

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA
and for Special Districts, Agencies and Authorities Governed by the Board

Adopted this Resolution on 02/21/2012 by the following vote:

AYES: ☐

NOES: ☐

ABSENT: ☐

ABSTAIN: ☐

RECUSE: ☐



Resolution No. 2012/68

In the Matter Of: A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, APPROVING A LAND USE PERMIT WITH THE REMOVAL OF TREES, PARKING REDUCTION BASED ON TRANSPORTATION DEMAND MANAGEMENT PROGRAM AND MINOR SUBDIVISION FOR THE MERGING OF SEVEN LOTS INTO ONE PARCEL FOR THE CONSTRUCTION OF THE SUFISM REORIENTED 66,074 SQUARE FOOT RELIGIOUS SANCTUARY IN THE WALNUT CREEK AREA AND DENYING APPEALS OF THE COUNTY PLANNING COMMISSION'S DECISION TO APPROVE THE PROJECT. (DISTRICT II)

WHEREAS, Sufism Reoriented (Applicant and Owner) propose development of a 66,074 square foot religious sanctuary on 3.12 acres located off of Boulevard Way and Warren Road at 11 White Horse Court, 1354, 1360, 1364, 1366, and 1384 Boulevard Way within the (Saranap) Walnut Creek area in Contra Costa County, for which applications (County File #s LP082034 and MS090008) were received on July 3, 2008; and

WHEREAS, a Notice of Preparation of an Environmental Impact Report (EIR) was distributed by the Community Development Division on March 9, 2010 and on Monday, March 22, 2010 the County held a scoping session on the project in Martinez; and

WHEREAS, for purposes of compliance with the provisions of the California Environmental Quality Act (CEQA) and the State and County CEQA Guidelines, a Draft Environmental Impact Report (Draft EIR) was prepared and circulated for review and comments between March 29, 2011 and May 3, 2011; and

WHEREAS, on Monday, April 18, 2011 the County Zoning Administrator held a public hearing in Martinez to provide further opportunity for public comments on the Draft EIR. On April 26, 2011 the public comment period was extended to May 27, 2011; and

WHEREAS, following the close of the public comment period on the Draft EIR, the County prepared written responses to the comments received and in September of 2011, the County published the Final Environmental Impact Report (Final EIR) which provides a reasoned and/or master responses to all comments received during the comment period that raised significant environmental issues; and

WHEREAS, a open public hearing was held before the Zoning Administrator on October 3, 2011 for consideration of certification of the Final EIR where additional testimony was heard.

WHEREAS, having fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter, the Zoning Administrator recommended that the County Planning Commission certify the EIR with the addition of a chart in Volume I of the Final EIR listing the changes made from the Draft EIR.

WHEREAS, after notice having been fully given, a public hearing was scheduled before the County Planning Commission on Tuesday, October 18, 2011 with continued hearings held on October 25, 2011, November 1, 2011 and November 8, 2011, where all persons interested therein might appear and be heard; and

WHEREAS, after having fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter, the County Planning Commission approved the land use and tree permit and minor subdivision for the Sufism Reoriented religious sanctuary with added and modified conditions of approval; and

WHEREAS, on November 18, 2011 the Department of Conservation & Development received eleven appeals of various aspects of the County Planning Commission's decision to approve the project; and

WHEREAS, after notice having been lawfully given, a public hearing was scheduled before the County Board of Supervisors on Tuesday, February 21, 2012, where all persons interested therein might appear and be heard; and

WHEREAS, additional information was submitted to the County after publication of the Final EIR regarding environmental impacts, including reports from staff and from the County's environmental consultant; and

WHEREAS, after having fully reviewed, considered and evaluated all the testimony and evidence submitted in this matter;

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors ("this Board") adopts the following findings and takes the following actions:

FINDS that on the basis of the whole record before the County, including the EIR, 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 30 Muir Rd. Martinez, CA) is the custodian of the documents and other material which constitutes the record of proceedings upon which this decision is based all as set forth in the CEQA findings attached to this resolution and incorporated by this reference.

GRANTS the appeal of Sufism Reoriented based on a revised condition of approval addressing the number of trucks on-site during construction.

