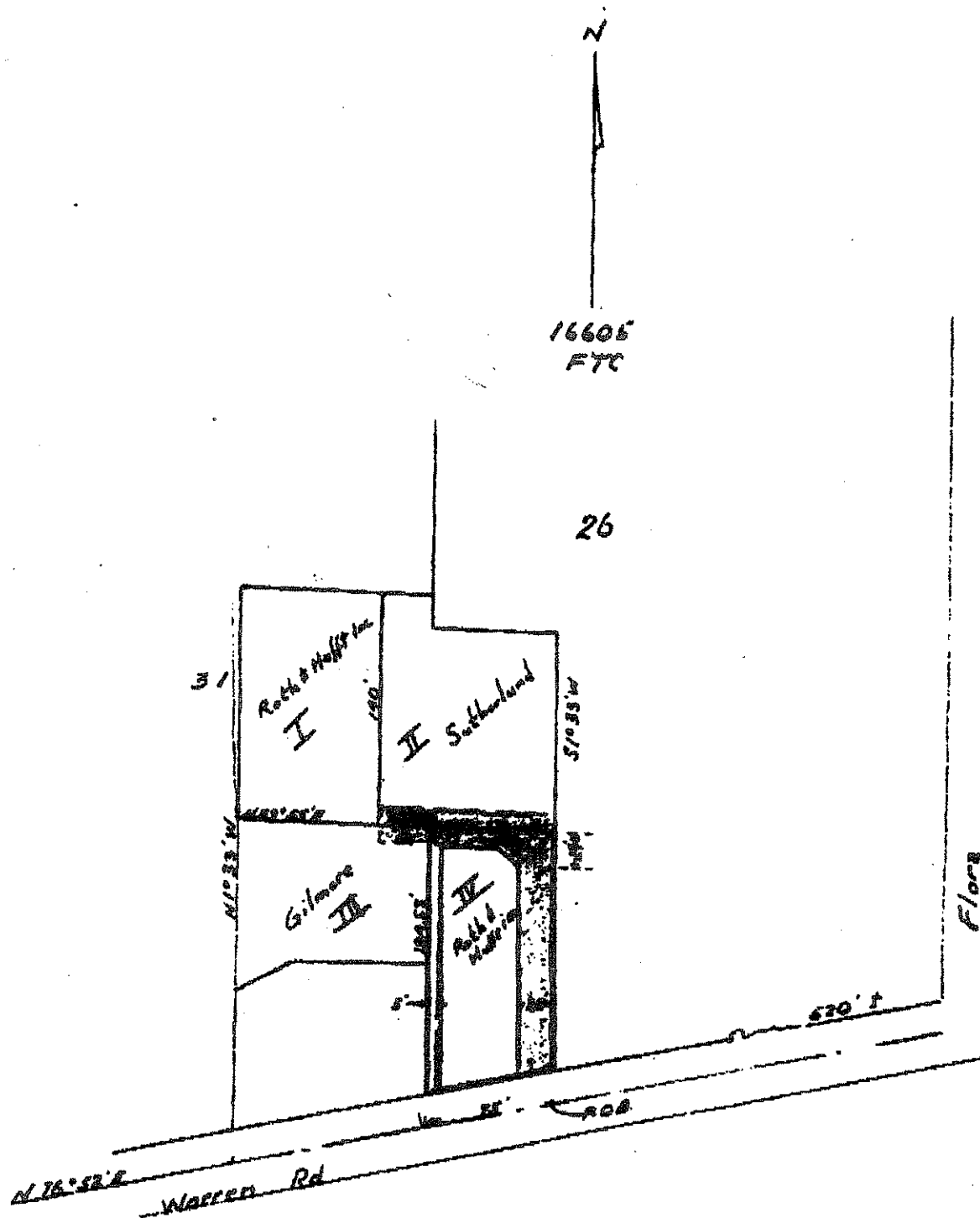
The undersigned hereby cancel all previous agreements providing for the maintenance and repair of said right of way.

This agreement is a covenant running with the land and is for the mutual benefit of the undersigned, their heirs, executors, successors and assigns.

Dated

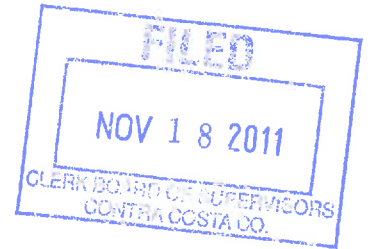
Signed

Gerald R. Trounce 2-20/65
Gerald R. Trounce
Lynnette J. Trounce
Lynnette J. Trounce
Edna G. Gilmore
Edna G. Gilmore
William K. Gilmore
William K. Gilmore
Robert Avalon
Robert Avalon
Virginia Avalon
Virginia Avalon



November 18, 2011

Board of Supervisors
Contra Costa County
651 Pine Street
Martinez, CA 94553-1229



**Appeal of the Sufism Reoriented Land Use Permit and Minor Subdivision
LP08-2034 and MS09-0008**

Members:

I am appealing the Planning Commission's approval of the FEIR, the Land Use Permit, and the Conditions of Approval.

My appeal is based on the following reasons:

- The County is not following its own codes.
- The County is not requiring enough parking for this project
- A dangerous precedent is being set by calculating parking on a portion of a room.
- The County is not requiring enough onsite ADA parking for this project.
- Permits run with the land. No other land use would be allowed 71 spaces onsite.
- The county has misinterpreted the zoning ordinance's R-10 setback requirements.

In summary this 66,000 square foot structure is too big for the 3.1 acre property. This massive commercial structure is not a "neighborhood" church or sanctuary. The point of allowing churches as a permitted use in residential zoning districts is to allow a neighborhood use within the neighborhood. Massive structures belong in non residential zoning districts and certainly not in our semi-rural neighborhood.

In an attempt to mask the fact that what is proposed is too large for the site, the county is misinterpreting its zoning ordinance to allow the project's parking to be based on less than one thirteenth of the square footage of the building.

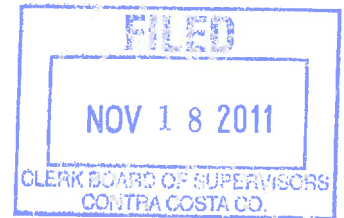
When you have a size-12 foot, wearing a size-5 shoe does not work very well. That is what my neighbors and I are attempting to communicate.

Sincerely,

Mark Redmond
1222 Sunset Loop
Lafayette, CA 94549

November 18, 2011

Board of Supervisors
County of Contra Costa



I am appealing the Planning Commission's approval of the FEIR, the Land Use Permit, and the Minor Subdivision for the Sufism Reoriented Project.

My appeal is based upon the fact that the construction impacts are underestimated, inadequately considered and insufficiently reported in the FEIR.

Appendix R indicates that the foundation design and shoring system are to be revised. Appendix R is new to the FEIR. However, the modeling of construction impacts was not updated from what was included in the Draft EIR to reflect the suggested revisions in the Final EIR. In particular, I am concerned that the magnitude, duration, and extent of neighborhood disruption has not been adequately considered and/or disclosed.

In my long experience as a construction superintendent, I have seen that changes such as those proposed to the foundation design and shoring systems have ramifications that are not always foreseen or understood. And, more importantly, in this case, I truly believe that the excavation process will extend far beyond the 55 days estimated in the FEIR.

The County has a responsibility to not only be concerned about the excavation process, but also the building process which follows. After the hole is dug, the construction process will have a far greater impact on the neighborhood than the excavation.

The FEIR fails to discuss the environmental impacts of what happens after the hole is excavated. For example, there will be numerous loads of forming material, concrete, steel, piping, drywall, stone, etc. The FEIR has no estimate or analysis of the project's impacts in this regard.

I have been a construction superintendent since 1985. My commercial and industrial construction experience is quite varied. I have built many types of buildings in all parts of the Bay Area and Sacramento. Some of the projects include large office buildings in downtown San Francisco, part of the Lucas Studios in Marin, several buildings at Stanford University, Kaiser Hospital in Roseville, and biotech buildings in Vacaville and Milpitas.

I fail to understand how the County can allow a building of this magnitude to be constructed as an infill project in a residential neighborhood. I hope, that when you read this letter, and hear my presentation, that you will also hear the impassioned pleas of my neighbors who cannot speak to the construction complexities of this project.

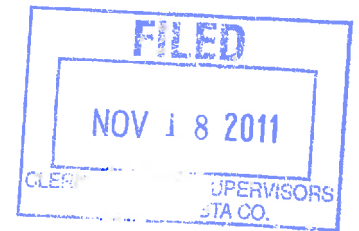
Sincerely,

A handwritten signature in blue ink that reads "Terrence Barnum".

Terrence Barnum
400 Center Street
Walnut Creek CA 94595

November 17, 2011

Board of Supervisors for Contra Costa County
651 Pine St., North Wing
Martinez CA 94553



Appeal

Board of Supervisors,

I am filing a formal protest for Sufiusm Reoriented Land Use Permit # LP08-2034 and the Minor Subdivision # MS09-008

My protest for this project is that the location for the main access driveway for this proposed project is unsuitable. The driveway location will pose a significant danger to the people who will use this driveway as well as drivers and pedestrians who use Boulevard Way in the vicinity of this driveway.

Steven Siegel P.E.

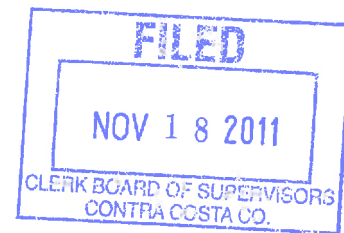
1022 Juanita Dr

Walnut Creek, CA 94595

Curtis and Deborah Trenor 2450 Warren Road, Walnut Creek, CA 94595

Contra Costa County
Board of Supervisors
651 Pine Street, Room 107
Martinez, California 94553

November 18, 2011



Supervisors:

We hereby appeal to the Contra Costa County Board of Supervisors its Planning Commission decision to certify the FEIR and approve the SUFISM REORIENTED (Owner and Applicant) PROJECT, County Files LP08-2034 and MS09-0008. Our appeal is based on the following reasons:

- Certification of the FEIR is without basis. The FEIR should not have been certified because:
 - It fails to identify sufficient, reasonable range of alternatives beyond build/no build as required by CEQA and by precedent in recent court cases
 - It contains information that is outdated and (or) erroneous as described in testimony and other information provided Staff and Planning Commissioners
 - It fails to contain information that should have been included (sight distance calculations for vehicles exiting the facility, for example)
- Minor Subdivision and Land Use permit:
 - We and other members of the public had insufficient time to review the conditions of approval prior to scheduled hearing date
 - Parking
 - Calculations are erroneous and do not follow county codes as identified by Commissioner Steele
 - Meher School parking agreement in Appendix Q of FEIR lacks standing
 - Onsite parking in setback areas erroneously approved – separate hearing and exception or variance required
 - Parking situation fails to meet six of seven required findings needed to approve a land use permit
 - EVA access from Warren Road is ambiguous
 - Applicant states no longer required but for parsonage; yet parsonage is part of subdivision and will be included on new mega-parcel.
 - Easement overburdened already
 - Vague as to widening of private driveway on conditions subsequent
 - Fails to meet required findings one, three and six needed for approval of a land use permit

- Drainage cannot be accommodated as planned
 - Drainage calculations are based on a 10-year event versus a 50 or 100 year event
 - Storm drain in eastern portion of property must be relocated to accommodate 18' pipe in Warren Road public access
 - Fails to meet required findings one, four and six needed for approval of a land use permit
- Road Safety
 - Lacks sufficient site distance per CalTrans for vehicles exiting the facility
 - Conditions pertaining to site distance unclear (Commissioner Terrill: Speed bumps, stop sign and picket fence?)
 - Left turn from Sanctuary driveway is too dangerous
 - Fails to meet required findings one and six needed for approval of a land use permit
- Aesthetics
 - Inconsistent with surrounding architecture
 - Fails to meet required findings number six needed for approval of a land use permit
- Conditional Use Permit erroneously approved to run with the land rather than applicant

- Bias displayed by Planning Commissioners and Staff

- Conditions of approval are not adequate.

- i.e., the issue of public attendance at events is not adequately limited by the applicant's letter of October 21, 2011.

~~Given that the issues overlap between the FEIR, Minor Subdivision and Land Use Permit, we will address each issue and its relevance to either the FEIR, Minor Subdivision and (or) Land Use Permit and Conditions of Approval.~~

Following is a discussion.

Parking

Calculation of Parking Requirement Erroneous

The methodology used by staff to calculate the total parking requirement of 125 spaces is based on using only 5,000 square feet of the approximately 11,000 square foot first floor of the 66,000 square foot building. It is erroneous according to Commissioner Steele and County ordinances.

Although the formula is correct (gross square footage divided by 40'), the square footage used by Staff consisted of only 5,000 square feet of the approximate 11,000 gross square footage of the first floor assembly hall above ground portion of the 66,000 square foot structure. Utilizing the formula to calculate parking based on gross square footage of the first floor would yield an **onsite parking requirement of 299 spaces**. It would be even more if the Concourse Level were included as required by County regulations.