DENIES the appeals submitted by Saranap Homeowners Organization, Sherilyn Fry, Marvin and Carol Rasmussen, Mark Redmond, Patricia Perry, Steven Siegal, Terrence Barnum, Sally Wood and I. Harold Houseley, Curtis and Deborah Trenor, and Robert Nuzum et al.

UPHOLDS the November 8, 2011 County Planning Commission's approval of County File # LP08-2034 and #MS09-0008, certification of EIR and adoption of CEQA findings.

APPROVES land use permit with tree removal, parking reductions based upon transportation demand management program, and minor subdivision.

The Board of Supervisors of Contra Costa County RESOLVES that the reasons for this Board's actions are based on the following findings:

A. Project Findings

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 EIR. All infrastructure and service will be reviewed and approved by the District. The project must comply with the model landscaping ordinance as adopted by this County, which must be reviewed and approved by the Community Development Division prior to approval of plans.

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 opportunities, so no population growth is expected, therefore no impact to existing parks and recreation facilities. The completed landscaped grounds proposed for the sanctuary is an additional source for a park setting within the neighborhood.

7. Flood Control and Drainage: The site is located within Flood Zone X, which is not within the 100-year flood plain. The project has been reviewed by the Public Works Department and shall be required to comply with the drainage and water quality (C.3) requirements. 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 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 project is within the boundaries of existing developed parcels and will consolidate the existing parcels for construction. The project is located at the edge of the R-10 residential district, and provides a transition from development further east along Boulevard Way, which itself transitions from semi-industrial to office to multifamily and neighborhood business, to the single family homes in the R-10 district. The Project Site is along an arterial, close to two freeways, and a short distance from the dense development of downtown Walnut Creek. It is therefore an appropriate location for this project. All findings adopted for this approval demonstrates that 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 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 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. All findings adopted for this approval demonstrate that the project will not 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. The project promotes General Plan provisions regarding growth management, Measure C, and air quality protection through the TDM plan. The project complies with the County General Plan. All findings adopted for this approval demonstrate that the project will not adversely affect the policy and goals as set by the General Plan.

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, off-site parking and monitoring of the project by the Department of Conservation and Development and several conditions of approval will be in place to further ensure the project will 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. Sufism Reoriented has been conducting its religious activities at 1300 Boulevard Way, a short distance down the street from the project site for decades without creating a nuisance and/or enforcement problem within the neighborhood related to those current activities. Based on the above, based on all findings adopted for this approval 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 has operated at 1300 Boulevard Way for the past 36 years. This project has not encouraged marginal development. The use permit for the facility will be privately owned and maintained. Therefore, there is no substantial evidence that the project will result in marginal development in the neighborhood and all findings adopted for this approval demonstrate that fact.

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

Project Finding: The applicant had indicated no other parcels in the area are available for the project that are large enough or that could comprise contiguous separate parcels that could be combined into one larger project site. Several hundred members of Sufism Reoriented (approximately two thirds of its membership) reside within half mile of the project site. 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. All the findings adopted for this approval demonstrate that there are unique characteristics of the property and its location.

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 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 Board is satisfied that the following factors as provided by County Code Section 816-6.8010 for granting a tree permit have been satisfied:

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.

Where the arborist or forester report has been required, and the Deputy Director of the Community Development

Division is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.

2. Factors for Denying a Tree Permit. The Board is satisfied that none of the factors as provided by County Code Section 816-6.8010 for denying (or modifying) a tree permit application apply to this Project.

E. CEQA FINDINGS

The Board adopts the following findings for certification of the EIR and approval of a modification of Variant B of the New Sanctuary For Sufism Reoriented project pursuant to the California Environmental Quality Act, California Public Resources Code, Sections 21000, et seq. the Guidelines for Implementation of CEQA, Title 14 of the California Code of Regulations, Sections 15000, et seq. ("CEQA Guidelines") and the County's CEQA Guidelines.

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15091, no public agency shall approve and carry out a project where an Environmental Impact Report (the "EIR") has been certified, which identifies one or more significant impacts on the environment that would occur if the project is approved, unless the public agency makes one or more findings for each of those significant impacts, accompanied by a brief explanation of the rationale for each finding. The possible findings, which must be supported by substantial evidence in the record, are:

- a. Changes or alterations have been required in, or incorporated into, the project that mitigation or avoid the significant impact on the environment.
- b. Changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
- c. Specific economic, legal, social, technological or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR. For those significant impacts that cannot be mitigated to below a level of significance, the public agency is required to find that specific overriding economic, legal, social, technological or other benefits of the project outweigh the significant impacts of the projects. The New Sanctuary for Sufism Reoriented Project did not present any significant impacts that cannot be mitigated below to a less-than-significant impact level.

Project and EIR. The Project is a new religious facility (sanctuary) on approximately 3.12 acres in the Saranap neighborhood of unincorporated Walnut Creek. The Project includes 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 (approximately two-thirds of the building) would be located below ground, including the administrative offices, bookstore, art studio, art storage, chorus rehearsal, video and audio post 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 underground space includes approximately 13,800 square feet of the 44,074 square feet are open areas referenced as a rotunda, plaza, and east and west galleries (hallway), and a grand staircase

The Project Site would be further developed with a plaza, parking area, and landscaping. Further details are provided in Chapter 3 of the EIR. The term "Project" as used in these findings refers to the Project as described in the EIR. That project has two variants: Variant A is the project as proposed by the applicant. Variant B adds frontage and additional sidewalk improvements recommended by the County Public Works Department. These findings pertain to approval of Variant B, slightly modified.

Sufism Reoriented's current sanctuary is located at 1300 Boulevard Way. Upon construction of the new sanctuary, Sufism Reoriented would cease its use of 1300 Boulevard Way, selling or leasing that property to an unknown user.

The Department of Conservation and Development determined that an EIR was required for the Project. Accordingly, the County, as lead agency for this Project, distributed a Notice of Preparation on March 9, 2010. The Draft EIR, State Clearinghouse Number 2010032038, was released for public review on March 29, 2011. The initial comment period was scheduled for 45 days ending on May 13, 2011. A public hearing before the Zoning Administrator to receive comments on the Draft EIR was held on April 18, 2011. During the public hearing several members of the public requested an extension of the time. On April 26, 2011, the Department distributed a revised notice extending the period to receive comments to May 27, 2011.

The Final EIR was published and distributed in September of 2011. The Zoning Administrator held a hearing on October 3, 2011 and recommended certification of the EIR. The Zoning Administrator recommended that a chart be prepared that indicates where revisions to text can be found in the Final EIR. On September 27, 2011, the applicant's counsel submitted a letter addressing alternatives and identifying where in the "Final EIR Vol. I – Revised Draft EIR" revisions to the text of the Draft EIR could be found. The County's consultant have peer-reviewed that chart, determined its accuracy, and County staff has made it available to the public online at <http://www.cccounty.us/DocumentCenterii.aspx?FID=621>.

The "EIR" as referenced in these findings includes the Draft EIR (and its appendices) as supplemented and revised by the Final EIR, and the Final EIR (and its appendices). It also includes supplemental materials presented by staff at the hearings before the County Planning Commission and the Board, insofar as those presentations relate to environmental and other issues included in the EIR. The Final EIR contains a Volume 1 that restates and revises some text, figures and tables of the Draft EIR. When these findings refer to sections, tables, figures or text of the EIR, and unless the context clearly indicates otherwise, these findings refer to the revised versions in Volume I of the Final EIR.

The EIR identifies potentially significant environmental impacts that would occur if the Project were implemented, and feasible mitigation measures would reduce all of the potentially significant impacts to less than significant levels. The EIR provides a comprehensive analysis of the Project's impacts, and cumulative impacts to which the Project would contribute. The EIR includes responses to all written and oral comments received during the comment period, and provides adequate, good faith, and reasoned responses to all comments raising significant environmental issues.

The EIR also addresses a reasonable range of alternatives. Evidence regarding the range of alternatives, and the evidence indicating that offsite and reduced development alternatives were not studied in detail because they would not achieve most of the Project objectives is in the EIR and in the record. The Board adopts the analysis and conclusions of the EIR and bases its decision upon the evidence contained in and referenced in the EIR and its appendices. The Board further concludes that in these unique circumstances the No Project/ No Build alternative represents a reduced density and off site alternative.