During the November 8, 2011 hearing, Commissioner Steele pointed out this calculation error to Staff and cited it as one of the reasons he voted against the project. He also compared the Sanctuary first floor to the County meeting room where that very commission meeting was being held. He pointed out that the pillars do not preclude others from assembling outside of the seating area. This was underscored by the number of applicant's members standing and lined up in masses in the assembly area during hearings over the previous weeks. For that reason, he believes that gross square footage as cited in County regulation is the correct way to determine parking. He also said Staff has understated the parking requirement as a result of not following County regulations in its calculations.

Commissioner Steele said he would have been more comfortable had staff first calculated the parking requirements using the correct square footage, and then applied offsite parking requirements... presumably 299 minus the 71 onsite parking spaces planned (74 in total, but three are dedicated to the parsonage). Had the parking requirements been correctly calculated, then total offsite parking needed would be 228, rather than the 54 which are proposed offsite.

Offsite Parking at Meher School cannot be included in parking stall count

The Meher School parking agreement claims 63 parking stalls, although in testimony before the Commission, a lesser amount (approximately 54) was quoted. And, the TDMP reports only 40 spaces. In fact, there are only 52 marked, legal spaces including both staff lots, which is less than the 54 cited in the conditions of approval.

Additionally, the Parking Agreement in Appendix Q of the FEIR between Meher School and Sufism Reoriented has not been approved by Lafayette School District Officials nor undergone due process – which may include public hearings, a traffic study and an assessment of the diminution of value caused by the public property now serving private interest parking during prescribed times in perpetuity.

The letter of authorization included from the Lafayette School District does not authorize Meher School Officials to enter into such an agreement with Sufism Reoriented. Nor does its lease provide this authority. And even if it did, the agreement between Sufism Reoriented and Meher School Officials is technically deficient in that it contains no term (ending date). This implies parking will continue in perpetuity which is obviously beyond applicants lease term.

In discussions with Superintendent Fred Brill, he indicated that such an agreement would not be within the scope or authority granted in his letter dated June 14, 2011; particularly if it involved running shuttles to and from Meher School or anything different than the last 30 years usage.

Given that the Sanctuary has not existed during the past 30 years, offsite parking is required and the agreement between Meher School and Sufism Reoriented calls for all parking spaces to be used exclusively by Sufism Reoriented weekdays from 6:30 to 11 pm, and weekends from 8 am to 11 pm, would automatically preclude other groups from using parking as it has for the last 30 years and be in conflict with Mr. Brills letter of June 14.

Lastly, Mr. Brill indicated that any use of the School District Property by Sufism Reoriented would not be transferable should the new building be sold or otherwise disposed of.

When Commissioners asked Staff what due diligence was performed in identifying other potential offsite parking sites within a two mile radius, Staff indicated that they had not identified any.

For these reasons, it follows that both the TDMP and Conditional Use permit should “run with the applicant” rather than “run with the land.” The building will be functionally obsolete for all but the applicant the day the certificate of occupancy is issued. And, to rule otherwise would create enforcement problems and other issues that this circumvention of County regulations, granted applicant, were designed to prevent.

Until such time as the Lafayette School District expressly ratifies the agreement between Sufism Reoriented and Meher School in Appendix Q, and only after the appropriate due process, it is beyond reason that the County could even consider the agreement in Appendix Q as a basis for parking stall count and approval of this project. Moreover, if after due process, it is determined that using the public property parking as per terms of the agreement causes a diminution in value of school property, the project must be denied because it would fail to meet required finding three necessary to approve a land use permit.

Given that the parking agreement contained in Appendix Q lacks standing, the Commission erroneously considered 63 (or 54 or 52 or 40?) spaces as a portion of the proposed parking requirement. If the Board of Supervisors chooses to ignore these facts as Staff recommends and count the 63 parking spaces, this coupled with the 71 stalls amounts to only 134 combined. Please note that 71 onsite spaces and 52 legal, marked spaces add up to 123, which is two less than the 125 required. Further, if one considers that the TDMP only reports 40 spaces at the Meher School, parking would be deficient by 14. This is well short of the 299 required by County minimum regulations. **In either case, the project must be denied because it does not meet minimum County parking requirements.**

Onsite Parking in Set Back area fails to meet R-10 requirements described in FEIR and was erroneously approved before due process and without required variance

Onsite parking in setback areas was erroneously approved. The public was not duly noticed nor was any exception or variance approved.

A separate hearing is required to allow parking in the setback area, and the body hearing the matter has the discretion to decide to grant a variance.

In discussions with Staff, I was advised that there was no need to honor the setback requirement referenced in the FEIR or for a separate hearing because applicant's project was a non-residential structure. When asked by Commissioner Terrill, staff indicated that the project does meet R-10 requirements. *It does not until such time as a separate hearing is conducted and an exception or variance is granted.*

Parking situation fails to meet six of seven required findings necessary to approve a conditional use permit. For these reasons, **a conditional use permit should not be granted.**

EVA access from Warren Road is not clear

Applicant states Emergency Vehicle Access is no longer required but for parsonage; yet the parsonage is part of subdivision and would be included on the new mega-parcel. Applicant's claim appears to be contradictory in that fire marshal has requested widening of the driveway off of Warren Road.

This easement was intended to serve only one single-family dwelling on a contiguous lot and not for an assemblage of non-contiguous parcels combined for the purpose of building a non-residential structure.

When commissioners questioned Public Works as to what due diligence it had performed pertaining to the over-burdening of these easements, Public Works spokesperson indicated no due diligence had been performed.

The FEIR and conditions are vague as to the widening of private driveway when the property is sold or transferred to anyone but applicant. If an independent third party purchases the property, and then additional modifications to the driveway, including removal of all trees takes place, then a set off on the purchase price of the O'Dell property is obvious... even if it's only for the cost of the tree removal and driveway widening. Thus, this condition subsequent would cause the project to fail to meet required finding three necessary to approve a land use permit. Conversely, if the driveway is not widened, then it results in a potential safety issue for EVA

access over time, which would cause it to fail to meet required finding one necessary to approve a land use permit.

In either case, the project fails to meet required finding six necessary to approve a land use permit, in that it creates marginal development.

The EVA access fails to meet required findings one, three and six necessary to approve a land use permit. **Thus a conditional land use permit should not be granted.**

Drainage cannot be accommodated as planned

According to county staff, Contra Costa County uses a 10-year storm event as a basis for drainage calculations. Only using a ten-year event is not adequate, particularly at a location with a long history of flooding and drainage issues.

A storm drain in eastern portion of property must be relocated to accommodate 18" pipe in Warren Road public access. Access to public right away currently runs through APN 194-450-036 by a personal easement granted to the previous owner.

The easement was granted to service a new sewer line proposed in conjunction with a room addition on the previous owner's home at 2428 Warren Road (now the parsonage) and five lots purchased from the McGeehon Charitable Remainder Trust in 1998. The lot improvements were never completed, and the former owner sold to Sufism Reoriented. The personal easement at that point technically extinguished upon transfer of title, in that it references no APN to which it serves and the ownership to whom it was granted no longer has an ownership interest in the property it was represented to serve.

Moreover, the underlying contract which serves as the basis for the personal easement places conditions upon its use, including reserving the owner's right to disapprove subsequent improvements if it impacts owners existing improvements installed on the property

With applicant's new development, this section of the appeal serves as constructive notice to County Officials pursuant to Condition of Approval #66 that there are no easement rights available to applicant on APN #184-450-036 for its improvement plan.

Moreover, this appeal shall serve as a formal request to County officials to require applicant to revise its improvement plan to reroute and relocate existing drainage and sewer encroachments on APN 184-450-036.

Road Safety

Site distance for stopping per Cal-Trans is not sufficient.

Commissioner Terrill mentioned speed bumps, a stop sign and picket fence as opposed to the concrete block barricade wall that surrounds the existing compound. When attempting to get the revised conditions of approval from staff, I was told they would not be provided. Thus I request the Board of Supervisors to instruct staff to provide clarification on this matter. Exactly what is conditioned and what is not? Additionally, is it a condition that a right turn only when exiting the new Sanctuary driveway be required?

Moreover, **the utilities must be undergrounded as a condition of approval**, not only to improve the aesthetics associated with the project, but to improve safety for the motorist who could need to swerve due to the increased pedestrian traffic associated with the TDMP and short stopping distances to the project's driveway.

The blind curve and short stopping distance creates a danger to Public Health Safety and Welfare and creates marginal development. This project fails to meet required findings one and six necessary to issue a land use permit.

Size, Scale, Mass and Architecture of the non-residential structure is inconsistent with surrounding structures

The non-residential structure is architecturally inconsistent with surrounding residential structures. It is of a size, scale and mass that causes it to appear "out of balance."

It has such a high land coverage ratio that it cannot accommodate county required onsite parking.

Therefore a TDMP, which is unprecedented in Contra Costa County for a single-purpose residential use in a semi-rural neighborhood, is required to circumvent minimum parking requirements.

The combination of the non-residential structures size, scale and mass, coupled with its unique architectural design, have caused many to see the building as "ugly" or "out of place" or "space-ship looking" or even "looking like a nuclear power plant."

The massing issue is uncharacteristic of previous approvals in Saranap and creates reaction from those who oppose and have come to rely upon good land use planning decisions from the County in the past. Commissioner Terrill told the audience at the final hearing that it should not be concerned with the size, massing and design and mentioned the white storage facility in commercial Saranap next to the freeway as precedent.

The structure is a 66,000 square foot high-end multi-purpose building. Its use extends well beyond its 11,000 square foot house of worship and could be optimized in a downtown metropolitan area or hilltop setting with sufficient onsite parking to accommodate conventions or other such uses.

A TDMP would be more appropriate in a metropolitan or central business district where a real lack of parking exists as opposed to applicant generated parking deficiencies caused by new construction of a 66,000 square foot building on a 3.12 acre assemblage of residential infill lots in a semi-rural neighborhood.

Bias displayed by Planning Commissioners and Staff

Based on our observation of the Planning Commission hearings, we now doubt if we got a fair hearing.

Much of the testimony provided in opposition was discounted or ignored completely. Frankly, we were surprise how few questions were asked.

During opening remarks, applicant's representative thanked both staff and the planning commission for its help and support (presumably in getting the project approved). Prior to its decision, members of the Commission disclosed prior contact with applicant's representative. Additionally, during hearings, Commissioners' Clark and Terrill displayed support and advocacy on behalf of applicant and were occasionally antagonistic to those who opposed the proposed plan.

Commissioner Clark was seen fraternizing with applicant. Additionally, two of applicant's members were overhead discussing the fact that these two [Clark and Terrill] are "in our hip pocket." Both Clark and Terrill were observed with applicant's representatives afterwards.

Conditions of approval are not adequate (see enclosed)

Specifically:

- NEW CONDITION (or revision to condition 72) - Undergrounding of utilities - a condition should be included requiring applicant to underground all utilities else the project fails findings one, four and six.
- Condition 7 - Traffic Demand Management Plan – should be revised to include independent third party monitoring (for reasons of obvious conflict of interest), the periodicity of monitoring should remain constant and not be reduced, and the revocation of the use permit should be absolute and not discretionary, else the project could fail findings one, three, four, five and six.
- Condition 8 - Offsite parking – Must be revised to show offsite parking agreement executed by the owner of the property (School District and Landlord) and not Meher School Officials (Tenant). Tenant has no standing to encumber public property for private use as is included in the FEIR. Until such agreement from the ownership is received, and after the required due process, which may include public hearings, traffic study and a forward value appraisal to determine the diminution in value of school property, the parking stall count relied upon in the FEIR to approve the project should not have been counted. Failure to provide adequate parking should have resulted in a denial of the application. Approval of the application results in failure of all seven findings.
- Condition 9 - Offsite Pedestrian Improvements – Revise the condition to be specific, or else reference a specific plan. Currently it calls for offsite pedestrian improvements. Does this mean sidewalks and bike lanes from Meher School to the new Sanctuary location? One could presume this given its listed as a condition under offsite parking. Without definition, it causes the project to fail findings one, four and six.
- Condition 16 – Use permit should be approved for the Specific Organization – Sufism Reoriented and **not run with the land**. The events listed in this condition that are to be held at the facility are unique to Sufism Reoriented.
- Condition 17 – Dome lights should be turned off one hour after sunset to accommodate neighbors in close proximity.

- Condition 19 – Statement to run with deeds should include the amount of offsite parking required as well as a result of the TDMP (i.e. 299 required based on gross square footage – 74 onsite parking spaces).
- Condition 22 – Item D: This condition must be revised. It is not possible to comply with the State’s Model Water Efficient Landscape Ordinance with the amount of turf and pavers. Please verify how this can be accomplished with current plan.
- Condition 25 – This isn’t a condition, it is a requirement description. Requiring lighting to be turned off one hour after sunset, for domes and landscape would facilitate the light pollution problem the structure will cause.
- Condition 29 – This should be revised to clarify if the driveway widening must occur if the property is sold or transferred to a third party other than the applicant or else stricken entirely from the FEIR and as a condition of approval. If a transfer of the property to a third party does trigger the tree destruction and driveway widening, then the project should be denied because this will cause a diminution in value to the O’Dell property as trees and yard appurtenant will no longer be included in the sale. The set off would result in a lower transfer price and cause the project to fail finding three. Conversely, if it triggers no widening when sold to a third party, then the project fails finding one as it is detrimental to health safety and welfare both during the time Ms. O’Dell owns it and it remains unimproved, and similarly during subsequent, non-applicant ownership. If on the other hand, the EVA access is no longer necessary as applicant and staff claim, then this condition should be stricken entirely from the FEIR and conditions of approval.
- Condition 33 – Inspection(s) of adjacent properties should be performed by independent third-parties and not applicant’s representatives. Any repairs to existing structures should be performed by independent third party contractors and paid for by applicant. Just as the County has required applicant to video tape, bond and pay for any damage to public property, this same concept should be extended to private property as well. This would eliminate the potential for obvious conflicts of interest. Without such provisions, the project fails findings one, three and six.
- Condition 36 – change wording from “... meet minimum performance requirements” to “meet industry standard performance requirements.”

- Condition 46 – Strike as shown:

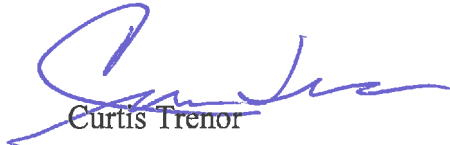
The project sponsor shall require construction contractors to limit noise generating construction activities as required by the DCD. No construction activities shall be allowed before 8 AM or after 5 PM, or on weekends ~~without prior authorization of the Zoning Administrator, and excavation and grading activities shall be allowed after hours or on weekends and holidays;~~

- Condition 49 – This condition is in conflict with the applicant's landscape plan and screening promised. It fails findings five and six.
- Condition 50 – This condition fails finding six. It encourages marginal development because landscape will die in drought years and Public Park will be unmaintained.
- Condition 55 – This condition encourages marginal development in that it doesn't require parking to comply with setbacks.
- Conditions 58 – 65 – Roadway Improvements (Boulevard Way) – This section needs to include conditions for improvements for offsite parking agreement from project to Meher School. Without such conditions and requirements, the project fails findings one and six.
- Condition 66 – this should have been verified and confirmed by planning and public works before approval was granted. Since all three private easements applicant is relying upon for project cannot accommodate due to overburden and or unintended use, the project fails to meet finding one needed for approval of a land use permit.
- Condition 68 – This condition conflicts with existing landscape plan. See prior comment on Condition 49.
- Condition 72 – This creates marginal development and thus causes the project to fail finding six. This condition should be revised and/or a new condition created requiring all utilities associated with the project to be undergrounded.
- Condition 73 – Need verification that this condition can be met.
- Condition 76 – How does this condition work with the landscape watering requirement, the fire truck load capacity on the pavers and the non-watering during drought years?

Contra Costa Board of Supervisors
November 18, 2011
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Thank you for your consideration. If you have questions or need additional information, call 925-588-9900.

Respectfully,



Curtis Trenor



Deborah Trenor

CONTINUED FROM OCTOBER 18, 2011
CONTRA COSTA COUNTY PLANNING COMMISSION
TUESDAY, OCTOBER 25, 2011

SUFISM REORIENTED RELIGIOUS SANCTUARY

I. INTRODUCTION

SUFISM REORIENTED (Owner and Applicant), County Files LP08-2034 and MS09-0008:
Applicant requests approval of a Land Use Permit AND Minor Subdivision as follows:

Land Use Permit # LP08-2034: This is a request for a Land Use Permit to allow construction of a new sanctuary on approximately 3.12 acres. The proposed project includes: (1) a 66,074 square foot sanctuary building that includes a prayer hall, administrative offices, a library, classroom, archives, art and music program space, and related ancillary uses. Approximately 46,074 square feet of the building would be located below ground, including the administrative offices, bookstore, art studio, art storage, chorus rehearsal, video and audio production, music mixing and scoring, reception area, multi-purpose room, film/video and photo library, a music, drama, and dance studio, a coat room, women's and men's restrooms, and a kitchen. The 46,074 square feet includes approximately 13,800 square feet as open areas referenced as a rotunda, plaza, and east and west galleries (hallway) and a grand staircase; (2) a request for parking reduction based on a Transportation Demand Management Program (TDM) which includes the promotion of carpool, shuttle service, pedestrian and secure bicycle parking; (3) the removal of approximately 58 trees and the planting of at least 165 new trees; (4) the excavation and removal of soil (approximately 40,000 cubic yards of soil) an estimated 3,300 truck load of soil to be exported; and (5) demolition of three existing single family residences.

Minor Subdivision # MS09-0008: The applicant requests approval of a minor subdivision for the merging of seven (7) lots into one (1) parcel to create approximately 3.12 acres. The project addresses are 11 White Horse Ct., 1354, 1360, 1364, 1366, and 1384 Boulevard Way within the unincorporated (Saranap) Walnut Creek area of Contra Costa County [Zoning: Single Family Residential, 10,000 square foot minimum parcels (R-10); (General Plan: Single Family Residential High Density (SH), (Census Tract: 3410.00) (Parcel Nos. 184-450-006, 007, 012, 031, 032, 033, 034) (Zoning Atlas page:N-13)]

II. RECOMMENDATION Staff recommends that the County Planning Commission
take the following actions:

- A. ACCEPT the recommendation from the County Zoning Administrator regarding the adequacy and completeness of the Final Environmental Impact Report (Final EIR).

- B. CERTIFY the Final Environmental Impact Report ("Final EIR") dated September 2011, finding it to be adequate and complete, finding that it has been prepared in compliance with the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines, and finding that it reflects the County's independent judgment and analysis, and specify that the Community Development Division (located at 651 Pine Street, Martinez, CA) is the custodian of the documents and other material which constitutes the record of proceedings upon which this decision is based.
- C. CERTIFY the contents of the Final EIR and that the information was reviewed and considered prior to making a decision on the project.
- D. ADOPT CEQA findings that address environmental impacts and mitigation measures, and that adopt a Mitigation Monitoring and Reporting Program. (Exhibit A)
- E. APPROVE the minor subdivision, County File #MS09-0008 and the land use permit, County File #LP08-2034 with a minor modification to Project Variant B, based on the CEQA Findings, Growth Management Standards and Land Use permit findings and subject to the attached conditions of approval (Exhibit B).
- F. APPROVE the Final Transportation Demand Management Program (TDM) as set forth in the conditions of approval.
- G. DIRECT staff to file a Notice of Determination with the County Clerk.

Comment [CF1]: Encourage marginal decision due to insufficient alternatives required by CEQA.

Comment [CT2]: Until EIR has been certified there would be no approval of the minor subdivision.

Comment [CT3]: Modify TDM as per conditions requested subsequently in this document.

PROJECT BACKGROUND

On October 18, 2011, a brief presentation was given by staff. Presentations from the applicant and the opposing party were also provided. Additional testimony was received from members of the public who were both in support and opposed to the Project. Due to the high volume of public speaker cards submitted for this agenda item the meeting was adjourned at 10:15pm and continued to October 25, 2011 as an open hearing.

Staff recommended that the County Planning Commission take action as listed above in Section II of the staff report with modifications to the conditions of approval. The changes consisted of the elimination of partial language for condition # 2 and all mitigation measures with the language "DCD shall ensure" was to be replaced with the "Project Sponsor shall ensure". The changes to the mitigation measures are not substantive and the County remains responsible for monitoring compliance.

The specific condition and mitigation measures that have been modified are #2, #26, #30, #31, #32, #33, #34, #37, #46 and #47 which are attached and highlighted in yellow.

Modified
Conditions of Approval

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILES LP08-2034
and MS09-0008, SUFISM REORIENTED (Applicant and Owner).**

A. General Plan Growth Management Element Performance Standards

1. Traffic: The County's Growth Management Plan (as part of voter approved Measure C) establishes that no traffic study is required when a project would add fewer than 100 vehicle trips during the peak hour of adjacent street traffic. However, should a project be expected to generate more than 100 peak hour trips a full transportation impact analysis would be required. The project sponsor submitted a Transportation Management Plan (TDM) for the reduction of parking spaces indicating the trip contribution would not exceed the CCTA threshold. As a result a traffic analysis was prepared for an understanding of traffic impacts in the neighborhood and effectiveness of the TDM program. The finding of the traffic study was that all intersections along Boulevard Way would continue to operate at acceptable conditions of (Level of Service) LOS B or better with small increases in daily volume during the AM and PM peak commute hours with project volumes but would continue to function within the capacity of the roadways.
2. Water: The project site is located within the service area of the East Bay Municipal Utilities District. Potential significant impacts mainly would result due to the "New Sanctuary" to generate an increase in demand for water supply over existing uses. The potential impacts would be mitigated to less-than-significant levels through implementation of the mitigation measure 4.14-1 described in the Draft EIR. All infrastructure and service to be reviewed and approved by the District.
3. Sanitary Sewer: The project site is served by the Contra Costa County Central Sanitary District. The project applicant intends to install and/or upgrade the existing infrastructure for the new facility. The project sponsor will be required to obtain the necessary permits from the District prior to issuance of any building permits from the County Building Inspection Division.
4. Fire Protection: The project site is within the service area of the Contra Costa County Consolidated Fire Protection District. The District has commented on the project in reference to the widening of a secondary access drive from Warren Road, hydrant locations, turnarounds, and paving systems for the facility. The project sponsor shall comply with all Fire District requirements for the proposed development.
5. Public Protection: The performance standard is 155 square feet of Sheriff's station area and support facilities for every 1,000 members of the population. Implementation of the project would not create new housing opportunities or permanent new jobs, so no population growth is expected. Therefore, the facility would not result in an impact to the demand on public protection from the proposed use.
6. Parks and Recreation: Implementation of the project would not create new housing

Comment [CT4]: The conditional approval and has yet to be approved by the Fire Marshall. Are there additional comments from Fire Marshall that clarify the vagueness of future conditions in the EIR?

Findings & Conditions of Approval — LP08-2034 and MS09-0008

and recreation facilities. The completed landscaped grounds proposed for the sanctuary is an additional source for a park setting within the neighborhood.

Comment [CT5]: Need public dedication and removal gates and barricade walls.

7. **Flood Control and Drainage:** The site is located within Flood Zone X, which is not within the 100-year flood plain. The proposed project has been reviewed by the Public Works Department and shall be required to comply with their requirements for C.3 and drainage. Compliance with standard conditions of approval and the hydrology and water quality mitigation measures described in the Draft EIR would ensure the onsite and offsite drainage is adequate.

B. Land Use Permit Findings:

1. The proposed project as conditioned will not be detrimental to the health, safety and general welfare of the County.

Project Finding: The conditions of approval and mitigation measures will adequately mitigate and minimize all known health, safety, and general welfare impacts. These include implementation of the control measures to minimize construction related air pollutant emissions; pre-construction survey protection measures for animal species; protection of archaeological and paleontological resources. All potentially significant impacts will be mitigated for air quality, aesthetics, biological, cultural, geologic and soils, hazards and hazardous material hydrology and water quality, noise, traffic and circulation, and utilities and service systems. Based on above, the Sufism Reoriented "New Sanctuary" will not be detrimental to the health, safety, and general welfare of the County.

2. The proposed project as conditioned will not adversely affect the orderly development of the property within the County.

Project Finding: The proposed project will not adversely affect the orderly development in the area. The project site is located in the (SH) Single family residential High Density General Plan designation and the (R-10) Single Family Residential, 10,000 square foot minimum parcel sizes as designated by the County Zoning Code. The project is a secondary land use that is permitted within the SH designation upon the issuance of a land use permit. The proposed project is within the boundaries of existing developed parcels and will consolidate the existing parcels for construction. Implementation of the project would not adversely affect the orderly development of the property within the County.

3. The proposed project as conditioned will not adversely affect the preservation of the property values and protection of the tax base within the County.

Project Finding: Property values and the protection of the tax base within the County will not be adversely impacted by allowing the proposed project to be constructed on the existing parcels. The facility is a use that is compatible with the surrounding residential development with the granting of a land use permit. The project will help preserve the property value of the project site as a church facility without having a detrimental impact

Comment [CT6]: We disagree. There could an erosion to the tax base by exempt non-profit as well as diminution in value of surrounding properties. Please provide the data that is the basis of this finding.

on other uses on site and within the community. The project will not change the current zoning or general plan land use designation of the site. Typically Religious facilities do not adversely affect the preservation of property values and tax base related to surrounding properties. There is no evidence that implementation of the project would adversely affect the preservation of property values and tax base related to surrounding properties.

4. The proposed project as conditioned will not adversely affect the policy and goals as set by the General Plan.

Project Finding: The project site is designated (SH) Single family residential high density under the County's General Plan Land Use designations. The purpose of the (SH) designation is to allow for residential development as a primary use and secondary uses such as home occupations, small residential care and childcare facilities, churches and other similar places of worship. The General Plan states that the designation is compatible with the R-10 zoning district. The R-10 zoning district allows religious facilities with a use permit. Hence, Sufism Reoriented sanctuary is a compatible use in the single family residential zoning designation.

5. The proposed project as conditioned will not create a nuisance and/or enforcement problem within the neighborhood or community.

Project Finding: The project's conditions of approval and mitigation measures require reporting on the Transportation Demand program, a off-site parking agreement along with monitoring of the project by the Department of Conservation and Development and several conditions of approval will be in place to further ensure the proposed project would not create a nuisance and/or enforcement problem within the neighborhood. In addition, the project must comply with the building and zoning codes, which are designed to avoid the creation of nuisances. Based on the above, and because the proposal is a compatible use for the area and the General Plan, there is no substantial evidence that implementation of the project would create a nuisance or enforcement problem.

6. The proposed project as conditioned will not encourage marginal development within the neighborhood.

Project Finding: Sufism Reoriented operated at 1300 Boulevard Way for the past 20 years. This project has not encouraged marginal development. The proposed use permit for the facility would be privately owned and maintained. Therefore, there is no substantial evidence that the project will result in marginal development in the neighborhood.

7. That special conditions or unique characteristics of the subject property and its location or surroundings are established.

Project Finding: The applicant had indicated other parcels in the area are not available for the project or are not contiguous. Several hundred members of Sufism Reoriented

Comment [CT7]: This finding is erroneous that the site is adequate. Public property offered up by applicant for additional parking has not been approved or behind district or taxovers on public hearing and therefore cannot be used in the parking count. This insufficient parking exists to approve this project.

Comment [CT8]: Where is the evidence that the new project will not encourage marginal development? The existing location is already marginal in that it creates traffic issues. It appears applicant is simply moving the problems down the street from one under parked facility to another.

Comment [CT9]: This is a misrepresentation. In fact the Sufis own 11 parcels in the area that were not disclosed in the opening to the PC even though they were included in the photographs. Additionally, the EIR did not explore alternative uses that might have been compatible with these other items.

reside within one mile of the locations. In addition, the Murshida parsonage currently exists on this property. Hence, the proposed location is ideally suited for this facility. All parcels associated with this project are held by the project sponsor. The combination of above scenarios is already established and is also a unique characteristic of the area.

C. Minor Subdivision Findings

The advisory agency shall not approve a tentative map unless it shall find that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable general and specific plans required by law. When approving the tentative map for a minor subdivision, the advisory agency shall make findings as required concerning the fulfillment of construction requirements.

This Project if approved merges the existing adjacent parcels into one parcel, rather than subdividing an existing parcel into additional parcels. The merger is consistent with the General Plan, as the General Plan does not prohibit the resulting parcel size. Construction requirements are detailed in the attached conditions of approval. The application meets the requirements for a merger. The parcels are under common ownership, and the resulting parcel size conforms to General Plan and Zoning requirements.

D. Criteria for Review of the Tree Permit

1. Required Factors for Granting Permit. The County Planning Commission is satisfied that the following factors as provided by County Code Section 816-6.8010 for granting a tree permit have been satisfied as marked:

- a. The arborist report indicates that the subject tree is in poor health and cannot be saved.
- b. The tree is a public nuisance and is causing damage to public utilities or streets and sidewalks that cannot be mitigated by some other means.
- c. The tree is in danger of falling and cannot be saved by some other means.
- d. The tree is damaging existing private improvements on the lot such as a building foundation, walls, patios, decks, roofs, retaining walls, etc.
- e. The tree is a species known to be highly combustible and is determined to be a fire hazard.
- f. The proposed tree species or the form of the tree does not merit saving.

Comment [CT10]: On what basis was this determined? Is it not possible to save at least one of the 58 trees?

- g. X Reasonable development of the property would require the alteration or removal of the trees and this development could not be reasonably accommodated on another area of the lot.
- h. The tree is a species known to develop weaknesses that affect the health of the tree or the safety of people and property. These species characteristics include but are not limited to short-lived, weak wooded and subject to limb breakage, shallow rooted and subject to toppling.
- i. X Where the arborist or forester report has been required, and the Director of the Department of Conservation and Development is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.
- j. None of the above factors apply.

2. Required Factors for Denying a Tree Permit. The County Planning Commission is satisfied that the following factors as provided by County Code Section 816-6.8010 for denying (or modifying) a tree permit application have been satisfied as marked:

- a. The applicant seeks permission for the alteration or removal of a healthy tree that can be avoided by reasonable redesign of the site plan prior to project approval (for non-discretionary permits).
- b. — It is reasonably likely that alteration or removal of a healthy tree will cause problems with drainage, erosion control, land suitability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed removal of the tree.
- c. The tree to be removed is a member of a group of trees in which each tree is dependent upon the others for survival.
- d. The value of the tree to the neighborhood in terms of visual effect, wind screening, privacy and neighboring vegetation is greater than the hardship to the owner.
- e. If the permit involves trenching or grading and there are other reasonable alternatives including an alternate route, use of retaining walls, use of pier and grade beam foundations and/or relocating site improvements.
- f. Any other reasonable and relevant factors specified by the Director of the Department of Conservation and Development.
- g. X None of the above factors apply.

**CONDITIONS OF APPROVAL FOR COUNTY FILES #LP08-2034 AND #MS09-0008;
SUFISM REORIENTED (APPLICANT AND OWNERS).**

General/Administrative

Comment [C11]: Additional revisions required on EIR and TDM before approvals granted.

1. This approval is to allow development of the Sufism Reoriented "New Sanctuary" project based on the following revised exhibits and documents:
 - A. Land Use Permit application received on July 3, 2008 and revised supporting material received on July 31, 2008 and Minor Subdivision application received June 15, 2009 by the Community Development Division.
 - B. Draft Environmental Impact Report and Appendices dated March 2011, as supplemented and revised by the Final Environmental Impact Report and Appendices (reports) dated September 2011.
 - C. Mitigation Monitoring Reporting Program dated September 2011.
 - D. Updated Transportation Demand Management Plan submitted in March 2009.
 - E. Revised site plans, elevations, floor plans, sections, and topographic map submitted on July 1, 2009.
 - F. Vesting Tentative Parcel Map dated June 15, 2010.

Indemnity/Hold Harmless Agreement

Comment [C12]: Is this an indication that the County has already approved this?

2. _____ The Applicant agrees to defend, indemnify, and hold harmless Contra Costa County and its agents, officers, and employees from any claim, action or proceeding against the County or its agents, officers, and employees to attack, set aside, void or annul this approval. The project sponsor also agrees to defend, indemnify, and hold harmless Contra Costa County and its agents, officers, and employees from any and all liability caused by negligent or wrongful acts of the project sponsor, its agents, or employees arising out of the issuance or exercise of this Land Use Permit or the interpretation of any of its provisions, and to pay all claims, damages, judgments, legal costs, adjuster fees, and attorney fees incurred by the County or its agents, officers, and employees related thereto. The project sponsor shall be entitled to select its own legal counsel in the defense of all such actions. The project sponsor shall submit a letter on company letterhead verifying acknowledgment and acceptance of this condition of approval.

Fees

Payment of Outstanding Application Processing Fees

3. This application is subject to an initial application deposit of \$2,700 for the land use permit and \$4,800 for the minor subdivision, which was paid with the application submittal, plus time, and material costs if the application review expenses exceed

100% of the initial deposit. **Any additional costs due must be paid within 60 days of the permit effective date or prior to use of the permit, whichever occurs first.** The project sponsor may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance.

Payment of CEQA Notice of Determination Filing Fee

4. **Within two (2) business days of project approval**, the Project Sponsor shall pay the California Department of Fish & Game (CDFG) CEQA filing fee of \$2,839.25. Payment of this fee is mandated by Assembly Bill 3158, which became effective on January 1, 1991. Pursuant to Fish & Game Code Section 711.4(c)(3), the project will not be operative, vested, or final, and any local permits issued for the project will be invalid until the fee is paid. If the fee is not paid by the date specified, then the 30-day statutory time limit to file a legal challenge against the approval will automatically extend to 180 days.

Payment of Mitigation Monitoring Fees

5. If the County elects to hire a third-party consultant to assist in monitoring the environmental mitigation measures set forth in the Final EIR and this permit, then the project sponsor shall be responsible for payment of all fees associated with the consultant's contract.

Permit Compliance

Application for Condition of Approval Compliance Verification

- 4 **~~Prior to commencing construction-related activities, issuance of grading permits or issuance of building permits, whichever occurs first,~~** the project sponsor shall submit an application for Condition of Approval Compliance Verification. The initial deposit for a project of this size is \$5,000, which is subject to staff time and materials costs. Should staff costs exceed the deposit, additional payment will be required. Submittals for this application shall include a checklist describing how each condition of approval has been or will be satisfied and applicable proof that each condition has been satisfied (i.e. appropriate documentation, plans, photographs, etc.). This application will remain active throughout the life of the project and additional submittals will be required to ensure compliance with each phase of the project (demolition, grading, building, reclamation, etc.).

Transportation Demand Management Program (TDM)

7. The TDM program shall be monitored periodically, a Final TDM Plan, and a TDM Program Monitoring Report (TDM PMR) shall be submitted to DCD for review by the County Zoning Administrator, or designee. Reporting requirements for the TDM PMR are established as follows:

TDM PMR Reporting: (Transportation Demand Management-Program Monitoring Report)

The first report shall be submitted to DCD no later than 3 months after the date of **the issuance of Building Inspection final**;

After the initial report submittal, subsequent reports are to be submitted to DCD every **6 months**;

The frequency of TDM reporting to the Department of Conservation and Development (DCD) may be reduced administratively by the County Zoning Administrator, or designee, if over time it is demonstrated that the TDM program is performing successfully on a consistent basis. Requests for reporting modifications shall not be made sooner than 1 year after final build-out.

Comment [CT13]: NCI We request the reporting be required without reduction in periodicity.

The contents of the TDM PMR shall include, but not be limited to:

Parking demand/on-site lot occupancy counts for no less than 3 Fridays, or any peak demand period during a non-special event (which ever has greater attendance), within the 6 month monitoring period;

Comment [CT14]: No. This is a conflict of interest. This needs to be a neutral third party.

Parking demand/on-site lot occupancy counts for the March special event and at least one rehearsal occurring February through March;

Walking and carpool pledge list (Updated TDM Plan — DCE, Attachment 1, Walking Program Participants) to be updated to reflect most accurate level of membership participation in these alternative transportation modes. The updated list shall be signed and dated by property owner/project applicant;

In the event the Zoning Administrator determines that the TDM program is not consistently successful in reducing parking demand, or the program is not enforced or reported, the County may consider revocation of the land use permit.

Comment [CT15]: What is the criteria?

Off-site Parking Agreement

8. The Project Sponsor shall maintain a written parking agreement with The Meher Schools for use of the parking lots for overflow parking for evening and weekend events held at the subject site. If the site becomes unavailable, the project sponsor shall notify Department of Conservation and Development and provide another off-site location within two miles of the site, for the parking of no fewer than 54 vehicles.

9. The Project sponsor will provide for off-site pedestrian safety improvements along the pedestrian routes to the project site. These are necessary because the TDM Program in CCA #7 cannot be safely accomplished unless the pedestrian routes to the project site are made safe. The pedestrian safety improvements will be made at

Comment [CT16]: This violates finding number five. Neither Meher School Officials or Sunsun Reconstructed have the authority under the terms of their lease or letter from the School District dated June 3rd to enter into this agreement and dedicate in perpetuity the parcel owned real estate to private church use.

locations near the project site, as determined by the Contra Costa County Public Works Department in roadway improvements.

Comment [CT17]: What does this mean? Sidewalks from the High School? Bike lanes? This is a list of improvements. How can this be approved until it is defined. This violates findings pertaining to health safety and welfare and encourages marginal development.

Additional Requirements

10. _____ No loudspeakers or amplified music **shall be** permitted outside the enclosed building.
11. All on-site storage of excavated soil shall be covered and watered at least once per day or if necessary twice per day.

Signage

12. _____ No signs shall be permitted with the exception of a sign not exceeding 12 square feet in area for purposes of identification and announcement of church services. The design, color and location of the sign and any size modification shall be subject to Zoning Administrator review and approval. No interior illumination shall be allowed. Signage shall be a monument style.

Submittal of Grading Plans

13. _____ Prior to issuance of grading permits, the Project sponsor shall submit grading plans for review and approval by the County Zoning Administrator. The grading plans shall be compliant with the requirements of the County Code and shall incorporate all applicable mitigation measures identified in the Final EIR. The grading plans shall be accompanied with a \$750 deposit.

14. Haul routes shall be generally limited to those areas of the site which are proposed to be graded to avoid unnecessary disruption.

Comment [CT18]: Haul routes should be defined prior to approval.

15. The transporting of all debris material from the construction site shall be covered when in transition from project site to Landfill.

16. This use permit is approved for a religious facility comprising of members and invited guests. The events at the facility may include night classes, annual celebrations, devotional gatherings, taverns, chorus rehearsals and other ancillary activities.

Comment [CT19]: For how people, how many events and what times.

Events

17. The facility shall not be leased or rented for special events. The dome lights shall be turned off at 11pm.

Comment [CT20]: NO! No dome lights after 1 hour after sunset.

18. The granting of this use permit does not allow Temporary Events, as defined in the Temporary Events Ordinance (County Code Chapter 82-44), except such events as are allowed subsequently by issuance of a temporary event permit pursuant to that Ordinance.

Comment [CT21]: Please clarify the distinction between #16 and #18 events and include the types, frequency and size of special events covered by #18.

Parking

19. ~~Prior to issuance of building permits, the Project Sponsor shall record a statement to run with the deeds to the property acknowledging the approved Final TDM program and on site parking reduction to 74 parking spaces in lieu of 125 spaces is mandatory. Handicapped spaces shall be appropriately identified. The deed disclosure shall be subject to review and approval of the Zoning Administrator.~~

Site Inspections for Compliance

20. The Project sponsor shall allow staff of the Contra Costa County Department of Conservation & Development, California Department of Fish & Game, and any other responsible agency to conduct site inspections during construction and operation of the project in order to ensure compliance with approved permits, plans, and conditions of approval. Inspections shall be conducted at the discretion of said agencies. Discovery of noncompliance may be cause for commencement of proceedings to revoke this Land Use Permit, and for payment of applicable bonds.

Grading Bond

21. ~~Prior to the issuance of a grading or building permit, a grading bond shall be required for the work necessary to carry out the recommendations of the soils engineer, reviewed and approved by the Building Inspection Division and Zoning Administrator. Sufficient subsurface information shall be provided to estimate the cost of the required soil improvements.~~

Performance Bond Amount: The amount of bond shall be based upon the number of cubic yards of material in excavation or fill, whichever is greater, plus the cost of all drainage and other protective devices or work necessary to eliminate geological hazards. That portion of the bond valuation based on the volume of material in excavation or fill shall be computed as set forth:

- Ten thousand cubic yards (7646 cubic meters) or less, one hundred (100) percent of the estimated cost of grading work; Over ten thousand cubic yards, one (100) hundred percent of the cost of the first ten thousand cubic yards, plus fifty percent of that portion in excess of ten thousand cubic yards.
- When the rough grading has been completed in conformance with the requirements of this code, the County Building Official may at his discretion consent to a proportionate reduction of the bond to an amount estimated to be adequate to insure completion of the grading work, site development, or planting remaining to be performed. The cost referred in this section shall be estimated by the County Building Official.

Performance bond- Conditions: Every bond shall include the conditions that the principal shall comply with all the provisions of Article 716-4.12 of the County Code, applicable laws and regulations and all terms and conditions of this permit. No extension of time under the permit shall release the surety upon the bond.

Comment [CT22]: This should extend to Meher School Public Property as well after appropriate due process, public hearings and a forward value appraisal to confirm no diminution in value exists as applicant claims. If diminution of value is found, then the project fails its required findings and must be denied.

Performance bond- Term: The term of each bond shall begin on the date of its posting and shall end on the satisfactory completion of the terms and conditions of the permit as evidenced by a certificate of completion, a copy of which will be sent to any surety on request.

Performance bond- Notice of default: Whenever the County Building Official finds that a default has occurred in the performance of any term or condition of any permit, he or she shall give written notice thereof to the principal and surety on the bond, stating the work to be done to achieve a safe and satisfactory condition, its estimated cost, and the period of time deemed reasonable and necessary to complete the work. If a cash bond has been posted and the notice of default has been given to the principal and if the principal does not comply within the specified time limit, the building official may use the deposited cash to have the required work done, by contract or other means to the discretion of the County Building Official.

If the County Building Official finds that a default has occurred in the performance of any term or condition of the permit, the surety, County Building Official, or any person employed on behalf of either shall have the right to go on the site to complete the required work or make it safe.

Restitution for Approved Tree Removal

22. Required Restitution for Approved Tree Removal - The following measures are intended to provide restitution for the trees that have been approved for removal.

- A. Tree Restitution Planting/Irrigation Plan - *Prior to issuance of a grading permit, building permit, or occupancy*, the applicant shall submit a tree planting and irrigation plan prepared by a licensed arborist or landscape architect for the review and approval of the Zoning Administrator. The plan shall provide for the planting of at least 165 trees, minimum 24-gallons in size either on the owners property or within the area of the right of way easements with approval of the respective County agency. (Also, note below requirement that plans include a provision for other tree plantings for purposes of contingency restitution in the event that trees to be replanted are nonetheless damaged.) The plan shall be accompanied by an estimate prepared by a licensed landscape architect or arborist of the materials and labor costs to complete the improvements on the plan.
- B. Required Security to Assure the Completion of Plan Improvements - *Prior to issuance of a grading permit, building permit, or occupancy*, the applicant shall submit a security (e.g., bond, cash deposit) that is acceptable to the Zoning Administrator. The bond shall include the amount of the approved cost estimate, *plus* a 20% inflation surcharge. Until evidence is submitted that the applicant has satisfactorily installed the required improvements, the County may hold the security for up to three years following the exercise of this permit.

- C. Initial Fee Deposit for Processing a Security - The County ordinance requires that the applicant pay fees for all time and material costs of staff for processing a landscape improvement security (Code S-060B). At time of submittal of the security, the applicant shall pay an initial deposit of \$100.
- D. The landscaping and irrigation plan shall include select plants that will have foliage year-round that are endemic to the vicinity of the subject property. The plan shall comply with the State's Model Water Efficient Landscape Ordinance, if the County's Ordinance has been adopted, and verification of compliance shall accompany the plans.

Comment [C123]: This is not possible with the amount of turf and pavers. Please verify how this can be accomplished with current plan.

Merging of Parcels

23. Prior to the issuance of a grading or building permit, the Project Sponsor shall provide documentation to the Public Works Department and Zoning Administrator, for the review and approval of the Zoning Administrator, the separate parcels have been merged and recorded.

Monitoring of Groundwater

24. A. Prior to requesting a building permit for the Sanctuary, the Project Sponsor shall submit a comprehensive plan for monitoring of groundwater levels. That plan shall be subject to review by the Peer Review Geologist and review/ approval of the Zoning Administrator. The purpose of the monitoring plan is to ensure that fluctuations in the elevation of the water table are consistent with the criteria provided by the geotechnical engineers. If the water level begins to rise after the construction period, monitoring will allow early recognition of the changing water levels. That in turn would provide an opportunity to identify the source of the water (e.g. leaking utility pipes) and take corrective action.
- B. The plan shall include (a) a map showing the location of monitoring stations, (b) provide details on the equipment and approaches to be used to measure water levels, (c) provide standards for the frequency of water level readings, (d) provide thresholds for notifying the geotechnical engineers of the situation, and (e) identify the responsible parties/ staffing positions for compliance with the monitoring requirement.
- C. The monitoring data shall be submitted to the Zoning Administrator and Public Works Department annually by July 1st. Monitoring shall go on for a period of at least 5 years beyond the certificate of occupancy. It may be extended if there is evidence of water levels that rise above elevation + 2221/2 ft. (i.e. bathtub foundation)
- D. After the construction period, it is anticipated that no groundwater will be pumped. If ultimately there is a need for pumping ground-water, no groundwater may outfall into storm drainage facilities without first obtaining

the approval of the Public Works Department. Prior to making a request to the Department for approval the Project Sponsor would need to provide data on the duration and maximum rate of pumping, along with water quality data and any other technical data that may be required by the Public Works Department.

Mitigation Measures for Impacts to Aesthetic Resources

25. **Mitigation Measure 4.1-1.** The Project Sponsor shall submit a lighting plan and a photometric study which shall demonstrate, to the satisfaction of the Zoning Administrator, that no bare bulbs will be visible from offsite. The plan shall also demonstrate that no lighting will be directed across property lines, and all lighting visible from offsite — including spillover onto adjacent properties — will be compatible with offsite private and public right-of-way lighting in the vicinity. The plans shall reflect the effect of lighting both before and after proposed site landscaping achieves maturity. If needed, the plans may include recommendations for turning off lights at specific times to reduce effects to nighttime views.

Comment [CT 24]: This isn't a condition, it is a request and a description. Lighting plan to be submitted for review and approval by the commission.

Mitigation Measures for Impacts to Air Quality

26. **Mitigation Measure 4.2-1.** Prior to the approval of a grading plan, County DCD *the project sponsor* shall ensure that grading and demolition plans include the following measures for all phases of construction as recommended by BAAQMD to reduce the air quality impacts of particulate matter (PM10 and PM2.5) associated with grading and new construction:
- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered a minimum of two times per day;
 - All haul trucks transporting soil, sand, or other loose material offsite shall be covered;
 - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. No dry power sweeping shall be performed (i.e., prohibited);
 - All vehicle speeds on unpaved roads shall be limited to 15 mph;
 - All roadways, driveways, and sidewalks to be paved shall be completed as soon as feasible. Building pads shall be laid as soon as feasible after grading unless seeding or soil binders are used;
 - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to two minutes. Clear signage shall be provided for construction workers at all access points;

- All construction equipment and haul trucks shall be maintained and properly tuned in accordance with manufacturer's specifications. All construction equipment and haul trucks shall be checked by a certified mechanic and determined to be running in proper condition prior to operation; and
- A publicly visible sign shall be posted with the telephone number of the Construction Manager and BAAQMD to report dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD complaint line telephone number shall also be visible to ensure compliance with applicable regulations.

27. **Mitigation Measure 4.2-2.** Emissions of NOx from construction activities shall be limited to less than 54 pounds per day. This performance standard would be achieved by limiting vehicle miles traveled (VMT) for standard hauling trucks to 1,872 VMT per day. Assuming 13 cubic-yard-trucks and delivery to the Acme landfill, and assuming a round trip of 31.2 miles, this would mean that soil hauling would be capped at 60 round trips per day, which would extend the excavation schedule from an earlier projection by the project sponsor of 35 working days to 55 working days. If other sites at a different distance were identified to accept the fill, the schedule could be revised accordingly to fit within the same VMT limitation. However, all hauling trucks must use a haul route that leaves the project site, heads east on Boulevard Way, and enters Highway 24 near Mt. Diablo and Boulevard Way.

28. **Mitigation Measure 4.2-3** Prior to the approval of a grading permit, County DCD shall verify that grading plans include a requirement that limits the allowable idling time of diesel-powered construction equipment to two minutes or less.

Mitigation Measures for Impacts to Biological Resources

29. **Mitigation Measure 4.3-1:** If the project sponsor purchases the Odell property, compliance with the CCEPD condition to widen the secondary access drive to Warren Road shall be required. In compliance with Chapter 816-6.8002 of the Tree Protection and Preservation Ordinance, a permit shall be obtained for the removal of all protected trees. If the project sponsor purchases the Odell property after August 2012, a qualified arborist shall examine the property and the recommendations of the arborist reports dated June 22, 2009 and August 4, 2009, included as Appendix G to this EIR, to confirm and/or append to the conditions included in the earlier reports.

Mitigation for Impacts to Roosting Bats

30. **Mitigation Measure 4.3-2a:** Given the potential for occurrence of roosting bats on the project site, the Contra Costa County Department of Conservation and Development-EDGD) project sponsor shall hire a qualified biologist to conduct pre-

Comment [C125]: This encourages marginal development. Either the widening is necessary or it isn't. If not, then it creates a hazard and false finding pertaining public safety. What happens if the property is sold to a non-related third party? What about the diminution in value.

Findings & Conditions of Approval — L1308-2034 and MS09-10

construction surveys for roosting bats prior to issuance of demolition permits. *The request shall be reviewed and approved by the Zoning Administrator.*

If roosting bats are detected, DCD shall require that a the qualified biologist, in consultation with the California Department of Fish and Game (CDFG), shall exclude/evict the bats prior to removal of the occupied structure or tree. Abandoned structures or trees that are proposed for removal shall be removed before ground-disturbing activities begin to avoid conflicts with potential nesting periods. Immediately prior to construction, *DO) the project sponsor* shall require another pre-construction survey to be conducted to detect presence and confirm absence of active nesting in the trees that will remain.

During the pre-construction survey, the qualified biologist may enact other measures to protect roosting bats on the project site. These measures must be followed throughout the pre-construction and construction period.

31. **Mitigation Measure 4.3-2b.** Given the potential for occurrence of special-status bird species on the project site and the possibility for overlap of demolition and tree removal with the nesting season, *DCD the project sponsor* shall requiria hire a qualified biologist to conduct pre-construction surveys for nesting birds prior to issuance of demolition permits and no more than one week prior to tree removal. If an occupied bird's nest is detected, a buffer zone of 50 to 300 feet shall be implemented to protect adults and nestlings from construction disturbances. If occupied nests are detected, exclusion areas are required until young birds have fledged. *The report shall be submitted for the review and approval of the Zoning Administrator.*

During the pre-construction survey, the qualified biologist may enact other measures to protect raptors and birds on the project site. These measures must be followed throughout the pre-construction and construction period. Destruction of occupied nests would be in violation of the Migratory Bird Treaty Act (MBTA) and the CDFG Code.

Mitigation Measures for Impacts to Cultural Resources

32. **Mitigation Measure 4.4-1a.** When demolition and site clearing activities are complete, a qualified archaeologist, hired by the project sponsor, shall reinspect the project site to ascertain whether clearance activities exposed any previously undetected archaeological resources. *The findings shall be submitted for the review and approval of the Zoning Administrator.* In the event that any buried cultural (historical, archeological, and/or paleontological) resources are encountered, the Contra Costa County Department of Conservation and Development *(DCD) project sponsor* shall ensure that construction, excavation, and/or grading activities within 100 feet of the find are temporarily halted until a qualified archaeologist or paleontologist, hired by the project sponsor, can assess the significance of the find and provide proper management recommendations to be incorporated in to the Project Variant ultimately selected. Prehistoric cultural materials include, but is not limited to, shell midden deposits, hearth remains, stone and/or shell artifacts, and/or

burials. Historic materials, including but not limited to, whole or fragmentary ceramic, glass or metal objects, wood, nails, brick, or other materials may occur on the project site in deposits such as old privies or dumps. If the site is found to contain significant cultural or paleontological resources (as determined by the CEQA Guidelines) by a qualified archaeologist or paleontologist, funding shall be provided by the project sponsor to identify, record, report, evaluate, and recover the resources as necessary. Construction within the area of the find shall not recommence until impacts to the cultural or paleontological resource are mitigated. Additionally, as required by Public Resources Code Section 5097.993, the project sponsor must inform project personnel that collection of any Native American artifact is prohibited by law.

33 _____ **Mitigation Measure 4.4-2.** In accordance with Public Resource Code Section 5097.98, should human remains be found on the site at any time during pre-construction or construction activities, the *project sponsor* Contr-a-Gesta-Gewity shall ensure that no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains shall be disturbed until:

- The County Coroner in which the remains are discovered is contacted and determines that no investigation of the cause of death is required; and
- If the County Coroner determines the remains to be Native American then:
 1. The coroner shall contact the Native American Heritage Commission within 24 hours;
 2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased native American; and
 3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in Public Resources Code Section 5097.98.

The landowners or their authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance if the following conditions occur:

- The NAHC is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission;

- The descendent identified fails to make a recommendation; or
- The landowners or their authorized representative reject the recommendation of the descendent, and the mediation by the NAHC fails to provide measures acceptable to the landowner.

Mitigation Measures for Impacts Related to Geology and Soils

34. **Mitigation Measure 4.5-1.** Prior to the issuance of a building permit, the project sponsor shall submit for the review and approval of the County Building Official plans which incorporate the following CBC seismic site categorization and design coefficients, in conformance with the most recent version of the California Building Code as shown in the table below:

Categorization/Coefficient Value	Design
Site Class (Table 1613.5.2)	C
0.2 Second Spectral Response Acceleration, S _s (Figure 1613.5(3))	1.5g
1.0 Second Spectral Response Acceleration, S _i (Figure 1613.5(4))	1.6g
Seismic Site Coefficient, F _a (Table 1613.5.3(1))	1.0
Seismic Site Coefficient, F _v (Table 1613.5.3(2))	1.3
Long-period Transition Period, T _l (Figure 22-6)1	1.0

1From ASCE/SEI 7-05 (2006)

Source: DCM Engineering, October 2008.

The project sponsor shall submit evidence certify that a qualified geotechnical engineer has reviewed final plans and specifications for consistency with CBC and UBC design standards to the satisfaction of the County Building Official. The County Building Official shall verify that all pertinent plans.

35. **Mitigation Measure 4.5-2a.** Where permitted by the owner or tenant in possession, the County Building Official shall direct the project sponsor or their contractor to complete the following actions:

- inspect existing structures/utilities to document any evidence of then existing damage, cracking, distortion, weaknesses in structural elements, deterioration, corrosion, excessive stress, overloading, or use of the structure in a manner which may not have been intended by its design prior to issuance of any construction permits.

The inspection shall include an assessment of the condition of the following structures and facilities:

- structures on properties adjacent to the project site

Comment [C726]: Clarify that inspection is performed by independent third party selected by tenants in possession and/or owners and paid for by applicant.

- Boulevard Way
- potentially affected utilities within the project site, as determined by a qualified engineer

All inspections and notations of pre-existing damages shall be thoroughly documented, to the extent permitted by the relevant owner or tenant in possession, prior to the issuance of a demolition or grading permit by photographs and mapping, and reference markings or measurement points shall be established on critical or previously damaged structures/utilities to assist in determining whether any damage or movement has occurred as a result of construction.

Such inspections shall be completed before issuance of the grading permit and again, after construction of the building shell is substantially complete. To the extent required by Civil Code Section 832, the applicant shall be responsible to repair or compensate for damage caused by the project. The County Building Official shall, prior to issuance of an occupancy permit: (a) confirm that the project sponsor has undertaken a written obligation to repair or compensate for damage caused by the construction of the project as recommended by the architect of record, or has established procedures that assure such repairs will be made or such compensation will be paid; and (2) confirm that any such repairs or payment of compensation is planned to be completed within a time frame the Official deems reasonable under the circumstances.

Where existing structures are in close proximity to the excavation, additional measures beyond pre-construction inspection, such as building underpinning, shall be required as determined by the geotechnical consultant.

36. **Mitigation Measure 4.5-2b.** Prior to the issuance of a grading permit, the County Geologist shall review the final plans to ensure that proposed excavation shoring and dewatering systems meet minimum performance requirements. These minimum performance requirements include:

- Protect personnel that enter excavations;
- Protect adjacent existing utilities, pavements, and structures;
- Installation should not cause settlement or heave of the ground surface nor produce construction vibrations that could damage adjacent utilities or structures;
- Prevent caving or lateral movement of excavation walls and associated loss of adjacent ground and adjacent ground surface settlement, even when subjected to construction vibration;
- Prevent heave and or piping (boiling) of the excavation bottom; and

Comment [C127]: Requires that they meet industry standards.

- Where applicable, resist hydrostatic pressures and lateral loads for adjacent structural foundations, vehicular traffic, construction equipment and spoils.

37. **Mitigation Measure 4.5-2c.** Prior to the issuance of a grading permit, the project sponsor shall ensure that grading plans show a requirement that a qualified geotechnical engineer monitor and document soil and groundwater conditions on an ongoing basis during excavation, grading, and construction. The geotechnical engineer shall anticipate changes and modifications to shoring systems and sloping (on the west side) in response to changes in soil and groundwater conditions. All sheeting and shoring shall be evaluated for stability by the geotechnical consultant prior to entry by personnel. The County Building Official and County Geologist shall review and consider the recommendations of the geotechnical engineer and incorporate any or all recommendations. *The project sponsor shall incorporate the recommendations into final grading plans.*

38. **Mitigation Measure 4.5-4a.** Prior to the issuance of a grading permit, the County Building Official shall ensure that plans for building foundations have been reviewed by a qualified geotechnical engineer to ensure measures are included to reduce potential future structural damage to the religious facility from expansive soils. Such measures shall include but are not limited to minimum requirements for the expansion potential of fill material, soil compaction, and soil moisture content. The County Building Official and County Geologist review and approval shall ensure that all pertinent recommendations of the geotechnical engineer are incorporated into final grading plans.

39. **Mitigation Measure 4.5-4b.** Prior to the issuance of a building permit, the County Building Official shall ensure that plans are revised as necessary to show that foundations for the new facility consist of a reinforced concrete floor slab or a mat slab, consistent with recommendations of the County Geologist.

Mitigation Measures for Impacts Related to Hazards and Hazardous Materials

40. **Mitigation Measure 4.7-1a.** At least fifteen days prior to issuance of a demolition permit, a state certified contractor shall complete an asbestos and lead-based paint survey for all structures proposed for demolition that were constructed prior to 1980. The survey shall be submitted to the Department of Conservation and Development, Community Development Division for review and approval. If LBP or asbestos-containing materials are identified in the survey, they shall be removed from the site and properly disposed of in accordance with CAL/ OSHA requirements:

- Known or suspected asbestos-containing materials shall be abated by a certified asbestos abatement contractor in accordance with BAAQMD regulations and notification requirements.
- Intact lead-based paint found to be secure (not flaking, peeling or cracked) may be discarded along with demolition debris during the demolition of the structure.

- Loose and peeling paint shall be disposed of as state and/or federal hazardous waste if the concentration of lead exceeds applicable waste thresholds.
- Hazardous wastes shall be appropriately managed, labeled, transported, and disposed of by trained workers in accordance with local requirements.
- The demolition and removal of materials potentially containing lead-based paint would be required to follow the CAL/OSHA Lead in Construction Standard, Title 8, California Code of Regulations (CCR).
- Other hazardous materials associated with buildings, such as fluorescent lights and electrical switches, shall be disposed of in accordance with DTSC hazardous waste regulations.

41. **Mitigation Measure 4.7.1b.** Prior to the issuance of grading or demolition permit, the County Building Official and Community Development Division shall review a Risk Management Plan prepared for the Project Variant ultimately selected by a qualified professional. The plan shall include, but is not limited to the following conditions:

- Should tanks, drums, free product, or other potential chemical hazards be encountered during excavation, the County, environmental consultant and the owner shall be consulted prior to proceeding. Excavated material shall be segregated and stockpiled in a designated area and covered in plastic. Stockpiles shall be maintained for profiling and disposal. A qualified environmental consultant shall take samples of each stockpile for analysis. Stockpiles and other hazardous wastes shall be appropriately managed, labeled, transported, and disposed of by trained workers in accordance with all applicable laws and regulations.
- The contractor shall include specific information related to chemical hazards that could be present during the excavation. This information shall include, but shall not be limited to, the proper use of personal protective equipment (PPE), worker air monitoring, and action levels for use of PPE and stop work. Workers engaged in the excavation of petroleum-affected soil shall be trained per OSHA standards for hazardous waste operations and emergency response.

Mitigation Measures for Impacts Related to Hydrology and Water Quality

42. **Mitigation Measure 4.8-1a.** Prior to the approval of a building permit, the County Department of Conservation and Development shall ascertain that final landscaping plans for the Project Variant ultimately selected shall:

- Be designed to minimize irrigation and runoff and to minimize use of fertilizers and pesticides that can contribute to stormwater pollution.

Comment [CT28]: Include condition that landscaping be required between the parking lot and the residential homes to the South.

Comment [CT29]: Condition that there is evergreen screening along the perimeter of the project all around, including the corner of Kenly and Boulevard West.

- Specify plantings within planters and swales that are tolerant of the sandy loam soils and periodic inundation.
- Include pest-resistant plants.
- Include plantings appropriate to site soils, slopes, climate, sun, wind, rain, land use, air movement, ecological consistency and plant interactions.
- Note that all on-site storm drain inlets shall be marked with the words "No Dumping! Drains to Creek" or similar language.

43 **Mitigation Measure 4.8-1b.** Prior to the approval of a building permit, the project sponsor shall submit a Final Storm Water Control Plan to the Public Works Department in general conformance with the Preliminary Drainage Report for review and approval. The Final Drainage Report and Storm Water Control Plan shall demonstrate use of GrassPave2 and pervious pavers or pervious concrete with comparable or better infiltration and storage capacity.

44 **Mitigation Measure 4.8-1e.** Prior to the approval of a building permit, the project sponsor shall submit a Maintenance Program to the Public Works Department. The Maintenance Program shall include procedures for maintaining the pervious surfaces employed within the project site in the Operation and Maintenance Plan of the SWCP. The Maintenance Program shall include the following measures:

- Landscaping grades shall follow a post-project Sediment Control Plan. Landscape areas shall be designed to drain away from pervious surfaces in the parking lot area wherever possible in order to curtail run-off from carrying silt onto the pervious pavements. The Sediment Control Plan would be included in the Storm Water Control Plan and grades directing water away from the parking lot area shall be shown on the Grading plan.
- The project sponsor shall engage an outside contractor experienced in maintenance of pervious pavers. The contractor will follow the procedures listed in the Operation and Maintenance Plan of the Storm Water Control Plan.
- Permeable paver surfaces will be kept clean of organic materials. Leaves and other organic material shall be swept and removed from the paver surfaces periodically when debris accumulates and weekly during the rainy season (October 15 to April 15), or as otherwise directed by the Public Works Department for any other wet times of the year.
- Periodic vacuuming should be used to clear out voids with conventional street sweepers or like equipment with vacuums and brushes, a minimum of two (2) times a year, but the actual required frequency shall be determined by conditions of the site. With an interlocking paver system, additional aggregate fill material

will be added after cleaning, if needed to return aggregate fill material to its initial installation levels.

- The landowner shall be obligated to comply with the Operation and Maintenance Plan and Agreement. The landowner's maintenance obligations shall be reflected in such recorded documents as the County lawfully and routinely requires.

45. **Mitigation Measure 4.8-2.** Prior to the issuance of a grading permit, the County Building Official shall approve a Storm Water Pollution Prevention Plan a (SWPPP) prepared by the applicant. The SWPPP shall comply with current San Francisco Bay Regional Water Quality Control Board guidelines and shall adopt acceptable best management practices (BMPs) for control of sediment and stabilization of erosion in the project area. The SWPPP shall include acceptable BMPs for the protection of water quality.

Mitigation Measure for Impacts Related to Noise

46. **Mitigation Measure 4.10-1.** The project sponsor DCD shall ensure that project sponsor adheres to the following mitigation measures in order to generate the least noise impacts feasible during construction:
- All construction activities shall be limited to the hours of 8:00 AM to 5:00 PM, Monday through Friday, and shall be prohibited on state and federal holidays, except as provided below;
 - The project sponsor shall hold a pre-construction meeting with the job inspectors and the general contractor/onsite manager to confirm that all noise mitigation measures and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed prior to beginning construction;
 - The project sponsor shall notify neighbors within 300 feet of the construction area, at least 30 days in advance of excavation and grading activities, about the estimated duration of the activity;
 - The project sponsor shall designate a construction noise coordinator who will be responsible for implementing the noise control measures and responding to complaints. This person's name and contact information shall be posted clearly around the project site and shall also be distributed to properties within 200 feet of the site boundaries. The construction noise coordinator shall be available during all times during construction activities and shall maintain a log of complaints. A copy of the log shall be provided to the DCD monthly on the 30th day of each month;

- The project sponsor shall require construction contractors to limit noise generating construction activities as required by the DCD. No construction activities shall be allowed **before 8 AM or after 5 PM, or on weekends without prior authorization of the Zoning Administrator, and excavation and grading activities shall be allowed after hours or on weekends and holidays;**

Comment [CT30]: Strike as shown

- The project sponsor shall require construction contractors to implement the following measures to reduce daytime noise due to construction activities:

- I. Equipment and trucks used for construction shall utilize the **best available noise control techniques wherever feasible (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds).**

Comment [CT31]: Clarify what this means, "best available and wherever feasible"

2. Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for construction shall be hydraulically or electrically powered wherever feasible possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is not feasible, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used where feasible, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever feasible.

3. Stationary noise sources **shall be located as far from adjacent receptors as feasible possible, and shall be muffled and enclosed within temporary sheds, insulation barriers, or other measures to the extent feasible.**

Comment [CT32]: Clarify what this means specifically

- Prior to the start of construction, the project sponsor shall construct a temporary sound barrier along those portions of the northern and southern property lines that do not, at the time of grading and construction, already have a wall that meets the following standards, to provide the maximum protection feasible for the residential uses to the north and south. The barriers can be constructed out of wood or other materials as long as they have a minimum surface weight of approximately 2.5 pounds per - square foot. Possible materials include 1-118-inch-thick plywood or fully overlapping 1x redwood boards (1-1/2-inch thick total). The barriers would likely be 6 to 8 feet tall but this would be refined and approved by a qualified acoustician prior to the issuance of grading permits. Issues to consider when determining the ultimate height, length, and location of the barriers are the actual construction practices, including equipment to be used and the location and duration of noisier activities. The topography will also need to be considered in the final determination of barrier heights and effectiveness.

47. **Mitigation Measure 4.10-2** The project sponsor DCD shall ensure that the project sponsor isolates the equipment in the mechanical well per the American Society of

ASHRAE is considered the industry standard for mechanical system design standards.

Mitigation Measure for Traffic and Circulation

48 **Mitigation Measure 4.13-1.** If Project Variant A is ultimately selected and approved, the County Department of Conservation and Development and County Public Works Department shall verify that final plans incorporate a sidewalk on the Boulevard Way frontage similar to that incorporated in Project Variant B. Plans shall show the sidewalk along all project frontage and extending to Warren Road. Sidewalk plans shall conform to prevailing County standards. In addition, if Project Variant A is approved, prior to the approval of any building or grading permit, the County Department of Conservation and Development and County Public Works Department shall verify that final plans for the public right-of-way area show a north-south crosswalk at a location mutually acceptable to the aforementioned County departments and the project sponsor. The crosswalk shall conform to any pertinent state or County regulations regarding crosswalk location and safety. As appropriate, final plans for the crosswalk shall incorporate features to help reduce conflicts between vehicles and pedestrians. Such features may include but are not limited to signage advising motorists of the crosswalk, lighting at the crosswalk, and the use of contrasting color and/or reflective paint to improve nighttime visibility of the crosswalk area.

49 **Mitigation Measure 4.13-2** If Project Variant A is ultimately selected and approved, the County Department of Conservation and Development and County Public Works Department shall verify that final plans reflect the inclusion of adequate sight distance to the west of the project driveway. This can be achieved by relocating the proposed perimeter wall from its current location to the same location as shown in the plan for Project Variant B (Figure 3-8) and keeping the area north of the wall free of potential visual obstructions (trees or other tall vegetation).

Comment [CT33]: This is in conflict with the applicant's landscape plan and screening permitted to hide the structure and gain support.

Mitigation Measure for Utilities and Service Systems

50 **Mitigation Measure 4.14-1.** In the event of multiple drought years, the project sponsor shall comply with EMBUD's then-applicable Drought Management Program and reduce water usage by 20 percent. In the event of critical shortages (shortages of 25 percent or more), the project sponsor shall comply with reduction goals based on customer categories set by EMBUD.

Comment [CT34]: Encourages marginal development because landscape will die in drought years and public park will be unmaintained.

Construction of Sound Barriers

51. Prior to the Zoning Administrator approval of the temporary sound barriers located on the north and south property lines, a brief report shall be submitted by an approved qualified acoustician indicating how the noise reduction is achieved in mitigation measure 4.10-1.

Litter Control and Recycling

52. The project sponsor shall maintain the project site and surrounding areas in an orderly fashion. Litter and debris shall be contained in appropriate receptacles and shall be disposed promptly. All construction materials and construction-related debris shall be removed following cessation of construction activity.
53. To ~~the extent~~ possible, demolition debris and construction waste shall be diverted from the waste stream. Prior to commencing demolition or construction, the Project sponsor shall consult with Department of Conservation & Development — Conservation Programs Section staff to identify opportunities for debris/waste diversion.

Geologic/Soils Report

54. The project sponsor shall record a statement to run with deeds to property acknowledging the approved report by title, author (firm), and date, calling attention to approved recommendations and noting that the report is available from the seller.

Setbacks

55. The building shall comply with the building setbacks of the R-10 Zoning District, including the portion of the building located underground.

Comment [C735]: Why doesn't parking have to comply with setbacks?

Construction Trailers

56. The Project sponsor must remove construction trailers from the project site within 30 days following completion of construction activities.

CONDITIONS OF APPROVAL ENFORCED BY THE PUBLIC WORKS DEPARTMENT

Unless otherwise stated, the Project sponsor must comply with the following conditions of approval prior to obtaining building permits or initiation of the use authorized by this Land Use Permit County File # LP082034 and Minor Subdivision # MS09-0008

General Requirements

57. ~~Improvement~~ plans prepared by a registered Civil Engineer shall be submitted, as necessary, to the Public Works Department, Engineering Services Division, along with review and inspection fees, and security for all improvements required by the Ordinance Code for the conditions of approval of this land use permit. These plans shall include any necessary traffic signage and striping plans, for review by the Transportation Engineering Division of the Public Works Department.

Roadway Improvements (Boulevard Way)

Comment [C736]: Where is the plan for improvements for offsite parking agreement (condition #64) from project to Meher School?

58

The Project Sponsor shall construct a 5-foot wide concrete sidewalk, curb and gutter, necessary longitudinal and transverse drainage, re-striping, street lighting (as necessary), pavement widening and transitions along the frontage of Boulevard Way. The Project Sponsor shall construct face of curb 17-feet from the existing striped centerline of Boulevard Way, providing a paved half-width consisting of a 12-foot wide travel lane and a 5-foot wide paved shoulder. Parking in the shoulder shall not be permitted. Striping or other pavement delineation shall be installed to clearly identify the shoulder along the Boulevard Way frontage.

59

The Project Sponsor shall extend sidewalk and pavement conformance from the southwestern limits of the project frontage to the Warren Road intersection. A curb ramp, meeting minimum County standards, shall be constructed at the terminus of the sidewalk extension at the northeastern corner of the Warren Road and Boulevard Way intersection.

60

The Project Sponsor shall construct a street-type connection with minimum 20-foot radius curb returns in lieu of a standard driveway depression at the intersection of the main on-site driveway and Boulevard Way. A standard driveway ramp may be used for the utility/emergency access driveway proposed at the eastern end of the property limits.

61

Any vehicular entrance gate shall be a minimum of 20 feet from the edge of pavement to allow vehicles to queue without obstructing through traffic. Any proposed gate and the associated improvements shall be outside the public right of way.

62. The Project Sponsor shall enter into a landscape maintenance agreement for any landscape improvements proposed within public right-of-way.

Construction Traffic

63. Prior to the start of construction-related activities, the project sponsor shall prepare a Traffic Control Plan (TCP), including a haul route, for the review and approval of the Public Works Department.

64. The Project sponsor shall perform a pre-construction survey of the roadways to be used as part of the haul route.

65. The project owner shall restore any public roads, easements, and/or rights-of-way that have been damaged due to project-related construction activities to the pre-project conditions.

Access to Adjoining Property:

Proof of Access

66. ~~The Project Sponsor shall furnish proof to the Public Works Department of the acquisition of all necessary rights of way, rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, public and private road and drainage improvements.~~

Comment [CT37]: This should be verified and confirmed by planning and public works before approval is granted.

Encroachment Permit

67. The Project Sponsor shall obtain an encroachment permit from the County's Application and Permit Center, as necessary, for construction of any improvements within the Boulevard Way or other public road rights of way.

Sight Distance

68. ~~The Project Sponsor shall provide sight distance along the curve and at the intersection of the on-site driveway(s) and Boulevard Way for a design speed of 35 miles per hour pursuant to Figure 3-8 in the Final EIR. The project sponsor shall trim vegetation, as necessary, to provide sight distance at the intersection. Any new landscaping, fencing, retaining walls, or other obstructions proposed at the intersections shall be setback to ensure that the sight lines are clear.~~

Comment [CT38]: Conflicts with existing landscape plan. See prior comments on item #69.

Parcel Map

69. ____ The Project Sponsor shall record a parcel map to merge the separate parcels.

Right of Way Dedications

70. The Project Sponsor shall dedicate on the parcel map or convey by a separate instrument, the right of way necessary to accommodate the required frontage improvements. The right of way shall be a minimum 10 feet back from the improved face of curb except east of the entrance driveway the applicant may dedicate a public utility easement for areas beyond the sidewalk. The sidewalk, bus pullout, and curb ramps must be contained within the public right of way.

Annexation to Lighting District

71. The Project Sponsor shall annex to the Community Facilities District formed for Countywide Street Light Financing (CFD 2010-1).

Utilities/ Undergrounding

72. All new utility distribution facilities shall be installed underground. ~~Existing utility poles located along Boulevard Way shall be relocated to accommodate the required frontage improvements.~~

Comment [CT39]: This creates marginal development. This must be undergrounded.

Drainage Improvements

73. Collect and Convey

The Project Sponsor shall collect and convey all storm water entering and/or originating on this property without diversion to a different watershed and within an adequate storm drainage facility, to a natural watercourse having definable bed and banks, or to an existing adequate public storm drainage facility which conveys the storm waters to a natural watercourse, in accordance with Division 914 of the Ordinance Code.

Comment [CT40]: Need verification that the drainage at the Southwest Corner of the project draining across Warren Road has been properly engineered to meet this condition.

74.

Prior to issuance of building permits or approval of the parcel map, the Project Sponsor shall submit to the Public Works Department for review, an updated drainage study and analysis that details how stormwater runoff is collected and discharged into the area wide storm drain systems. The drainage study and analysis must confirm that post-project drainage flows do not exceed pre-project flows for

the 10-year storm event.

75. The Project Sponsor shall replace the existing 12-inch diameter culvert crossing Warren Road with an 18-inch diameter pipe.

Miscellaneous Drainage Requirements

76. The Project Sponsor proposes to utilize pervious paving systems for the parking lot to reduce the stormwater runoff and maintain the post-project design flows below the pre-project levels. Since certain types of pervious paving systems become silted in and clogged over time, the applicant shall develop a long-term maintenance plan to guarantee the infiltration performance of these systems.

Comment [CT41]: How does this condition work with the landscape watering requirement, the fire truck load capacity on the pavers and the non-watering during drought years.

Provision C.3 of the National Pollutant Discharge Elimination System (NPDES) Permit

77. Improvement Plans shall be submitted to the Public Works Department to verify compliance with Provision C.3 of the National Pollutant Discharge Elimination System (NPDES) Permit and the County's Stormwater Management and Discharge Control Ordinance (§1014).
78. A final Storm Water Control Plan (SWCP) shall be submitted to and approved by the Public Works Department for consistency with Provision C.3 prior to issuance of building permits. All time and materials costs for review and preparation of the SWCP shall be borne by the project sponsor.
79. Storm water management facilities shall be subject to inspection by Public Works Department staff; all time and materials costs for inspection of stormwater management facilities shall be borne by the applicant.
80. A final Storm Water Control Operation and Maintenance Plan (O+M Plan) shall be submitted to and approved by the Public Works Department for consistency with Provision C.3 prior to final building permit inspection.

81. The property owner(s) shall enter into a standard Stormwater Management Facility Operation and Maintenance Agreement with Contra Costa County, in which the property owner(s) shall accept responsibility for operation and maintenance of the stormwater facilities and grant access to relevant public agencies for inspection of stormwater management facilities. Such an agreement shall be fully executed and recorded prior to obtaining building permits.
82. The property owner(s) shall annex the subject property into Community Facilities District (CFD) No. 2007-1 (Stormwater Management Facilities), which funds responsibilities of Contra Costa County under its NPDES Permit to oversee the ongoing operation and maintenance of stormwater facilities by property owners. Annexation to CFD 2007-1 shall be completed prior to obtaining building permits.
83. Any proposed water quality features that are designed to retain water for longer than 72 hours shall be subject to the review of the Contra Costa Mosquito & Vector Control District.

National Pollutant Discharge Elimination System

84. The Project Sponsor shall comply with all rules, regulations, and procedures of the National Pollutant Discharge Elimination Systems (NPDES) for municipal, construction and industrial activities as promulgated by the California State Water Resources Control Board and the San Francisco Bay Regional Water Quality Control Board.

Compliance shall include developing long-term best management practices (BMP's) for the reduction or elimination of storm water pollutants. The project design shall incorporate, wherever feasible, the following long-term BMP's in accordance with the Contra Costa County Clean Water Program for the site's storm water drainage:

- Minimize the amount of directly connected impervious surface area.
- Place approved markers ("No Dumping, Drains to Creek") on all storm drains.
- Construct concrete driveway weakened plane joints at angles to assist in directing runoff to landscaped/pervious areas prior to entering the street curb and gutter.
- Shallow roadside and on-site grassy swales.
- The owner shall sweep the paved portion of the site quarterly, at least once a year with a vacuum type sweeper. Verification (invoices, etc.) of the sweeping shall be provided to the County Clean Water Program Administrative Assistant at 255 Glacier Drive, Martinez CA 94553 (925) 313-2238

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- Trash bins shall be sealed to prevent leakage, OR, shall be located within a covered enclosure.
- Project Sponsor shall incorporate the use of pavers and/or pervious pavement on-site to reduce the amount of directly connected impervious surface area.
- Other alternatives, equivalent to the above, as approved by the Public Works Department.

Area of Benefit Fee Ordinance

85. ~~The Project Sponsor~~ shall comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the South Walnut Creek Area of Benefit, as adopted by the Board of Supervisors. This fee shall be paid prior to the issuance of a building permit.
86. ~~The applicant~~ shall comply with all mitigation measures recommended in the Final EIR, and with the Mitigation Monitoring and Reporting Program for Project Variant B.

ADVISORY NOTES

A. NOTICE OF 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

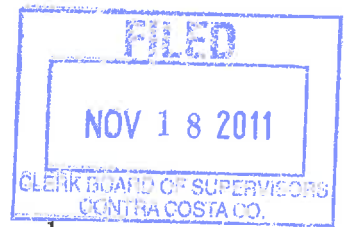
This notice is intended to advise the project sponsor that pursuant to Government Code Section 66000, et seq., the project sponsor has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a 90-day period after the project is approved.

The ninety (90)-day period in which you may protest the amount of any fee or the imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the Community Development Department within 90 days of the approval date of this permit.

- B.** Project must comply with the requirements of the Contra Costa County Department of Conservation & Development — Building Inspection Division. The Building Inspection Division will require three complete sets of plans that are approved by the Community Development Division.
- C.** Project must comply with the requirements of the California Department of Fish & Game. It is the Project Sponsor's responsibility to notify CDFG (P.O. Box 47, Yountville, California 94599) of any activities that may affect any fish and wildlife resources, per the Fish and Game Code.
- D.** Comply with the requirements of the Central Contra Costa Sanitary District,

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- E. Comply with the requirements of the East Bay Municipal Utility District,
- F. Project must comply with the requirements of the County Health Services Department, Hazardous Material Division.
- G. Project must comply with the requirements of the Bay Area Air Quality Management District.
- H. Project must comply with the requirements of the Regional Water Quality Control Board.
- I. Project must comply with the requirements of the Contra Costa County Fire Protection District.



Appeal of
Planning Commission FEIR Certification and Approval
for
Sufism Reoriented Land Use Permit and Minor Subdivision
County Files LP08-2034 and MS09-0008

We, the undersigned, appeal:

- 1) The certification of the Final Environmental Impact Report as adequate and complete;
- 2) The finding that the seven conditions necessary for a Land Use Permit were met; and
- 3) The approval of the Minor Subdivision.

Our appeal is based on the abridgement of our due process right to speak to all three issues which was impossible within a single, three-minute time frame. The Contra Costa County Planning Commission's procedure of holding one hearing to consider both the approval of the FEIR and the entirety of the project deprived the public of its right to be fully heard.

Saranap Homeowner's Organization, through its attorney, requested that, at a minimum, the approval of the FEIR be considered separately from the approval of the Land Use Permit and the Minor Subdivision.ⁱ Since this was ignored, speakers had to choose which one of the above three issues to address.

Only allowing individuals to speak for three minutes, and only allowing individuals to speak at one of the three hearings held by the Planning Commission, created a situation where it was impossible to address the adequacy of the FEIR, how the proposed Land Use Permit failed to meet the seven required findings, or how the 86 proposed conditions of approval need to be modified or additional conditions added.

The errors and omissions in the 878-page FEIR and its 1,370 pages of appendices are numerous.ⁱⁱ Also, the fact that the County staff did not follow the specifications of the County's Off-Street Parking Ordinance had to be addressed.ⁱⁱⁱ

The 86 conditions were not even released to the public until eight calendar days before the first hearing. People who were not on the Planning Commission notification list had even less time to find out that the proposed conditions were being released. When asked, the County staff informed those inquiring that the public would not be allowed to submit written material for inclusion in the October 18 Planning Commission packet because the deadline for submissions preceded the release of the conditions.

Each speaker's due process right was also impaired because the meeting room in which the hearings were held was not conducive to the showing of single or multiple graphic materials. The public was restricted from having its materials shown on the electronic display used by staff or hooking into the electronic Audio-Visual system in any way. Handing a small-format drawing to Commissioners limited interactive presentation of how maps, drawings, or diagrams were inaccurate or incomplete.

Appeal of
Planning Commission FEIR Certification and Approval
for
Sufism Reoriented Land Use Permit and Minor Subdivision
County Files LP08-2034 and MS09-0008

We, the undersigned, appeal 1) certification of the Final Environmental Impact Report as adequate and complete and 2) approval of the Land Use Permit and Minor Subdivision.

Name

Address

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November 18, 2011

Appeal of
Planning Commission FEIR Certification and Approval
for
Sufism Reoriented Land Use Permit and Minor Subdivision
County Files LP08-2034 and MS09-0008

i Stuart Flashman email to Lashun Cross, dated October 11, 2011.

ii Examples of Errors and Omissions in the FEIR

Figures 3-8, 3-9, 3-10 - Sight distance and landscape drawings do not depict the final location of the applicant's exterior wall, thereby hampering the public's ability to check sight distance calculations. This could only be determined by meeting with County staff well into the hearing process and requesting an exact explanation of how to interpret the drawing. The final location of the proposed fence cannot be determined by reading the drawings included in the FEIR.

Sight distance available to drivers vehicles entering and exiting the proposed project entrance is not discussed in any text within the FEIR, nor displayed on any figure.

Figure 3-12 – GrassPave2 is incorrectly shown in areas not permitted by the Fire Department despite this being pointed out in comments on the DEIR. Again, the public had to spend its time requesting that this item be fixed.

The FEIR admits on Volume 2, page 2-27, that the applicant's proposal does meet minimum ADA parking requirements. In comments on the DEIR, it was requested that the inadequacy of ADA parking be fixed in the FEIR. This was not done. Given the tight layout of the proposed parking lot, it was reasonable to ask that this be shown in the FEIR, as the public contends that the ADA spaces cannot be accommodated on site without a variance. The public objects to this issue being deferred to the plan check stage which will not be open to public comment.

Parking calculations in the FEIR do not follow the County code for assembly halls. The County's supposed practice of not following its own code is not fully documented, nor are examples given where the County did not use the gross floor area of the entire room in which a worship area. Pillars spaced 8-9 feet apart are not a wall and do not sufficiently enclose the center prayer area. If the applicant were to change the pillars into a wall separating the Prayer Hall center area from the Prayer Hall foyers, it would be legal and consistent to only use the center area to determine the parking requirement.

Excavation and hauling calculations do not indicate enough underlying assumptions for the public's analysis. This becomes very important since the original and supplemental geotechnical reports indicate two different foundation systems. The one in the supplemental report requires more excavation during a slower process. The FEIR does not indicate how much the excavation and related activities would change due to the differing foundations systems. Also, since an earlier estimate by

the EIR preparer, done prior to writing the EIR, showed a much greater amount of excavation, a greater number of truck trips, and excavation occurring over six months instead of the 55 days shown in the EIR. The absence of information about assumptions makes it impossible to detect whether the data in the EIR are reasonable.

There are inconsistencies between the TDM plan and the FEIR regarding the amount of marked, legal parking spaces at the Meher School.

Worst Case Scenario Traffic Analysis developed for FEIR not reflecting past practice of Sufism Reoriented of inviting the public to events where no pre-registration is required. Sufism Reoriented has stated in Ira Deitrick's Oct 21, 2011 letter to the Planning Commission that they plan to continue to host Halloween parties within the neighborhood. The impacts of neighborhood Halloween parties should be evaluated at the time of this project approval since the Applicant has indicated within the same letter that all of their activities should be located at one place and since it would appear that their only reason for holding the Halloween party in a different location would be to subvert the consideration of the parking requirements for the Halloween party in the proposed project approval process. The FEIR also did not consider parking requirements for the Meher Graduation Dinner parties which the Applicant claims will be held at their proposed sanctuary facility. Since most Meher School graduates are not the children of members of Sufism Reoriented (it was mentioned by the leader of the Meher School that only 4 current students are the children of members of Sufism Reoriented), the TDM plan should cover these planned quasi-public events or more adequate parking should be provided. The ability of the TDM plan to reduce required parking spaces is based on attendance by members only. This last year the Applicant held their Halloween party at the Meher School playground and parking in the Lafayette neighborhood surrounding the Meher School was highly impacted with no one being able to park on the street when visiting someone who lived in the area. Contra Costa County should not be able to push off the impacts of the events of the Applicant to another jurisdiction in order to avoid obtaining a public event permit from the County or from having the impacts of their planned events studied in the FEIR.

Appendix Q - Defects in the letter agreement between the Meher School and Sufism Reoriented which guarantee parking for the Sanctuary Project, such as the fact that the contract between the Meher School and the Lafayette School District does not give the school the authority to subcontract to another party, and that the school does not have the right to obligate the property for a non educational use. Also, the letter agreement is defective because it obligates the property for 365 days a year in perpetuity, a right which the Meher School does not have.

Discrepancies between the stated number of parking spaces at the Meher school according to the TDM plan (40) and the FEIR (63) and the proposed conditions of approval (54).

Having zero ADA parking spaces at Meher School lot is not reported or considered.

Shuttle bus plan for Meher School lot does not include information about how ADA transfers will be handled. The Meher lot includes no seating for the disabled, no ADA parking zones for wheelchair users, no shuttle bus loading zones, etc. Nor, is

any information provided about the planned shuttle bus route through the neighborhood.

Lack of sufficient parking

Lack of sufficient alternatives – By combining the Reduced Development Alternative and the Alternate Site Alternative and considering them as one alternative, the County said that this alternative could not meet the project objectives. If these alternatives had been considered separately, they would have met the CEQA tests for meeting most, but not all of the project objectives.

- iii Section 82-16 of the Contra Costa County Off-Street Parking Ordinance specifies 1 parking place for each 40 square feet of gross floor area. The analysis in the FEIR is based on less than half of the square footage of the room in which the prayer area is located.