The Board also finds that, while no projection of future circumstances can be certain, the program of activities in Table 3-1 represents a reasonable projection of future activities, and it is that reasonable projection that informed the analysis of impacts. This conclusion is based upon the information and analysis in the EIR and in the applicant's letter of June 30, 2011. The conditions of approval and mitigation measures are tied to the proposed program of activities in that the conditions and mitigation measures ensure that there will likely be no greater or more severe significant impacts from actual activities than would occur from implementation of the program of activities in Table 3-1.

The comprehensive analysis in the EIR provides the Board with the necessary information required by the California Environmental Quality Act (CEQA) to properly analyze and evaluate any and all of the potential environmental impacts of the Project.

Certification of EIR. The Board finds that the EIR has been completed in compliance with CEQA; that the Board reviewed and considered the information contained in the EIR prior to approving the project; and the EIR reflects the County's independent judgment and analysis.

No Recirculation Is Required. CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR but before certification of the Final EIR. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. The Guidelines provide examples of significant new information under this standard, which involve evidence of a new or more severe significant impact, all as more specifically set forth in section 1.3 of the EIR.

The Board recognizes that the Final EIR incorporates information obtained since the Draft EIR was completed, and contains additions, clarifications, modifications, and other changes. These include information regarding trees that have grown since the original studies were undertaken in 2009, and additional information about drainage and

hydrology contained in Appendix R and in the applicant's June 30, 2011 submittal to the County. Various minor changes and edits have been made to the mitigation measures, text, tables and figures of the Draft EIR, as described in the Final EIR. Information that confirms the conclusions of the Draft EIR has been provided in response to comments, and mitigation measures have been edited for clarity, feasibility and to strengthen them. This information confirms and provides additional support for the conclusions of the Draft EIR, and further confirms that impacts will remain less than significant.

The Board also recognized that the project that is approved varies slightly from Variant B of the Project studied in the EIR, as it incorporates mitigation measures, further refinements and details that have been developed since the Draft EIR was published, and reflects the factors regarding project refinement that are described in response to comment 21.3. It is normal and expected that a project is submitted in a conceptual form and that design is refined as the construction drawings are completed. Refinements to the Project do not trigger recirculation unless they involve one of the factors referenced above.

Based on the foregoing, and having reviewed the information contained in the EIR and in the documents comprising the administrative record the Board finds that no significant new information has been added since public notice was given of the availability of the Draft EIR that would require recirculation of the EIR.

Differences of Opinion Regarding Environmental Analysis. In making its determination to certify the Final EIR and to approve the Project, the Board recognizes that both the Project studied in the EIR and the project approved involve controversial environmental issues and that a range of technical and scientific opinion exists with respect to those issues. The Board has acquired an understanding of the range of this technical and scientific opinion by its review of the Draft EIR, the comments received on the Draft EIR and the responses to those comments in the Final EIR, as well as other testimony, letters, and reports submitted for the record. The Board recognizes that some of the comments submitted on the EIR, and at the hearings held on this Project, disagree with the conclusions, analysis, methodology and factual bases stated in the EIR. The EIR was prepared by experts, and some of these comments also were from experts, thus creating an disagreement among experts. The Board also acknowledges the testimony and written materials presented to the County (including the Planning Commission and this Board), claiming that the environmental analysis is inadequate or that the EIR reaches incorrect conclusions.

The Board has reviewed and considered, as a whole, the evidence and analysis presented in the EIR and in the record, and has gained a comprehensive and well-rounded understanding of the environmental issues presented by the Project. In turn, this understanding has enabled the Board to make its decisions after weighting and considering the various viewpoints on these important issues.

Impact Conclusions and Mitigation Measures Exhibit 1 (the summary of impacts, mitigation measures and resulting levels of significance that appears as Table 2-1 in the EIR) is attached to these findings and incorporated herein by reference. Exhibit 1 summarizes the environmental determinations of the EIR about the Project's impacts and describes mitigation measures. This exhibit does not attempt to describe the full analysis of each environmental impact contained in the EIR. Instead, Exhibit 1 provides a summary description of each impact, describes the applicable mitigation measures identified in the EIR and adopted by the Board, and states the Board's findings on the significance of each impact after imposition of the adopted mitigation measures. A full explanation of these environmental findings and conclusions can be found in the EIR. The Board ratifies, adopts, and incorporates the analysis and explanation in the EIR, and ratifies, adopts, and incorporates in these findings the determinations and conclusions of the EIR relating to environmental impacts and mitigation measures. These findings are based upon the evidence contained in and referenced in the EIR, in staff reports, in the submittals from the applicant, and on the record as a whole.

Exhibit 2 (the Mitigation, Monitoring and Reporting Program that appears as Chapter 4.0 in Volume II of the Final EIR) is attached to these findings, is hereby adopted by the Board, insofar as the mitigation measures pertain to Variant B, and is incorporated into these findings. The mitigation measures set forth in Exhibit 2 will feasibly reduce or avoid the potentially significant and significant impacts of the Project to less than significant levels, and will reduce some less-than-significant impacts as well. In adopting these mitigation measures, the Board intends to adopt each of the mitigation measures identified by the EIR, while recognizing that there are some measures, which by their terms are applicable only to Variant A of the Project and thus are not applicable to the project approved by this Board.

Accordingly, in the event a mitigation measure recommended in the EIR and applicable to Variant B has inadvertently been omitted from Exhibit 2, such mitigation measure is hereby adopted and incorporated in these findings by reference. In addition, in the event the language describing a mitigation measure set forth in Exhibit 2 fails to accurately reflect the substance of the mitigation measures in the EIR due to a clerical error, the language of the mitigation measure as set forth in the EIR shall control, unless the language of the mitigation measure has been specifically and expressly modified by these findings. Some language has been modified to reflect County practices and procedures regarding department approval processes, and to reflect technical details of the project that do not substantively affect the mitigation of impacts.

The Board finds that changes or alterations have been required in, or incorporated into, the Project which feasibly avoid or substantially lessen the significant environmental effects on the environment. As shown in Exhibit 2, primary responsibility for implementation, monitoring and enforcement of all mitigation measures except one lies with the County. The agency responsible for Mitigation Measure 4.14-1 is EBMUD. Other agencies may play a role in approving the project. For example, there may be consultation with the Regional Water Quality Control Board regarding stormwater plans and other water quality aspects of the Project, and resource agencies may become involved should any resource issues need their input as a result of pre-construction surveys. To these extent participation by other agencies involves discretionary approvals that implicate mitigation measures, and with respect to Mitigation Measure 4.14-1, the Board finds that mitigation measures are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

In comments on the Draft EIR, commenters proposed additional mitigation measures or modifications to the mitigation measures identified by the EIR. Some of the EIR's mitigation measures were modified in response to such comments. Other comments requested minor modifications in mitigation measures identified in the Draft EIR, requested mitigation measures for impacts that were less than significant, or requested additional mitigation measures for impacts as to which the Draft EIR identified mitigation measures that would reduce the identified impact to a less-than-significant level; these requests are declined as unnecessary. With respect to the additional measures suggested by commenters that were not added to the EIR, the Board adopts the reasons set forth in the responses to comments contained in the EIR as its grounds for rejecting adoption of these mitigation measures. The alternative and additional mitigation measures are not necessary to reduce impacts to a less than significant level, some would have imposed requirements on this Project that are not generally imposed on similar projects in the County, and some purported to address an impact that was not potentially significant.

The Administrative Record. Various documents and other materials constitute the record upon which the Board bases these findings and the approvals contained herein. These findings cite specific pieces of evidence, but none of the Board's findings are based solely on those pieces of evidence. These findings are adopted based upon the entire record, and the Board intends to rely upon all supporting evidence in the record for each of its findings.

The location and custodian of the documents and materials that comprise the record is Contra Costa County, Department of Conservation & Development, Attn: Lashun Cross, 30 Muir Road, Martinez, CA, 94553, telephone (925) 674-7786.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

**Contact: Lashun Cross,
925-674-7786**

ATTESTED: February 21, 2012

David J. Twa, County Administrator and Clerk of the Board of Supervisors

By: , Deputy

CC: