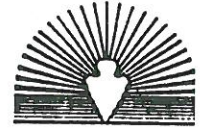




LAND USE SERVICES DEPARTMENT

PLANNING DIVISION

PLANNING COMMISSION STAFF REPORT



HEARING DATE: February 7, 2013

AGENDA ITEM # 4

Project Description

Vicinity Map 

APN: 1013-072-02-0000
Applicant: CAROL YONAN AND DIANE SCHUMANN
Community: CHINO/4TH SUPERVISORIAL DISTRICT
Location: 4797 PHILLIPS BLVD, SOUTH SIDE
 APPROX. 330' EAST OF YORBA AVE.
Project No: P201200356/APLPCAVG
Staff: HEIDI DURON
Proposal: APPEAL TO THE PLANNING COMMISSION OF
 STAFF'S DECISION TO APPROVE A TEMPORARY
 USE PERMIT FOR 12 MONTHS TO ESTABLISH A
 PLACE OF WORSHIP WITHIN AN EXISTING 2,200
 SQUARE FOOT RESIDENTIAL STRUCTURE FOR
 A MAXIMUM OF 30 PEOPLE ON 1.54 ACRES.



33 Hearing Notices Sent On: January 24, 2013
 P.C. Field Inspection Date: December 2, 2011

Report Prepared By: Heidi Duron
 Field Inspected By: Commissioner Rider

SITE INFORMATION:

Parcel Size: 1.54 acres
Terrain: Generally flat
Vegetation: Native vegetation

SURROUNDING LAND DESCRIPTION:

AREA	EXISTING LAND USE	OFFICIAL LAND USE DISTRICT
Site	Single-family Residence	Single Residential 1-acre minimum lots (RS-1)
North	Single Family Residence	Single Residential (RS)
South	Single Family Residence	Single Residential 1-acre minimum lots (RS-1)
East	Single Family Residence	Single Residential 1-acre minimum lots (RS-1)
West	Single Family Residence	Single Residential 1-acre minimum lots (RS-1)

City Sphere of Influence:
 Water Service:
 Septic Service:

AGENCY
 City of Chino
 Monte Vista Water District
 EHS - On-site system

COMMENT
 Referral not required
 Already Served
 With Conditions

STAFF RECOMMENDATION: That the Planning Commission **DENY** the Appeal and **UPHOLD** Staff's conditional approval of an Interim Operation Temporary Use Permit.

In accordance with Section 86.08.010 of the Development Code, action by the Planning Commission may be appealed to the Board of Supervisors.

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PROJECT DESCRIPTION:

On September 7, 2012, Staff conditionally approved an Interim Operation Temporary Use Permit (TUP) to establish a temporary place of worship within an existing 2,200 square-foot residential structure on 1.54 acres (Project). The Project is approved for a maximum occupancy of 30 persons, which will be utilized for daily prayers during the hours of: 5:00 a.m. – 6:00 a.m., 1:00 p.m. – 2:00 p.m., 3:00 p.m. – 4:00 p.m., 6:00 p.m. – 7:00 p.m., and 8:00 p.m. – 9:00 p.m. The Project site is located on the south side of Phillips Boulevard, approximately 330 feet east of Yorba Avenue within the sphere of the City of the Chino in the Fourth Supervisorial District.

A Conditional Use Permit (CUP) to establish a 7,512 square-foot religious center on this same site was approved by the San Bernardino County Board of Supervisors (Board) on February 28, 2012. In compliance with the San Bernardino County Development Code [§ 84.25.060(a)], a Temporary Use Permit may be issued for the interim operation of any use requiring a Conditional Use Permit provided the review authority makes the findings required for approval of a Conditional Use Permit.

BACKGROUND:

The Planning Commission conducted a hearing on December 8, 2011, and conditionally approved an application for a Conditional Use Permit (CUP) to establish a 7,512 square-foot religious center on 1.54 acres. The existing Project structure would be demolished and replaced with this permanent facility which includes a 1,836 square-foot prayer hall, with a maximum occupancy of 262 persons, which will be utilized for daily prayers during the hours of: 5:00 a.m. – 6:00 a.m., 1:00 p.m. – 2:00 p.m., 3:00 p.m. – 4:00 p.m., 6:00 p.m. – 7:00 p.m., and 8:00 p.m. – 9:00 p.m.

The Planning Commission action was appealed to the Board. The Board conditionally approved the Project on February 28, 2012, following the adoption of a Mitigated Negative Declaration ("MND"). Subsequently, a neighborhood group, Save Our Uniquely Rural Community Environment (SOURCE), filed a lawsuit challenging the County's approval of the Project on the basis that the County failed to comply with the California Environmental Quality Act (CEQA). SOURCE contended that there was substantial record in the administrative record supporting a fair argument that the Project may have a significant effect on the environment in the areas of sanitation, traffic, drainage, air quality and emissions, aesthetics and noise, so that an Environmental Impact Statement (EIR) would be required. On December 24, 2012, the Court issued its ruling finding that the approval was in compliance with CEQA in all aspects except for sanitation. Although a final ruling has not yet issued, it is likely that the County will be required to set aside the environmental finding and the CUP and prepare an analysis of sanitation that complies with CEQA.

APPEAL:

On September 17, 2012, two residents of the neighborhood, in which the Project is located, filed a timely appeal of the County staff action to approve interim operation of a

place of worship in the existing residence on the site. The following are the material issues raised in the appeal:

TUP Conditions of Approval

Appellants' Contention: The numerous conditions set forth in the Conditions of Approval should have been met before the TUP was granted. Some of the conditions appear impossible to meet, and there are no provisions to enforce compliance. Illegal gatherings have been held at the property and complaints to the San Bernardino County Sheriff and Code Enforcement Division have been ignored.

Staff Response: The TUP was given *conditional approval* by Staff, and does not authorize any occupancy of the structure for the use described above, unless the conditions have been met. Conditions are imposed to ensure conformance of the use with the County Development Code and applicable development standards, both prior to and as a part of the operation. Due to the nature of the request for a temporary use, certain development requirements need to be documented and verified by the responsible agency prior to authorizing the use of the site.

The structure at the project site remains a single-family residence, which fact accords the owner the right to use it within the parameters of that legally established use. As such, there is the possibility of a degree of overlap between uses common to single family residences and the more intense uses contemplated by the TUP. The County will receive and evaluate complaints, but that does not mean that enforcement actions are necessarily justified. This also applies to compliance with the conditions of operation and procedures issued as a part of the TUP.

TUP Compliance with the San Bernardino County Development Code

Appellants' Contention: The TUP does not fall into any of the exempt categories or allowable categories for granting a TUP.

Staff Response: In compliance with the San Bernardino County Development Code [§ 84.25.060(a)], a Temporary Use Permit may be issued for the interim operation of any use requiring a Conditional Use Permit for a period of time not to exceed 12 months, provided the Temporary Use Permit does not authorize the construction or establishment of new permanent structures and the review authority makes the findings required for approval of a Conditional Use Permit in compliance with Chapter 85.06 (Conditional Use Permit/Minor Use Permit). The Project satisfies these criteria in every respect.

California Environmental Quality Act (CEQA) Compliance

Appellants' Contention: CEQA requires public agencies to assess the environmental impact of actions prior to making any decisions that may have a significant impact on the environment. A discretionary project cannot be approved without performing environmental review under CEQA. The granting of the TUP creates a CEQA violation.

Staff Response: Pursuant to CEQA, a Class 1 Categorical Exemption (15301 Use or Minor Alteration to Existing Facilities) consists of the operation of existing structures

involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. A Class 3 Exemption (Conversion of Small Structures) provides for the conversion of existing small structures from one use to another where only minor modifications are made to the structure. The TUP proposes to establish a temporary place of worship within the existing 2,200 square-foot residential structure with a maximum occupancy of 30 persons. In coordination with County Building and Safety, it was determined that there are no new construction requirements, as the threshold for an assembly occupancy is 50 persons. As such, the proposed temporary use of the existing structure qualifies for both Class 1 and Class 3 Categorical Exemptions.

Although the employment of these Categorical Exemptions is appropriate, it should be noted that a categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. Staff does not believe that this exception applies. The Planning Commission conducted a hearing on December 8, 2011, and conditionally approved an application for a CUP to establish a much larger (7,512 square-foot) religious center with a maximum occupancy of 262 persons on the site. Upon appeal, the County Board of Supervisors approved the Project on February 28, 2012, following the adoption of a Mitigated Negative Declaration (MND). Subsequently, a lawsuit was filed challenging the County's approval of the Project on the basis that the County failed to comply with CEQA. The court's ruling found that the MND adequately evaluated every potential environmental impact, with the exception of sewage disposal.

In regards to the issue of sewage disposal, the TUP proposal was reviewed by the County's Department of Public Health, Division of Environmental Health Services (EHS). The Conditions of Approval for the TUP require certification of the existing septic system to verify that the system functions properly, meets code, and has the capacity required for the proposed interim use. A Private Sewage Disposal System Certification was provided to EHS indicating the tank capacity to be 1,200 gallons. Based on the California Plumbing Code, flows from religious facilities require capacity of 7 gallons per seat for facilities with kitchens. With a 1,200 gallon septic tank, 114 people (with kitchen) can visit the center per day. The project has been conditioned accordingly, and therefore, the Project will not have a significant effect on the environment and qualifies for categorical exemptions under CEQA.

Notice of the TUP Approval

Appellants' Contention: The appellants repeatedly asked to be notified of any granting of a TUP and did not receive notice.

Staff Response: In compliance with the County Development Code (Code) [§ 85.15.060(b)], the procedure for TUPs is staff review without notice, meaning the applicable review authority can render a decision without giving notice to surrounding property owners and other parties. However, the Code also requires that within 10 days of a final decision on an application for a permit or other approval, the County shall provide notice of its final action to the applicant and to any person(s) who specifically

requested notice of the County's final action and has provided a self-addressed stamped envelope [§ 85.03.110(a)].

Staff received an email request from one resident asking to be notified of any approvals issued for the Project site. While there was no self-addressed stamped envelope submitted with this request, the County mailed a Notice of Decision (Notice) to this individual, and also followed up with email notification attaching the same Notice. In response to this Notice, this timely appeal was filed.

RECOMMENDATION:

That the Planning Commission:

- 1) **DENY** the appeal and **UPHOLD** the approval of an Interim Operation Temporary Use Permit to establish a temporary place of worship within an existing 2,200 square-foot residential structure for a maximum occupancy of 30 persons on 1.54 acres, subject to the conditions of approval attached to the Staff Report;
- 2) **FILE** a Notice of Exemption.

ATTACHMENTS:

Exhibit A:	Appeal Application and Attachments
Exhibit B:	Temporary Use Permit Approval and Conditions
Exhibit C:	Conditional Use Permit Findings
Exhibit D:	Private Sewage Disposal System Certification

EXHIBIT A

APPEAL APPLICATION AND ATTACHMENTS

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APPEAL APPLICATION

Complete all portions of this application. If you believe that an item does not apply to your appeal, mark it "N/A". Do not leave any blank spaces.

You may attach additional pages or other documentation to this application.

Project Action Date: SEPTEMBER 7, 2012

File/Index #: PROJECT NUMBER P200900613

Building Permit No.: UNKNOWN

Project Applicant(s): AL-NUR ISLAMIC CENTER

Appellant's Name (s): CAROL YONAN AND DIANE SCHUMANN LAST ^{INFORMATION ON}
_{PAGE)}

Appellant's Address: 4814 ORANGE BLOSSOM LANE

City: CHINO

Zip: 91710

Phone: 909-721-1652 FAX No.: 909-627-0980 E-Mail: LFZARVR@ROADRUNNER

Assessor's Parcel No. of Subject Property: 1013-072-02 _{.com}

General Location of Property: 4797 PHILLIPS AVENUE, ONTARIO, CALIF

Community/Area: PHILLIPS AND MONTE VISTA, RURAL

1. I/We hereby appeal to the San Bernardino County. (check one)

☒ Planning Commission from action by: (check one)

☒ Director of Land Use Services

☐ Division Chief of Environmental Health Services (EHS)

☐ Director of Transportation/Flood Control/Surveyor

☐ Board of Supervisors from action by the County Planning Commission.

To be completed by County Staff: Filing Date: _____ Project No.: _____ JCS Project No.: _____

2. I/We are appealing the project action taken to:

☐ DENY the project



DENY the project without prejudice

☐ APPROVE the project



APPROVE the project with conditions. (Attached a copy of the conditions, if they are the subject of the appeal).

☐ ADOPT a Negative Declaration



OTHER (specify) _____

3. Detail what is being appealed and what action or change you seek. Specifically address the findings, mitigation measure, conditions and/or policies with which you disagree. Also state exactly what action/changes you would favor.

SEE ATTACHED

4. State why you are appealing. Be specific. Reference any errors or omissions. Attach any supporting documentation, including any Conditions of Approval that are being appealed.

SEE ATTACHED

I/We certify that I/we are the:

☐ Legal Owner(s)

Diene Schumann

[Signature of Appellant(s)]

☐ Authorized Legal Agent(s)

Carol Yoncan

[Signature of Appellant(s)]

☒ Other Interested Person(s)

Date: SEPTEMBER 17, 2012

DIANE SCHUMANN

4760 ORANGE BLOSSOM LANE

CHINO, CALIF 91710

909-627-9502

DSCHUMANN16@VERIZON.NET

San Bernardino County
Land Use Services Department
Current Planning Division
385 North Arrowhead Avenue, 1st Floor • San Bernardino, CA
92415-0182
Phone Number: (909) 387-8311 Fax Number: (909) 387-3223

NOTICE OF DECISION

As requested, the County of San Bernardino is notifying you of the decision made by the Current Planning Staff for the application described below.

APN: 1013-072-02

Project Description: TEMPORARY USE PERMIT TO ESTABLISH A PLACE OF WORSHIP WITHIN AN EXISTING 2,200 SQUARE FOOT RESIDENTIAL STRUCTURE ON 1.54 ACRES.

On September 7, this application was APPROVED, subject to compliance with conditions. The project becomes effective on September 18, 2012.

If you have any questions regarding this decision, please contact this office by mail, by phone or fax at the numbers above, or by email at hduron@lusc.sbcounty.gov.

Pursuant to the San Bernardino County Code, within ten (10) days of the date of this decision, any interested person may appeal the decision in writing to the Planning Commission. The appeal must be made in writing on forms available from the Public Information Counter at the address above, and submitted with the appropriate fee.

September 17, 2012

San Bernardino County
Land Use Services Department
Planning Division

APPEAL OF GRANTING A TEMPORARY USE PERMIT

APPEAL APPLICATION QUESTION #3 – WHAT IS BEING APPEALED

1. THE CONDITIONS TO OBTAIN THIS TUP HAVE NOT BEEN MET, AND SOME CONDITIONS ARE IMPOSSIBLE TO PERFORM OR MITIGATE

Granting a temporary Use Permit (TUP) before **any** of the conditions have been met is putting the cart before the horse. The numerous conditions set forth in the County's Conditions of Approval should have been met BEFORE the TUP was granted, as there are no guarantees that these conditions will be met at any time in the future.

Some of these conditions appear impossible to perform or to mitigate, such as the traffic, the headlights shining into neighbors' homes, and the probable flooding. All these issues were raised in the first appeal (**Exhibit A**) and still have not been addressed.

Further, there are no provisions to enforce compliance with these conditions. Illegal gatherings were being held for more than three (3) weeks at the property in July and August 2012, yet the San Bernardino County Sheriff and the San Bernardino County Code Enforcement Department ignored numerous telephone calls, a letter from neighbors (**Exhibit B**), and even a certified letter from an attorney (**Exhibit C**) requesting these illegal gatherings be stopped.

2. THE TUP DOES NOT COMPLY WITH THE SAN BERNARDINO CODE OF ORDINANCES

This TUP does not fall into any of the exempt categories for granting a TUP under Section 85.15 of the San Bernardino County Code of Ordinances (**Exhibit D**).

This TUP also does not fall into any of the allowable categories for granting a TUP Section 85.15 of the San Bernardino County Code of Ordinances. Further, the allowable category of "events" is only permitted in non-residential zones, while this property is in a residential zone.

Thus, the granting of this TUP violates the San Bernardino County Code of Ordinances.

3. THE CEQA IMPLICATIONS OF THIS PROJECT HAVE NOT BEEN ADDRESSED

Appellants have filed a CEQA lawsuit (**Exhibit E**), with trial set for November 30, 2012. The County's decision to grant a TUP while a CEQA lawsuit is pending - alleging major violations of CEQA - is highly improper.

The CEQA statutes requires that prior to authorizing a project that may impact the environment, public agencies shall consider and, to the full extent feasible, mitigate the potential significant impacts from a project undertaken or approved by the agency. A lead agency may not approve a discretionary project without performing environmental review under the California Environmental Quality Act (CEQA)

Thus, CEQA requires public agencies to assess the environmental impact of actions prior to making any decisions that may have a significant impact on the environment. Here, there is **no** substantial evidence that the County staff even considered whether this project meets CEQA standards. For some issues, including traffic and sanitation, there is no evidence whatsoever in the record to support a finding that this project meets CEQA standards.

Further, there is **no** evidence in the administrative record that the future impact on the neighborhood was considered in any manner.

For other issues, including flooding, noise, fumes, and light, there is inadequate evidence to show that this project meets CEQA standards. The issues of noise, fumes, and light are a major problem for nearby residents. Headlights shining into neighbors' homes and bedrooms from dusk until after midnight are already a nuisance from vehicles exiting the property, with numerous complaints to the San Bernardino County Code Enforcement Department. Further, there are now three large (3) streetlights, illegally installed without permits, that also shine into neighbors' homes.

There is substantial evidence produced by appellants in the record that this project will never be able to meet CEQA standards, including letters from a septic tank specialist, a civil engineer, and the California Regional Water Quality Control Board.

Thus, granting this temporary use permit creates another violation of CEQA.

4. THE COUNTY HAS REFUSED TO DISCLOSE INFORMATION, EVEN PURSUANT TO NUMEROUS PUBLIC RECORDS ACT REQUESTS

The Land Use Services Department has consistently refused to provide important information on this project. The County has even refused to provide a copy of the Application for a Temporary Use Permit, so appellants have no information about this TUP or why it was granted.

The County has refused to disclose information for more than seven (7) months, in spite of numerous requests pursuant to the Public Records Act. Currently there are ten (10) lawsuits pending in the Superior Court of California, County of San Bernardino, to obtain information about this project requested under the Public Records Act. Even with these lawsuits pending, the County has still not provided the requested information.

Decisions made in such secrecy deprive appellants of their rights to due process and equal protection, and are in violation of both the San Bernardino County Code of Ordinances and the California Constitution.

5. THE COUNTY HAS FAILED TO PROVIDE TIMELY NOTICE OF THIS TUP

Appellants repeatedly asked to be notified of any granting of a TUP. The TUP was granted on September 7, 2012, but appellants were not notified of this TUP until September 12, 2012, and then only by email to one person. This left appellants only two (2) business days to respond to this TUP, even though the County Codes call for 11 days notice.

Such lack of notice violates both the California Constitution and United States Constitution Due Process Clauses.

APPEAL APPLICATION - QUESTION #4 WHY AN APPEAL

This project is a massive commercial-sized development that will operate 20 hours a day, with hundreds of people coming and going, in a residential zone, which is not in compliance with California laws. There is currently a CEQA lawsuit pending (**Exhibit E**), with trial set for November 30, 2012. Granting a TUP to start this project when there is a trial pending is an obvious attempt to avoid the CEQA statutes.

Further, the administrative record is so lacking in substantial evidence to support the findings of the administrative agency that it appears likely the appellants will prevail. For example, there is no traffic study for the 22-foot wide road, and there are no provisions for adequate sanitation for 262 people.

The San Bernardino County Code of Ordinances (**Exhibit D**) sets forth the requirements to obtain a TUP, and these requirements have not been met. This project does not meet the requirements of an exempt or allowed short-term activity pursuant to Section 85.15. Special event TUPs cannot be granted a TUP in a residential zone, and the project is in a residential zone.

Appellants sent a letter to the County on July 25, 2012, concerning the granting of a TUP (**Exhibit B**). The County failed to respond to this letter.

The Al-Nur Islamic Center then began meeting illegally at the property starting on July 19, 2012. Numerous telephone calls were made asking that these illegal gatherings be stopped, without any response from the County. On July 26, 2012 a certified return-receipt letter from an attorney was sent to the County, again without any response (**Exhibit C**).

Appellants have filed ten (10) lawsuits to enforce their Public Records Act requests. The County has still not produced the requested records.

EXHIBIT A

1 **APPEAL APPLICATION QUESTION #3 – WHAT IS BEING APPEALED**

2 Applicants seek to deny the Conditional Use Permit due to very significant land use issues that
3 impact health and safety. Applicants contend that any non-religious use of the size and scope of this
4 project would be denied due to these significant issues, and that the government is prohibited from
5 favoring a religious project over a non-religious one.

6 Note that all the “nice” things said about the Islamic religion apply equally to all other religions,
7 so this appeal is not about Muslims, or even about religion. It is about land use and zoning, about what
8 is acceptable use of property in a neighborhood of single family homes where people raise their families,
9 and about whether individuals are justified in relying on zoning when deciding where to purchase their
10 own personal residences.

11 In addition to single family residences, the RS zone anticipates “houses of worship” with
12 followers coming together on Sunday mornings. But this project is a seven-day-a-week, 5 a.m. to 10
13 p.m. community center, with far more activities going on than just quiet worship - doctor’s offices,
14 dentistry, a library, a youth center, food service, and likely many other activities that are not allowed in a
15 residential zone. Proponents deserve their community center, but this project clearly belongs in a
16 commercially zoned area with the infrastructure to support it.

17 The following are the major land use concerns of the neighboring homeowners: (1) sanitation,
18 (2) water diversion and drainage, (3) traffic, (4) noise/congestion, (5) misrepresentations of material
19 facts, (6) lack of an environmental impact report, (7) lack of notice to surrounding homeowners, and (8)
20 complete lack of respect for the rights of nearby homeowners, including failing to inform them the
21 project had already been approved.

22
23 **1. SANITATION**

24 The description of the project indicates the single septic tank currently on the property is
25 sufficient to serve up to 262 adults, plus an unknown number of children. This is a false statement, as
26 shown by the letter from O.A. Roberts (Exhibit C), a respected local septic system contractor. Further,
27 the City of Chino currently has a moratorium on new septic tanks.

1 While there is a sewer line along Phillips Boulevard, this line belongs to the City of Montclair.
2 There are no stubs on this line, and the City of Montclair has provided a “not willing to serve” letter,
3 refusing to allow hookup to its sewer line (Exhibit D).

4 The Inland Empire Utility Agency has a commercial sewer line, down about 25 feet, along
5 Yorba Avenue as far north as Phillips Boulevard. This sewer line is about 500 feet away from 4797
6 Phillips Boulevard, and is also not available. Their representative has stated the Inland Empire Utility
7 Agency will also provide a “not willing to serve” letter.

8 If the City of Montclair or the Inland Empire Utility Agency allowed the project to hook up to its
9 sewer, they would also have to allow other homeowners to hook up.

10 The current septic tank is far too small to serve this project. While the County of San Bernardino
11 indicated it would allow a 900 gallon septic tank, the largest septic tank made is only 600 gallons.
12 Having a septic tank pumping truck coming to the property every other day to pump waste would create
13 a major nuisance, with the attendant loud noises and noxious smells.

14 There is no indication that any septic treatment facility would be workable for the large number
15 of people and the long hours of operation (5 am to 10 pm).

16 Further, large amounts of sewage seeping into the soil will create an underground plume of
17 contamination that is likely to affect the twelve (12) wells nearby that pump groundwater for human
18 drinking water.

19 20 **2. WATER DIVERSION AND DRAINAGE**

21 Adjacent properties to the south are downhill from the project. Water diversion onto adjacent
22 properties is prohibited in California, so all runoff water from the hardscaped 1.2 acres – including
23 parking lot runoff containing toxic substances - would have to drain either on the property or onto
24 Phillips Avenue. Preventing downhill runoff onto adjacent downhill properties would require grading
25 to raise the back of the property about ten (10) feet. This new elevation would then be topped with a six
26 (6) foot block wall – creating a 16 foot tall industrial structure completely inappropriate for the
27 neighborhood.
28

1 The proposed landscaping is 20% or about 14,000 square feet. The amount of water from the
2 hardscaped 1.2 acres (52,000 square feet) during a heavy rainstorm will quickly overwhelm this small
3 amount of landscaping, because there is a hardpan under the topsoil. Adjacent properties with far less
4 hardscape and far more landscaping already flood during heavy storms (Exhibit E). The soil is not very
5 permeable in the area and the ground does not absorb water quickly.

6 The sheer amount of hardscaping, 1.2 acres, will cause excessive runoff into adjacent streets that
7 already flood during heavy rains due to the lack of storm drains in the areas. Diverting runoff water
8 onto Phillips Boulevard will increase the flooding on Phillips Boulevard and on Yorba Avenue, which
9 already carry so much water that shoulder erosion occurs each year.

10 Even if the project is able to connect to a sewer, diverting large quantities of toxic runoff water
11 into a sewer system is prohibited.

12 13 **3. TRAFFIC CONCERNS**

14 In the 1930s, when U.S. cities initiated zoning, many households walked to worship services,
15 and it wasn't disruptive to have a place of worship in a residential district, where residents shared the
16 same religious orientation. But now, most attendees arrive by automobile, so traffic becomes an issue,
17 especially when attendees arrive from out of the area. Further, places of worship are holding services at
18 many different times during the week, so the traffic situation isn't isolated to a couple of hours per week.

19 The project claims that there will be 262 adults attending services. The number of cars needed to
20 transport 262 individuals is very likely to be more than the allotted 88 parking spaces. Note that the
21 Central/Walnut Starbucks has about 12 allotted spaces, while the Central/Philadelphia Starbucks has
22 about 19 allotted spaces. This project will be the equivalent of more than 4 large Starbucks stores in
23 terms of noise, exhaust fumes, foot traffic, and traffic congestion in this quiet rural area.

24 There is no way to prevent the excessive number of vehicles from parking on adjacent public
25 streets. Phillips Boulevard is a narrow street, without paved shoulders. Unless "No Parking" signs are
26 installed on at least one side, this street will become one lane. This is too narrow to be safe for the
27 posted speed limit of 35 mph. Further, residents along the north side of Phillips Boulevard will not have
28 parking for their family and guests.

1 There will also be significant traffic congestion from so many cars all trying to enter one
2 property within a short time span. The headlights from dozens of vehicles shine directly into the homes
3 on the north side of Phillips Boulevard when vehicles exit the property, as happened last July/August
4 every night for a month from dusk until 11 p.m. during religious observations.

5
6 **4. THE QUIET RURAL ATMOSPHERE OF THE NEIGHBORHOOD WILL BE SEVERELY**
7 **IMPACTED BY NOISE, LIGHT, AND FUMES FROM THIS LARGE COMMERCIAL**
8 **PROJECT**

9 The scope of this project is completely outside what is allowed in RS zoning. The homeowners
10 moved to their neighborhood because of its rural charm, the peaceful and quiet atmosphere, and lack of
11 traffic congestion. Individual property owners are entitled to protect the integrity of their own
12 neighborhoods against the magnitude of a project of this size and scope, which is already creating a
13 nuisance that will only become greater in magnitude if this project is approved.

14 Bringing in a commercial-type project the size and scope of four (4) Starbucks, that will operate
15 from 5 a.m. to 10 p.m., with excessive noise that is like fingernails on a blackboard. The rural
16 atmosphere of the neighborhood will be destroyed. Adjacent neighbors will be living "in back of a
17 grocery store," with excessive noise, lights, coming and going noise of car doors slamming, trash truck
18 noise, and automobile fumes from more than 88 vehicles. The area will become an urban instead of a
19 low-density housing area.

20 The architecture of the project is completely different than the surrounding homes, and makes no
21 effort to blend in.

22 Adjacent homeowners will lose all privacy in their backyards, as the more-than-30-foot-tall
23 building will tower over the surrounding single story homes.

24 Finally, several of the homeowners follow nature-based religions, and this project will negatively
25 impact their religious practices.

5. PROPONENTS' DESCRIPTION OF THE NEIGHBORHOOD IS FALSE AND MISLEADING

A. CHURCHES

Proponents of the project claimed at the hearing that there were three (3) other churches in nearby residential areas. This is a false statement.

There is only one church nearby in a residential area, near Phillips Boulevard and Pipeline Avenue. This Baptist church sits on at least 5 acres, has architecture similar to nearby homes, and is one-story. There is a more-than-10 acre field across from it. On Sunday, December 11, at 11:00 a.m. there were 21 cars parked at this church.

There is no church at the intersection of Francis Avenue and Monte Vista Avenue, as proponents claimed. There is a tan building that has a large “For Rent or Lease” sign in the window. Homeowners have noticed up to 8 vehicles parked at this building on a less-than-once-a-week basis. There were no vehicles parked at this location on Sunday December 11, 2011 at 11:15 a.m.

There is no church on Monte Vista between Phillips Avenue and Francis Avenue. There is a single family home on about 5 acres that used to have a small cross next to the house, but this cross is no longer there. None of the homeowners have noticed more than 2 vehicles at this property at any given time over the past two years.

B. RECREATIONAL VEHICLE PARKING LOT

Proponents claim there is a recreational vehicle storage facility on Phillips Boulevard, to support their contention that the area is blighted. The photographs displayed during the slide presentation at the hearing on December 8, 2011, showed a recreational vehicle and a trailer, both of which belong to one of the adjacent homeowners (who pointed out this misrepresentation at the hearing). Both of these recreational vehicles are legally parked in the homeowners' backyard. There is no "recreational vehicle storage facility" in the area.

1 C. TYPICAL HOMES IN THE AREA

2 Proponents showed photographs of smaller, older homes which appeared to have been built in
3 the 1940's. These homes are not representative of the larger, nicer homes in the area. At least one
4 house shown in the proponents' photographs, a small home from the 1920's, was not even found during
5 a drive around the area of the proposed project. The neighborhood is far from blighted, and in fact
6 nearby older homes with large acreage are being purchased and enlarged to expensive custom homes
7 (Exhibit F).

8 The homes along Phillips Boulevard opposite the proposed project are modern, mostly 3
9 bedroom/2 bath homes built in the early 1960's. The houses on Orange Blossom Lane are larger, 4 or 5
10 bedroom homes about 1800 to 2400 square feet, on more than one acre, built between 1963 and 1978.

11
12 D. SINGLE STORY HOMES

13 The entire area consists of single story homes (including the Baptist Church on Pipeline). There
14 are only two (2) 2-story homes in the area – a “Kentucky/Southern” style home on a several-acre parcel,
15 set back from the road at least 100 feet, and a newer home with residential architecture on Yorba
16 Avenue across from Orange Blossom Lane, which blends into the neighborhood. All other homes are
17 single story. The proposed 2-story rectangular boxy commercial-style building will be totally out of
18 character for the neighborhood.

19
20 **6. AN ENVIRONMENTAL IMPACT REPORT IS REQUIRED**

21 Planning Commission staff recommended a Negative Declaration be filed, which states in
22 essence that there are no significant environmental impacts from this project.

23 The homeowners contend that the above concerns are so serious that an Environmental Impact
24 Report is necessary to address their environmental concerns, and is mandatory under the California
25 Environmental Quality Act when there is a discretionary action with substantial evidence of major
26 environmental impact on the area.

[illegible]

Only 33 of the surrounding homeowners who will be impacted by this project actually received notice, and the notification simply stated there would be a hearing on December 8, 2011 at 9:00 a.m. (Exhibit G). This hearing went on until almost 3:00 p.m. without a break for lunch, so long that some homeowners had to leave for work and were thus denied their opportunity to speak.

There are three additional significant concerns about this project that are probably not “politically correct” but must be discussed.

1 Second, the fact that the Planning Commission staff worked for over a year to approve this
2 project, while not informing or bothering to obtain information from those who would be significantly
3 impacted by their decision, smacks of favoritism toward one group over another. This failure to inform
4 homeowners occurred even though several homeowners sent letters to the Planning Commission staff
5 asking to be kept informed. As a result, the homeowners were shut out of a land use planning process
6 that directly impacts them, and they now must pay thousands of dollars to present their side of the
7 issues.

8 Third, the proponents of this project have already been using the existing home for meetings, and
9 their original plans called for a school, food service, youth center, doctor and dentist offices, mortuary,
10 etc. A "house of worship" is defined as "a building or place set apart for, and devoted to, the holding of
11 religious services or exercises or public worship, a church or chapel or a place similarly used." (Black's
12 Law Dictionary) If a conditional use permit is granted, it is very likely the proponents will increase the
13 services, using the facility as a tax-free community center offering secular services. This appears likely,
14 given the complete lack of respect for neighboring homeowners' rights and the violation of land use
15 laws by starting project services prior to obtaining a conditional use permit. There will be no easy way
16 to stop these additional activities short of filing lawsuits.

1 **APPEAL APPLICATION - QUESTION #4 WHY AN APPEAL**

2 The homeowners appeal the decision of the Land Use Services Department of the Planning
3 Division to grant a Conditional Use Permit for a mosque and Islamic Community Center because this
4 project is a commercial venture in a residential zone that has significant land use issues, and because this
5 project will devalue adjacent properties by creating a major nuisance.

6 The traditional residential zoning of houses of worship has caused a natural dissonance between
7 community groups, churches and local governments, producing frustration. The problem is rooted in a
8 century-long tradition of zoning houses of worship as residential. When zoning practices emerged in the
9 early 1900s, most communities needed a house of worship within walking distance of their homes, with
10 churches only operating on Sunday mornings.

11 By the end of the century, however, the American house of worship evolved drastically, creating
12 a need for church zoning to be rethought. Many of today's houses of worship have ministries and
13 outreaches throughout the week, not just on Sundays. The modern church seeks property that supports
14 its expanding uses, is accessible to its congregates, and visible enough to draw new members. Property
15 fitting that description rarely exists in residential neighborhoods.

16 It is important to protect the character of our lowest density residential neighborhoods from
17 facilities that have expanded to regional proportions, and to preserve light, air, views, and the
18 integrity of neighborhoods wherever possible.

19 Land use laws do not inconvenience the exercise of religion and do not create a substantial
20 burden on religion. The homeowners ask that this project be treated the same as any other large
21 building, with the same health and safety issues. There is no burden to require the proponents to
22 locate their community center in a commercial zone that has the infrastructure to support 262
23 people coming and going from 5 a.m. to 10 p.m. seven days a week.

24 Religious institutions are to be treated on equal terms with other businesses and entities before
25 zoning or land use boards, not given special preference. Planning boards and zoning boards should not
26 be bullied into engaging in unfair or bad land use policies simply because they are afraid of a lawsuit.

27 Finally, there is no First Amendment right to interfere with another's use of their own property
28 or to create a nuisance.

EXHIBIT B

Betty C. Carrie Teasdale, Esq.
407 West Imperial Highway, K157
Brea, California 92821
714-326-6358

June 25, 2012

Heidi Duran
Planning Commission
County of San Bernardino
385 North Arrowhead Avenue
San Bernardino, California 92415-0182
909-387-8311 /909-387-3249 fax

Dear Ms. Duran,

Although we have not received any official notification, we understand that your office is considering granting a temporary use permit to the Al-Nur Islamic Center, 4747 Phillips Boulevard, Chino, California. We have reviewed the applicable San Bernardino County Code of Ordinances, and hereby file a formal objection to the granting of any temporary use permit for this entity.

The granting of temporary use permits is covered in Chapter 85.15, which establishes procedures and standards for the granting of temporary use permits for allowed short term activities. As the statute states, "Compliance with applicable standards ensures that the establishment, maintenance, and operation of the short-term activity would not be detrimental to the public health, safety, and welfare of persons residing or working in the neighborhood of the proposed activity."

A temporary use permit is only considered if the use would not meet the redevelopment or use standards of the applicable land use zoning district, but would otherwise be acceptable because of its temporary nature.

Here, the Al-Nur mosque has applied for a conditional use permit for what amounts to a three and one-half (3 ½) story, 22,500 square foot regional community center that is greatly outside the scope of the existing residential neighborhood. This community center is to include physician and dentist offices, food service and classrooms for 262 people, the use of one septic tank for 262 people (when at least one neighbor was denied a permit to add one additional room and bathroom to an existing dwelling due to "insufficient septic capacity"), and greatly increased traffic on narrow streets, in an area without infrastructure to support it. This community center does not even come close to meeting the standards of the applicable land use zoning district.

By applying for a temporary use permit, it appears that the Al-Nur mosque proponents want to begin their community center in the same residential neighborhood, regardless of the effects on

the neighborhood. However, any temporary use permit must meet the conditions set forth in Chapter 85.15. Please note the following:

1. This use does not fall under any of the exempt short-term activities allowed by 85.15.070.
2. This use does not fall under any of the allowed short-term activities allowed by 85.15.080. Note that “Events” are only allowed on nonresidential properties, and 4747 Phillips Boulevard is a residential property.

Pursuant to 85.15.120, “A temporary use permit shall be approved by the Director only after the Director first finds that the requested short term activity complies with applicable standards in this Chapter.” Because this activity does not fall within either the exempt or the allowed activities of Chapter 85.15, it must be denied.

It remains our contention that placing a very large commercial development with septic and traffic issues a residential neighborhood violates multiple land use laws. Further, we believe that a decision to allow such a huge commercial development would so seriously disrupt the practices of the existing religion of the area as to create a violation of the Religious Land Use and Institutionalized Persons Act, by favoring an institutionalized urban religion over a small grassroots, “green” religion. .

If you do grant this temporary use permit, we will appeal to the Planning Commission and, if necessary, to the Board of Supervisors and the courts, for exceeding the scope of your authority by your failure to follow the procedures set forth in the San Bernardino County Code of Ordinances, and for favoring one religion over another in violation of the Establishment Clause of the United States Constitution.

Please respond to this letter at your earliest convenience.

Truly Yours,

S.O.U.R.C.E. MEMBER SIGNATURES

EXHIBIT C

Betty C. Carrie Teasdale, Esq.
407 West Imperial Highway, K157
Brea, California 92821
714-826-6358

July 26, 2012

San Bernardino County Sheriff's Office
Fontana Station
17780 Arrow Boulevard
Fontana, California 92335
909-356-6767
909-356-6721 fax

Code Enforcement Department
County of San Bernardino
385 North Arrowhead Avenue
San Bernardino, California 92415-0182
909-884-4056
760-995-8140

Re: Unauthorized activity at 4797 Phillips Avenue, Ontario, California

I represent S.O.U.R. C.E. (Save Our Unique Rural Community Environment), a community organization that has a lawsuit pending for California Environmental Quality Act violations against a proposed mosque to be located at the above property. S.O.U.R.C.E. members have repeatedly reported to the San Bernardino County Sheriff and to the San Bernardino Code Enforcement Department that there have been large meetings every night, starting on July 19, 2012, beginning after sunset and going until after midnight, at the above address. There is a guard stationed outside, with a cell phone, and there many vehicles parked in the driveway and on the adjacent vacant lot every night. On July 19 there were 11 vehicles, on July 20 there were 12 vehicles, on July 21 there were 12 vehicles, on July 22 there were 18 vehicles, on July 23 there were 11 vehicles, on July 24 there were 9 vehicles, on July 25 there were 13 vehicles. There was also a large tent on the property from July 19 to July 22.

Even though S.O.U.R. C.E. members have repeatedly made telephone calls to the San Bernardino County Sheriff and to the San Bernardino Code Enforcement Department, nothing has been done to stop these ongoing large meetings in a residential area. Further, there are three large streetlight-sized floodlights illuminating the vacant field where the vehicles park. There does not appear to be a building or electrical permit on file for these

streetlights, because S.O.U.R. C.E. members have repeatedly asked for documentation of the legality of these three streetlights, yet no documentation has been provided by the San Bernardino County Building and Safety Department. Building permits are public records that are required to be provided for inspection.

Jennifer, the administrative assistant to Norma Torres, elected representative to the California Assembly from the area, has confirmed that no temporary use permit has been granted to hold large meetings on this property. A temporary use permit is unlikely to be granted because temporary use permits can only be issued for non-residential areas under San Bernardino County ordinances, and the area is zoned residential under the San Bernardino County codes. Thus, the ongoing activities are in violation of the San Bernardino County codes and ordinances.

We request your offices to take immediate action to stop the illegal activities at the above address, or explain to S.O.U.R. C.E. members why you are not able to enforce the San Bernardino codes and ordinances.

Thank you for your attention to this matter

Truly Yours,

A handwritten signature in cursive script, reading "Betty C. Carrie Teasdale".

Betty C. Carrie Teasdale, Esq.

cc: Norma Torres

EXHIBIT D

SAN BERNARDINO COUNTY CODES

TEMPORARY USE PERMITS (§85.15)

§ 85.15.010 Purpose.

This Chapter establishes procedures and standards for the granting of Temporary Use Permits for allowed short-term activities. Compliance with applicable standards ensures that the establishment, maintenance, and operation of the short-term activity would not be detrimental to the public health, safety, and welfare of persons residing or working in the neighborhood of the proposed activity.

(Ord. 4011, passed - -2007)

§ 85.15.020 Types of Temporary Use Permits and Review Authorities.

Table 85-4 (Temporary Use Permits) identifies the various types of Temporary Use Permits with the appropriate review authorities:

Table 85-4				
Temporary Use Permits				
Type of Permit	Applicable Citation	Director ^{(1) (2)}	Commission ⁽³⁾	Board ⁽⁴⁾
Temporary Use Permit – General	<u>Ch. 84.25</u>	Issue	Appeal	Appeal
Temporary Construction Office	<u>Ch. 84.25</u>	Issue ⁽⁵⁾	Appeal	Appeal
Temporary Model Home	<u>Ch. 84.25</u>	Issue ⁽⁶⁾	Appeal	Appeal
Temporary Occupancy – Residential	<u>Ch. 84.25</u>	Issue ⁽⁵⁾	Appeal	Appeal
Temporary Real Estate Office	<u>Ch. 84.25</u>	Issue ⁽⁶⁾	Appeal	Appeal
Temporary Seasonal Sales Lot	<u>Ch. 84.25</u>	Issue ⁽⁵⁾	Appeal	Appeal
Temporary Signs	<u>Ch. 84.25</u>	Issue ⁽⁶⁾	Appeal	Appeal
Temporary Special Event	<u>Ch. 84.25</u>	Issue ⁽⁷⁾	Appeal	Appeal
Notes:				
(1) The Director may defer action and refer any permit or approval application to the Commission for final determination.				
(2) All decisions of the Director are appealable to Commission, and then to the Board, in				

compliance with <u>Chapter 86.08</u> (Appeals), except for those decisions addressed in Note (3).
(3) The Commission may refer consideration of an appeal to the Board, except for those decisions involving only a Variance, determination as to the completeness of an application, the determination to approve or deny a Home Occupation Permit, an Accessory Wind Energy Permit, a Subdivision Sign Location Plan, or the requirement for preparation of an Environmental Impact Report (EIR). In these instances the Commission's decision shall be the final and conclusive decision. The Board will not accept nor consider an appeal of these Commission decisions.
(4) All decisions of the Board are final.
(5) Issued by the Building Official.
(6) Issued by Code Enforcement.
(7) Issued by Current Planning.

(Ord. 4011, passed - -2007)

§ 85.15.030 Minor Short-Term Activities.

A Temporary Use Permit (TUP) allows short-term activities that might not meet the normal development or use standards of the applicable land use zoning district, but may otherwise be acceptable because of their temporary nature.

(Ord. 4011, passed - -2007)

§ 85.15.040 Temporary Use Permit Required.

Short-term activities shall not be conducted, established, or operated in any manner without the approval and maintenance of a valid Temporary Use Permit.

(Ord. 4011, passed - -2007)

§ 85.15.050 Procedures.

(a) *Director's review.* Each application shall be reviewed by the Director to ensure that the proposal complies with all applicable requirements of this Development Code.

(b) *Procedure.* Staff review without notice.

(Ord. 4011, passed - -2007)

§ 85.15.060 Review Authority.

(a) *Director's Authority.* Temporary Use Permits may be reviewed and approved or disapproved by the Director, in compliance with this Chapter.

(b) *Referral to the Commission.* The Director may refer any Temporary Use Permit application to the Commission for final action.

(Ord. 4011, passed - -2007)

§ 85.15.070 Exempt Short-Term Activities.

The following short-term activities are allowed without the requirement of obtaining a Temporary Use Permit. Short-term activities that do not fall within the following categories shall comply with § 85.15.080 (Allowed Short-Term Activities), below.

(a) *Construction Yards - On-Site.* On-site contractors' construction yards, for an approved construction project. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the Building Permit authorizing the construction project, whichever first occurs.

(b) *Emergency Facilities.* Emergency public health and safety needs/land use activities, as determined by the Board.

(c) *Events on Sites Approved for Public Assembly.* An event on the site of, or within, a golf course, meeting hall, religious facility, school, theater, or other similar facility designed, and approved by the County for public assembly.

(d) *Fund-Raising Car Washes.*

(1) Car washes on property within a commercial, industrial, or institutional zone, limited to a maximum of two days per month for each sponsoring organization.

(2) Sponsorship shall be limited to educational, fraternal, religious, or service organizations directly engaged in civic or charitable efforts, or to tax exempt organizations in compliance with § 501(c) of the Federal Revenue and Taxation Code.

(3) Even though fundraising car washes are exempt from obtaining a Temporary Use Permit, they shall still be conducted in compliance with applicable stormwater regulations to minimize potential water quality impacts.

(e) *Garage Sales.* Garage sales, not to exceed four per year, each of which may not exceed three consecutive days.

(f) *Location Filming.* The temporary use of a specific site for the location filming of commercials, movies, videos, etc., for the time specified by the Director. Even though this use is exempt from a Temporary Use Permit, it does require a permit through the Inland Empire Film Commission.

(g) *Public Property or Public Right-of-Way.* Construction and maintenance activities conducted on public properties that are authorized by an Encroachment Permit.

(Ord. 4011, passed - -2007)

§ 85.15.080 Allowed Short-Term Activities.

A Temporary Use Permit may authorize the following short-term activities within the specified time limits, but in no event for more than 12 months. Other short-term activities that do not fall within the categories defined below, or within § 85.15.070 (Exempt Short-Term Activities), above, shall instead comply with the planning permit requirements and development standards that otherwise apply to the property.

(a) *Batch Plants.* Batch plants necessary for the construction of major public infrastructure improvements provided proper review in compliance with the California Environmental Quality Act (CEQA) is completed.

(b) *Construction Yards - Off-Site.* Off-site contractors' construction yards, for an approved construction project. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the Building Permit authorizing the construction project, whichever first occurs.

(c) *Events.* Art and craft exhibits, carnivals, circuses, concerts, fairs, farmer's markets, festivals, flea markets, food events, open-air theaters, outdoor entertainment/sporting events, religious revivals, rummage sales, second hand sales, swap meets, and other special events for up to five consecutive days, or four two-day weekends, within a 12-month period, allowed only on nonresidential properties. Refer to Chapter 85.16 (Temporary Special Event Permits) for specific requirements for a Temporary Special Event Permit.

(d) *Model Homes.* A model home or model home complex may be authorized before the completion of subdivision improvements in compliance with the following standards.

(1) The sales office and any off-street parking shall be converted back to residential use and/or removed before the issuance of the Final Occupancy Permit or within 14 days from the sale of the last parcel in the subdivision, whichever first occurs.

(2) The model home complex shall be used to sell only units within the subdivision within which the complex is located.

(3) Model home permits will be finalized and the model homes will be allowed to be open to the public only after all subdivision improvements are completed and accepted by the County.

(4) Model home sign permits will be issued only after all subdivision improvements are completed and accepted by the County.

(5) The review authority may require other conditions of approval deemed necessary to protect the public health, safety, and general welfare of persons residing or working in the neighborhood.

(e) *Seasonal Sales Lots.* Seasonal sales activities (e.g., Christmas, Halloween, Thanksgiving, etc.) including temporary residence/security trailers, on nonresidential properties, for up to 45 days.

(f) *Temporary Occupancy During Construction.*

(1) *Major development projects.* Temporary structures and property may be used during the construction phase of an approved major development project (e.g., residential projects with five or more dwelling units or any commercial or industrial project). The structures or property may be used as offices or for the storage of equipment and/or tools.

(2) *Minor Development Projects.* An existing dwelling unit or a temporary structure and property may be used during the construction phase of an approved minor development project (e.g., residential projects with four or fewer dwelling units). The structure or property may be used as a temporary residence, an office, or for the storage of equipment and/or tools.

(3) *Appropriate Conditions.* The permit shall contain reasonable and necessary conditions regarding the following matters:

(A) Provisions for adequate ingress and egress.

(B) Provisions for the work to be performed on-site.

(C) Provisions for the storage of asphalt, concrete, and dirt at designated sites within the subject property; provided, the applicant furnishes a schedule, acceptable to the Director, for the periodic disposal or recycling of these materials.

(D) Provisions designed to minimize potential conflicts between the work to be performed on-site and the ordinary business and uses conducted within the County.

(4) *Length of Permit.* The permit may be approved for up to 12 months following the issuance of the companion Building Permit, or upon completion of the subject development project, whichever first occurs.

(5) *Extension of Permit.* The permit may be extended by the Director if a written request for extension is submitted at least 14 days before expiration of the permit and reasonable reasons are provided by the applicant to justify the requested extension (e.g., the delay was caused by reasons beyond the control of the applicant). The permit may be extended for up to an additional 12 months. Multiple extensions may be approved, but in no case shall these extensions exceed a total of five years.

(6) *Condition of Site Following Completion.* All temporary structures and related improvements shall be completely removed from the subject site following expiration of the Temporary Use Permit or within 30 days of completion of the development project, whichever first occurs.

(g) *Temporary Real Estate Sales Offices.* A temporary real estate sales office may be established within the area of an approved subdivision, solely for the first sale of homes. An application for a temporary real estate office may be approved for a maximum of 12 months from the date of approval.

(h) *Temporary Structures.* A temporary classroom, office, or similar structure, including a manufactured or mobile unit, may be approved for a maximum of 12 months from the date of approval, as an accessory use or as the first phase of a development project.

(i) *Temporary Work Trailers.* A trailer or mobile home used as a temporary work site for employees of a business; provided, that:

(1) The use is authorized by a Building Permit for the trailer or mobile home, and the Building Permit for the permanent structure;

(2) The use is appropriate because:

(A) The trailer or mobile home will be in place during construction or remodeling of a permanent commercial or industrial structure for a maximum of 12 months, or upon expiration of the Building Permit for the permanent structure, whichever first occurs; or

(B) The applicant has demonstrated that the temporary work site is a short-term necessity for a maximum of 12 months, while a permanent work site is being obtained; and

(3) The trailer or mobile home is removed before final building inspection or the issuance of a Certificate of Occupancy for the permanent structure.

(j) *Similar Temporary Activities.* A temporary activity that the Director determines is similar to the other activities listed in this Section and compatible with the applicable land use zoning district and surrounding land uses.

(Ord. 4011, passed - -2007)

§ 85.15.090 Development Standards.

The Director shall establish the following standards based on the type of short-term activity, using the requirements of the applicable land use zoning district, and Divisions 3 (Countywide Development Standards) and 4 (Standards for Specific Land Uses and Activities) for guidance:

(a) *Structure and Property Development Improvements.* Access, floor areas, heights, landscaping, off-street parking, setbacks, signs, utilities, and other structure and property development improvements and features;

(b) *Removal of the Activity and Site Restoration.* Measures for removal of the activity and site restoration, to ensure that no changes to the site would limit the range of possible future land uses otherwise allowed by this Development Code; and

(c) *Time limitation.* Limitation on the duration of an approved “temporary structure,” to a maximum of 12 months, so that it shall not become a permanent or long-term structure.

(Ord. 4011, passed - -2007)

§ 85.15.100 Application Requirements.

An application for a Temporary Use Permit shall be filed and processed in compliance with Chapter 85.03 (Application Procedures). The application shall include the information and materials specified in the Department handout for Temporary Use Permits. It is the responsibility of the applicant to provide evidence in support of the findings required by § 85.15.110 (Findings and Decision), below.

(Ord. 4011, passed - -2007)

§ 85.15.110 Findings and Decision.

A Temporary Use Permit shall be approved by the Director only after the Director first finds that the requested short-term activity complies with applicable standards in this Chapter.

(Ord. 4011, passed - -2007)

§ 85.15.120 Post Decision Procedures.

The procedures and requirements in Chapter 86.06 (Time Limitations), and those related to appeals and revocation in Division 6 (Development Code Administration), shall apply following a decision on an application for a Temporary Use Permit.

(a) *Condition of the Site Following Short-term Activity.* Each site occupied by a short-term activity shall be cleaned of debris, litter, or other evidence of the temporary activity on completion or removal of the activity, and shall thereafter be used in compliance with the provisions of this Development Code. Performance security may be required before initiation of the activity to ensure cleanup after the activity is finished in compliance with § 86.06.050 (Performance Guarantees).

(b) *Performance Security for Temporary Structures.* Before issuance of a Temporary Use Permit the applicant shall provide performance security in a form and amount acceptable to the Director to guarantee removal of all temporary structures within 30 days following the expiration of the Temporary Use Permit.

(Ord. 4011, passed - -2007)

Disclaimer:

This Code of Ordinances and/or any other documents that appear on this site may not reflect the most current legislation adopted by the Municipality. American Legal Publishing Corporation provides these documents for informational purposes only. These documents should not be relied upon as the definitive authority for local legislation. Additionally, the formatting and pagination of the posted documents varies from the formatting and pagination of the official copy. The official printed copy of a Code of Ordinances should be consulted prior to any action being taken.

EXHIBIT E

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Brigid Joyce (SBN 223271)
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Daryl Bassin (SBN 229958)
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Attorneys for Petitioners "Save Our Uniquely Rural Community Environment"

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

SAVE OUR UNIQUELY RURAL
COMMUNITY ENVIRONMENT, a California
non-profit unincorporated association;

Petitioner,

vs.

COUNTY OF SAN BERNARDINO, a
California county; SAN BERNARDINO
COUNTY LAND USE SERVICES
DEPARTMENT, a county agency; SAN
BERNARDINO COUNTY PLANNING
COMMISSION; SAN BERNARDINO
BOARD OF SUPERVISORS, a legislative
body; DOES 1-10, inclusive;

Respondents,

AL-NUR ISLAMIC CENTER, a California
non-profit corporation, and ROES 1-10,
inclusive,

Real Party in Interest.

Case No.

**VERIFIED PETITION FOR WRIT OF
MANDAMUS, AND COMPLAINT FOR
INJUNCTIVE RELIEF**

**[CEQA, Public Resources Code Section
21000, *et seq.*; State and Local Planning
& Zoning Laws]**

Petitioner “Save Our Uniquely Rural Community Environment” (“SOURCE”) (collectively, “Petitioners”) seeks a writ of mandamus and/or injunctive relief against Respondents County of San Bernardino, San Bernardino County Land Use Services Department, San Bernardino County Planning Commission (“Commission”), San Bernardino County Board of Supervisors, and Real Party in Interest, Al-Nur Islamic Center, and alleges as follows:

INTRODUCTION

1. The project at issue involves a Mitigated Negative Declaration (MND) and Conditional Use Permit (CUP) to establish a 7,512 square foot religious center on 1.54 acres. The proposed facility includes a 1,836 square-foot prayer hall for a maximum occupancy of 262 persons. The site is currently developed with an existing single-family home that will be demolished as part of the proposal to accommodate the required parking. The project site is located on the south side of Phillips Boulevard, approximately 330 feet east of Yorba Avenue within the sphere of the City of Chino in the Fourth Supervisorial District, in San Bernardino County (Project No: P200900613/CUP, APN: 1013-072-02-0000).

2. This petition challenges the project approval, Mitigated Negative Declaration (MND), Notice of Determination (NOD) and conditional use permit (CUP) by the San Bernardino Planning Commission (the “Commission”), and the subsequent denial of an appeal and ratification of the CUP by the San Bernardino County Board of Supervisors, all in violation of the California Environmental Quality Act (“CEQA”) (Public Resources Code section 21000 *et seq.*).

3. Petitioner therefore seeks a writ of mandamus, *inter alia*, invalidating use of the February 28, 2012 MND and NOD as supporting CEQA documents, and setting aside the December 8, 2011 San Bernardino County actions approving the Al-Nur’s most recent version of the project and CUP (collectively, the “Project Approvals”).

PARTIES

4. Petitioner, "Save Our Uniquely Rural Community Environment" ("SOURCE"), is a California non-profit unincorporated association. Its members include many rural preservation activists, environmental justice advocates, and individual residents from the areas of San

1 Bernardino and Chino who support work to preserve the significant rural and environmental
2 resources contained in the Chino Sphere of Influence for future generations.

3 5. Petitioner SOURCE and many of its members participated in the CEQA public
4 comment process conducted by the Commission because of their commitment to preserving the
5 rural landscape and environmental integrity of the area. SOURCE and many of its members
6 objected to the project because of its impact on the environmental resources associated with the
7 project.

8 6. Petitioner, and the public represented in this litigation by Petitioner, have a
9 substantial interest in ensuring that the County's decisions with respect to projects approved are
10 in conformity with the requirements of law, and in having those requirements properly executed
11 and the public duties of the County enforced. Petitioner, its members, and the public at large are
12 and will be adversely affected by impacts resulting from the County's actions described herein,
13 and are aggrieved by the past, present and continuing acts and omissions of the County in
14 violating CEQA, as alleged in this Petition. Petitioner is suing on its behalf and on behalf of all
15 others negatively impacted by the failures and omissions of the County to properly evaluate and
16 mitigate potential negative impacts from the project, both directly and indirectly upon the
17 environment.

18 7. Respondent County of San Bernardino is a county of the State of California. In
19 this case, the County has acted through the San Bernardino County Planning Commission, and
20 purported to act through the staff of its Land Use Services Department. The Planning
21 Commission members are appointed by the San Bernardino County Board of Supervisors and
22 advise on development and maintenance of the County's General Plan; consider and recommend
23 amendments to the General Plan and to the Development Code; periodically review the capital
24 improvement program of the County; review and consider matters of countywide planning
25 concern; and interpret the maps of the General Plan.

26 8. Petitioner is ignorant of the true names of respondents sued herein as DOES 1
27 through 10, inclusive, and therefore sues said respondents by those fictitious names. Petitioner
28 will amend its petition to allege the true names and capacities of such respondents when the same

1 have been ascertained. Petitioner is informed and believes, and based thereon alleges, that each
2 of these fictitiously named respondents is in some manner responsible for the wrongful conduct
3 alleged in this petition. Petitioner is informed and believes, and based thereon alleges, that these
4 fictitiously named respondents were, at all times mentioned in this petition, the agents, servants,
5 and employees of their co-respondents and were acting within their authority as such with the
6 consent and permission of their co-respondents.

7 9. Petitioner is informed and believe, and based thereon alleges, that the Al-Nur
8 Islamic Center is a California 501(c)(3) tax-exempt, non-profit California corporation.

9 10. Petitioner is ignorant of the true names of real parties sued herein as ROES 1
10 through 10, inclusive, and therefore sue said real parties by those fictitious names. Petitioner will
11 amend its petition to allege the true names and capacities of such real parties when the same have
12 been ascertained. Petitioner is informed and believes, and based thereon alleges, that each of
13 these fictitiously named real parties is in some manner responsible for or a beneficiary of the
14 wrongful conduct alleged in this petition. Petitioner is informed and believes, and based thereon
15 alleges, that these fictitiously named real parties were, at all times mentioned in this petition, the
16 agents, servants, and employees of the respondents and their co-real parties and were acting
17 within their authority as such with the consent and permission of the respondents and their co-real
18 parties.

19 **LEGISLATIVE INTENT AND THE CEQA STATUTORY SCHEME**

20 11. The CEQA statutes requires that prior to authorizing a project that may impact the
21 environment, public agencies shall consider and, to the full extent feasible, mitigate the potential
22 significant impacts from a project undertaken or approved by the agency.

23 12. Public Resources Code section 21002 make the following legislative finding and
24 declaration of state policy:

25 "The Legislature finds and declares that it is the policy of the state that public agencies
26 should not approve projects as proposed if there are feasible alternatives or feasible mitigation
27 measures available which would substantially lessen the significant environmental effects of such
28 projects, and that the procedures required by [CEQA] are intended to assist public agencies in

1 systematically identifying both the significant effects of proposed projects and the feasible
2 alternatives or feasible mitigation measures which will avoid or substantially lessen such
3 significant effects.”

4 13. Public Resources Code section 21005(a) makes the following legislative finding
5 and declaration of state policy:

6 “The Legislature finds and declares that it is the policy of the state that noncompliance
7 with the information disclosure provisions of [CEQA] which precludes relevant information from
8 being presented to the public agency, or noncompliance with substantive requirements of
9 [CEQA], may constitute prejudicial abuse of discretion within the meaning of Section 21168 and
10 21168.5, regardless of whether a different outcome would have resulted if the public agency had
11 complied with those provisions.”

12 14. CEQA requires public agencies to assess the environmental impact of actions prior
13 to making any decisions that may have a significant impact on the environment.

14 GENERAL ALLEGATIONS

15 15. Petitioner is informed and believes and therefore alleges the following
16 information:

17 16. Approximately two years ago, Al-Nur Islamic Center purchased 1.54 acres of land
18 at 4797 West Phillips Ave. The current structure on the site is a single story residence.

19 17. Rashid Ahmed, chairman of the Al-Nur Islamic Center, applied on March 12, 2010
20 for a permit for an establishment of a 16,763 square foot structure that was to include a variety of
21 ancillary uses such as a caretaker’s unit, a multipurpose hall, senior citizen activity center, senior
22 citizen library, kitchen, health clinic, and nine classrooms. Subsequently, the project was reduced
23 in scope to the current version to establish a 7,512 square foot center on the 1.54 acres. The
24 currently proposed facility includes a 1,836 square-foot prayer hall for a maximum occupancy of
25 262 persons. It is unclear at this time (since the project has been reduced in size) what the
26 additional 5,674 square feet of space will be used for. Petitioner is informed and believes and
27 thereon alleges that it will be used for commercial purposes and contain a number of the items
28 listed in lines 20 through 22 above.

1 18. This proposed project changes the quiet rural character of the neighborhood with
2 an unwanted increase of vehicular traffic and parking. It will also result in environmental impacts
3 related to aesthetics, landscape views, construction, sewage and runoff impacts from the project.

4 19. The project will impact the scenic views by negatively affecting the resident's
5 views of the San Gabriel Mountains and the Chino Hills. There is substantial evidence in the
6 record that scenic views will be significantly impacted. The proposed project calls for a structure
7 that at its highest point will be 52 feet tall in a geographic region of single family single story
8 residences. The proposed structure will interfere with views of the sky and mountains. There is
9 substantial evidence in the record that the project will substantially degrade the visual character of
10 the site and its surroundings. Additionally, the proposed large scale building and parking lot will
11 substantially degrade the current site. The lead agency failed to analyze the impacts that would
12 be created due to lighting and glare.

13 20. The project fails to analyze significant impacts to air quality and there is
14 substantial evidence in the record air quality will be significantly impacted both due to
15 construction and operations as well as cumulative impacts.

16 21. There is substantial evidence in the record that the project cannot be served by the
17 current septic system and that future proposals are inadequate. The current septic tank is a 600
18 gallon tank and serves the current structure of a single family single story residence. The project
19 calls for a roughly 7,500 square foot building with a maximum occupancy of 262 people. .
20 Under CEQA, environmental impacts must be viewed in light of the existing conditions, not
21 future potential conditions. O.A. Roberts, a septic engineer with expertise in this particular site,
22 has indicated on the record that the current septic tank cannot serve the needs of the project and
23 that future proposals are currently inadequate. The project completely fails to adequately analyze
24 potential impacts of the inadequate septic system.

25 22. Professional Engineer, Christopher Pierson, in a letter in the administrative record,
26 further indicates the following: "The plans for sanitation do not appear to meet current regulation
27 and codes. The California Water Quality Control Board has provided a letter stating this project
28 does not meet existing requirements. Local septic service provider O.A. Roberts has provided a

1 letter stating the septic arrangements are inadequate. There is no nearby sewer, so the mosque
2 project plans to use what appears to be an existing 600 gallon septic tank to service the 7,500
3 square foot two-story building as well as an existing home of about 2,000 square feet. The
4 estimated attendance is 262 individuals, plus children, with more individuals during special
5 events and religious festivals. Calculations indicate that this system is significantly inadequate to
6 support so many people, especially when food service is factored in. An on-site system would
7 require frequent pumping, at least once a week, more during occasions when there are more
8 people in attendance for longer periods of time . . . Water percolation through the soil may or may
9 not be adequate. Soil testing is needed to determine the capacity of the soil to drain water,
10 especially as neighbors report poor water drainage in the area . . . The mosque project includes
11 medical and dental offices, according to claims made during a recent community forum. There
12 has been no discussion or a septic system proposed for these services. Additionally there has been
13 no consideration of the risk of contamination to existing groundwater resources. There are at least
14 two wells in the immediate area . . . The project proponents have failed to adequately analyze the
15 impacts of the sewage problem. They have also failed to look at the baseline conditions as they
16 currently stand. The initial study indicates the site will be served by an on-site septic system.
17 This is not possible with the current system and there is no plan as to what proponents actually
18 plan to do.”

19 23. The project fails to adequately analyze green-house gas emissions related to the
20 project as well as its cumulative impact.

21 24. The project fails to adequately analyze the impact of water runoff and drainage
22 problems associated with the project. The project calls for large amounts of paved flat surfaces.
23 The result will be increased water flow and inundation due to inadequate drainage. The area has
24 long had flooding and drainage issues. The mitigation measures are inadequate. The initial study
25 indicates that there will not be any run-off entering the storm drain system post-construction, yet
26 fails to indicate that there is NO storm drain system associated with this site.

27 25. In a letter by professional engineer Christopher Pierson, he indicates the following:
28 “Drainage from the Project is anticipated to be carried to Phillips Avenue. **There are no storm**

1 **drains in the area, which is prone to flooding.** The amount of impervious hardscape (the 1.2
2 acres of parking, the 7,500 square foot mosque, and the 2,000 square foot house) **appears to**
3 **create more surface run off than the planned detention and swale system can accommodate.**

4 Further review is required. No record of adequate soils testing (porosity/ percolation) was found
5 to determine the capacity of the proposed system. Ponding and illegal off site run may if the
6 drainage system is inadequate.”

7 26. This project conflicts with the zoning for the area. The site is zoned residential.
8 The current project description is vague. Proponents of the project have indicated that the project
9 will contain a “multi-purpose” area without describing what these uses will be. Proponents have
10 also indicated potential uses above and beyond religious uses, including doctor and dentistry
11 health care and public library uses.

12 27. The agency responsible for providing notice failed to appropriately provide notice
13 to nearby property owners as to applicable hearings.

14 28. The project impinges on privacy interests of surrounding neighbors.

15 29. The project is deficient in failing to adequately describe the project as there is an
16 indication that the project may have future commercial uses such as potential health and dental
17 care open to the public. To date, there has been no description as to what the additional 5,676
18 square feet of the project site will be used for as the prayer hall will only encompass 1,836 square
19 feet of the total project proposed.

20 30. The project fails to adequately analyze noise impacts, both from the construction
21 and operation of the proposed facility. Further, mitigation proposed is inadequate.

22 31. No analysis has been done regarding potential for population growth. Proponents
23 for the project have indicated that they plan for a capacity of 262 individuals. Public comment
24 has indicated the potential for members traveling from neighboring counties to the project. This is
25 a potential significant impact that was not adequately reviewed.

26 32. The project will intrude on the peaceful, rural nature of the neighborhood, will
27 increase traffic, entail a glut of parked cars and architecture that is outside the character of and
28 will tower over the surrounding single family homes.

1 33. The project assumes far less traffic than capacity and these assumptions run
2 counter to evidence that the current space operates at hours and capacity in excess of the
3 assumptions made by project proponents. Evidence indicates increasing its use and impacting
4 traffic and parking will likely exceed what is currently assumed. Traffic analysis done by
5 proponents of the project are faulty and inadequate. Additionally, the analysis fails to take into
6 account the current baseline traffic. Additionally, it fails to account for the fact that the current
7 site is used in high volume and at hours outside the proposed projects operation. It also fails to
8 look at cumulative impacts.

9 34. Professional Engineer Christopher Pierson indicated in the record that: "Phillips
10 Boulevard, the frontage road is currently only twenty-two (22) feet wide, and carries little traffic.
11 The existing and proposed parking along both sides of this street is inadequate and further reduces
12 traffic flows even further. Left hand turns will bring the westbound traffic to a standstill if there
13 is significant traffic in the eastbound lanes. Further traffic design and calming measures are
14 required for the proposed development . . . The Project reports state the major time of increased
15 traffic occurs between noon and 3 p.m. on Fridays, when the commuter traffic is low. The report
16 also states there are to be 88 parking spaces, but estimates only fifty (50) vehicles will enter the
17 property during this time period. Allowing an estimated time of 15 seconds per vehicle, a more-
18 than-12-minute delay for other, non-mosque traffic can be expected. The same situation will
19 occur when the fifty (50) vehicles exit the property. By comparison, even railroad freight trains
20 seldom block traffic for more than five (5) minutes. The actual amount of traffic is difficult to
21 estimate because the hours of this project extend from 5 am to 10 pm . . . Headlights from exiting
22 traffic after dark do shine directly into neighboring homes, which are located only thirty (30) feet
23 away. There is no guarantee that all traffic will have exited the property by 10 p.m., and I
24 understand that traffic was exiting from the property until midnight during the entire month of the
25 mosque's summer religious ceremonies . . . The project applicant and processing agencies have
26 failed to adequately consider and provide mitigation for these issues. My review indicates there is
27 no feasible way to widen this street for turning pockets. The site is unsuitable for the
28 development proposed. Curbs already exist on the north side of the street, and the front yards are

1 small. Assuming sufficient right of way may be obtained, any widening of the street to the north
2 would be impossible as the curbs would be adjacent to existing structures. Prohibiting parking on
3 the north side of the street is not feasible either, as there is no other nearby parking for residents
4 whose parked vehicles already line the north side of the street. The only solution would involve
5 dedicating right of way within the proposed lot and adjacent properties. This has not been
6 provided . . . Widening the street to four (4) lanes (88 foot wide) could only reasonably be
7 accomplished by taking about seventy (70) feet of the south side neighbors' property. Some of
8 the south side neighbors have already built structures on the rear of their lots, which would have
9 to be destroyed to widen the street. Again, it apparent the site is unsuitable for the development
10 proposed."

11 35. On December 8, 2012, counter to these concerns, the Planning Commission
12 approved the project. Opponents to this project appealed to the Board of Commissioners.

13 36. On February 28, 2012, the County Board of Supervisors met to consider the
14 appeal.

15 37. After hearing testimony on the matter, the Board of Supervisors denied the appeal.
16 The vote of the Board of Supervisors to deny the CEQA appeal and support the Al-Nur Islamic
17 Center project, based upon the lack of environmental review, left the Commission decision in
18 place and final.

19 38. The next day, on February 29, 2012, the County filed and posted a NOD in the
20 office of the County Clerk. This lawsuit is therefore timely filed.

21 39. The legal deficiencies asserted in this petition were raised in written and/or oral
22 testimony. Petitioner has exhausted all administrative remedies.

23 40. Petitioner has performed all conditions imposed by law precedent to filing this
24 action, including complying with the requirement of Public Resources Code Section 21167.5 by
25 mailed notice to the San Bernardino County Planning Commission, San Bernardino County Land
26 Use Services Department, and the San Bernardino County Board of Supervisors, that this action
27 would be filed. **A copy of the notice is attached as Exhibit "A".**

28 41. Petitioner will also serve a copy of this Petition on the California Attorney General

1 as required by law.

2 42. Petitioner has no plain, speedy or adequate remedy available in the ordinary course
3 of law to redress the claims alleged in this petition.

4 43. Petitioner and the public generally will suffer irreparable harm if the Respondents
5 are not required to comply with CEQA and to vacate and set aside the above-described Project
6 Approvals.

7 FIRST CAUSE OF ACTION

8 (Violation of CEQA And CEQA Guidelines)

9 44. Petitioner realleges and incorporate herein by reference the allegations of
10 Paragraphs 1 through 43 inclusive, of this petition.

11 45. Under CEQA, a "project" is defined as a discretionary action by a public agency
12 that may cause a physical change to the environment.

13 46. Under Public Resources Code section 21067, the San Bernardino County Land
14 Use Services Department is the "Lead Agency" responsible for carrying out the project.

15 47. A lead agency may not approve a discretionary project without performing
16 environmental review under CEQA.

17 48. If during the negative declaration process there is substantial evidence based on
18 the whole of the record, that the project, as revised, may have a significant effect on the
19 environment which cannot be mitigated or avoided, the lead agency shall prepare a draft EIR and
20 certify a final EIR prior to approving the project. "It shall circulate the draft EIR for consultation
21 and review pursuant to Sections 15086 and 15087, and advise reviewers in writing that a
22 proposed negative declaration had previously been circulated for the project." Cal. Code Reg.
23 15073.5(d), Public Resources Code Section 21083, 21080, *Gentry v. City of Murrieta* (1995) 36
24 Cal.App.4th 1359.

25 49. An EIR must be prepared whenever it can be fairly argued on the basis of
26 substantial evidence that a project may have a significant environmental impact, and that if there
27 is substantial evidence of such impact, evidence to the contrary is not sufficient to support a
28 decision to dispense with the preparation of an EIR. *No Oil, Inc. v. City of Los Angeles* (1974) 13

1 Cal.3d 68, 83-85, See also Cal. Code Reg. §15064(g)(1).

2 50. Where project approval is based on a mitigated negative declaration instead of an
3 EIR, "the courts owe no deference to the lead agency's determination. Review is de novo, with a
4 preference for resolving doubts in favor of environmental review. [Citations.]" *Pocket Protectors*
5 *v. City of Sacramento* (2004) 124 Cal.App.4th 903, 928.

6 51. Petitioner contends that there is substantial evidence in the record that there are
7 significant environmental impacts that will result from this proposed project and that the County
8 failed to analyze those impacts properly. Further, Petitioner contends the County has failed to
9 craft adequate mitigation measures to deal with the significant environmental impacts of the
10 project.

11 52. Petitioner contends an EIR is required in this instance because a fair argument
12 exists that the Al-Nur Islamic Center project will trigger one or more negative impacts on the
13 environment.

14 53. By approving the project and the CUP and allowing it to proceed pursuant to the
15 February 28, 2012 MND and NOD, Respondents have prejudicially abused their discretion by
16 failing to proceed in the manner required by law as described herein. Petitioner requests this
17 Court issue a Writ of Mandamus directing the County, through its Land Use Planning
18 Commission, to vacate and set aside the February 28, 2012 MND, NOD, and the CUP and all
19 related Project Approvals and to prepare an EIR.

20 54. Petitioner and the public will suffer irreparable injury if the project is allowed to
21 proceed. Petitioner has no other adequate remedy at law.

22 **SECOND CAUSE OF ACTION**

23 **(Violations of State and Local Planning and Zoning Laws)**

24 55. Petitioner realleges and incorporate herein by reference the allegations of
25 Paragraphs 1 through 54 inclusive, of this petition.

26 56. The issuance of a conditional use permit is a quasi-judicial administrative action,
27 which the trial court reviews under administrative mandamus procedures pursuant to Code of
28 Civil Procedure section 1094.5. See *Neighborhood Action Group v. County of Calaveras* (1984)

1 156 Cal.App.3d 1176, 1180, 1186.

2 57. The trial court reviews the whole administrative record to determine whether the
3 agency's findings are supported by substantial evidence and whether the agency committed any
4 errors of law. *Pitts v. Perluss* (1962) 58 Cal.2d 824, 833.

5 58. As described in detail above, Respondents' decision to issue the CUP is not
6 supported by substantial evidence in the record.

7 59. Further by issuing the CUP, Respondents did not proceed in the manner required
8 by the State and local planning and zoning laws. Accordingly, the project and all related
9 approvals, including the issuance of the CUP, must be set aside.

10 **PRAYER**

11 WHEREFORE, Petitioner prays for judgment in its favor as follows:

12 60. For a Peremptory Writ of Mandamus to issue commanding Respondents to vacate
13 and set aside the February 28, 2012 MND and NOD as well as the CUP and all related Project
14 Approvals and to prepare an EIR in compliance with CEQA.

15 61. That the Court enjoin the Respondent County of San Bernardino, its officers,
16 employees, agents, boards, commissions and other subdivisions from issuing permits or other
17 actions to carry out the Al-Nur Islamic Center project.

18 62. That the Court enjoin Real Party from undertaking any activities pursuant to the
19 null and void project approvals.

20 63. For attorney fees pursuant to Code of Civil Procedure Section 1021.5, and any
21 other applicable statutory provisions.

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64. For costs of suit; and

65. For such other and further relief as the Court may deem just and proper.

DATED: March 28, 2012

OTTEN & JOYCE, LLP

By: _____

Victor J. Otten, Esq.
Attorney for Petitioners

1 VERIFICATION

2 STATE OF CALIFORNIA)

3 COUNTY OF SAN BERNARDINO)

ss:

4
5 I, **CARRIE TEASDALE**, declare as follows:

6 I am a member of "**Save Our Uniquely Rural Community Environment**"
7 ("**SOURCE**"), a Petitioner in this action. I am authorized to make this verification on its behalf.

8 I have read the foregoing Petition for Writ of Mandamus and Complaint for Injunctive
9 Relief and am familiar with its contents. The same is true of my own knowledge, except as to
10 those matters which are therein stated on information and belief, and, as to those matters, I
11 believe them to be true.

12 I declare under penalty of perjury under the laws of the State of California that the
13 foregoing is true and correct. Executed at San Bernardino, California on March 28, 2012.

14
15
16 _____
17 **CARRIE TEASDALE**
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EXHIBIT B

TEMPORARY USE PERMIT APPROVAL AND CONDITIONS

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LAND USE SERVICES DEPARTMENT



COUNTY OF SAN BERNARDINO

PLANNING DIVISION

15900 Smoke Tree, Hesperia, CA 92345

(760) 995-8140 Fax (760) 995-8167

<http://www.sbcounty.gov/landuseservices>

CHRISTINE KELLY

Director

September 7, 2012

Al-Nur Islamic Center

Attn: Rashid Ahmed

4797 W. Phillips Blvd.

Ontario, CA 91762

Expiration Date: September 18, 2013

RE: INTERIM OPERATION TEMPORARY USE PERMIT APPROVAL TO ESTABLISH A PLACE OF WORSHIP WITHIN AN EXISTING 2,200 SQUARE FOOT RESIDENTIAL STRUCTURE FOR A MAXIMUM OF 30 PEOPLE ON 1.54 ACRES; ASSESSOR PARCEL NUMBER: 1013-072-02; APPLICANT: AL-NUR ISLAMIC CENTER; PROJECT #: P201200137

Dear Mr. Ahmed:

Please be advised that your application for an Interim Operation Temporary Use Permit to establish a place of worship within an existing 2,200 square foot residential structure for a maximum of 30 people on 1.54 acres received **conditional approval** by the San Bernardino County Land Use Services Department subject to your compliance with the original Conditions of Approval (attached). The anticipated hours for daily prayers will be: 5 a.m. – 6 a.m., 1 p.m. – 2 p.m., 3 p.m. – 4 p.m., 6 p.m. – 7 p.m., and 8 p.m. – 9 p.m. In our judgment, your development is allowed subject to the provisions of the Development Code, Chapter 84.25 (Temporary Structures and Uses), and therefore, the project has been approved by staff.

This project permit approval is effective on September 18, 2012 and shall expire and become void after 12 months on September 18, 2013. To extend the permit, you must apply for a new Temporary Use Permit. Any further modifications and/or alterations to the project will require the submittal of a new application and approval prior to implementation of any modifications.

Congratulations on your approval. If you need additional information, please feel free to contact me by phone at (909) 387-4108, (760) 995-8152, or by email at hduron@lud.sbcounty.gov.

Sincerely,

HEIDI DURON, Supervising Planner
Planning Division

Attachments: Conditions of Approval for Temporary Use Permit

CONDITIONS OF APPROVAL

Interim Operation Temporary Use Permit

Al-Nur Islamic Center

GENERAL REQUIREMENTS

Conditions of Operation and Procedures

LAND USE SERVICES/Planning (909) 387-8311

1. **Project Approval Description.** This Temporary Use Permit (TUP) is approved in compliance with the San Bernardino County Code (SBCC), subject to the following conditions of approval and the approved site plan. This project is to establish a temporary place of worship within an existing 2,200 square-foot residential structure on 1.54 acres. The project is approved for a maximum occupancy of 30 persons, which will be utilized for daily prayers during the hours of: 5 a.m. – 6 a.m., 1 p.m. – 2 p.m., 3 p.m. – 4 p.m., 6 p.m. – 7 p.m., and 8 p.m. – 9 p.m. Project APN: 1013-072-02; Project Number P200900613.
2. **Project Location.** The Project is located on the south side of Phillips Boulevard, approximately 330 feet east of Yorba Avenue within the sphere of the City of the Chino in the Fourth Supervisorial District.
3. **Effective Date and Expiration.** The procedures and requirements in Chapter 86.06 (Time Limitations), and those related to appeals and revocation in Division 6 (Development Code Administration), shall apply following the TUP approval. This project permit approval is effective on September 18, 2012 and shall expire and become void after 12 months on September 18, 2013.
4. **Indemnification.** In compliance with SBCC §81.01.070, the developer shall agree, to defend, indemnify, and hold harmless the County or its "indemnitees" (herein collectively the County's elected officials, appointed officials (including Planning Commissioners), Zoning Administrator, agents, officers, employees, volunteers, advisory agencies or committees, appeal boards or legislative body) from any claim, action, or proceeding against the County or its indemnitees to attack, set aside, void, or annul an approval of the County by an indemnitee concerning a map or permit or any other action relating to or arising out of County approval, including the acts, errors or omissions of any person and for any costs or expenses incurred by the indemnitees on account of any claim, except where such indemnification is prohibited by law. In the alternative, the developer may agree to relinquish such approval.

Any condition of approval imposed in compliance with the County Development Code or County General Plan shall include a requirement that the County acts reasonably to promptly notify the developer of any claim, action, or proceeding and that the County cooperates fully in the defense. The developer shall reimburse the County and its indemnitees for all expenses resulting from such actions, including

any court costs and attorney fees, which the County or its indemnitees may be required by a court to pay as a result of such action.

The County may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve the developer of their obligations under this condition to reimburse the County or its indemnitees for all such expenses.

This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The developer's indemnification obligation applies to the indemnitees' "passive" negligence but does not apply to the indemnitees' "sole" or "active" negligence or "willful misconduct" within the meaning of Civil Code Section 2782.

5. Continuous Maintenance. The property owner and "developer" shall continually maintain the property so that it is visually attractive and not dangerous to the health, safety and general welfare of both on-site users (e.g. employees) and surrounding properties. The "developer" shall ensure that all facets of the development are regularly inspected, maintained and that any defects are timely repaired. Among the elements to be maintained, include but are not limited to:
- a) Annual maintenance and repair inspections shall be conducted for all structures, fencing/walls, walks, parking lots, driveways, and signs to assure proper structural, electrical and mechanical safety and a properly operating irrigation system.
 - b) Graffiti and debris shall be removed immediately with weekly maintenance.
 - c) Landscaping shall be maintained in a continual healthy thriving manner at proper height for required screening. Drought-resistant, fire retardant vegetation shall be used where practicable. Where landscaped areas are irrigated, it shall be done in a manner designed to conserve water, minimizing aerial spraying.
 - d) Erosion control measures shall be maintained to reduce water run off, siltation, and promote slope stability.
 - e) Architectural controls shall be enforced by the property owner to maintain compatibility of theme, materials, unfaded colors, building mass, size and height.
 - f) External Storage, loading, recycling and trash storage areas shall be kept neat, orderly, and fully screened from public view with a solid masonry wall not less than 6 feet in height. The wall shall include sight-obscuring gates. The solid wall(s) and gate(s) shall be continuously maintained in good repair. Commercial outside storage shall be fully screened from public view and not exceed the height of screening walls. No outdoor storage is allowed within any required setback.
 - g) Signage. All on-site signs, including posted area signs (e.g. "No Trespassing") shall be maintained in a clean readable condition at all times and all graffiti and vandalism shall be removed and repaired on a regular weekly basis. Signs on the site shall be of the size and general location as shown on the approved site plan or an approved sign plan.

6. Performance Standards. The approved land uses shall operate in compliance with the general performance standards listed in the County Development Code Chapter 83.01, regarding air quality, electrical disturbance, fire hazards (storage of flammable or other hazardous materials), heat, noise, vibration and the disposal of liquid waste. In addition to these, none of the following shall be perceptible without instruments at any point outside the project boundaries at adjoining property lines:
 - Odors: No offensive or objectionable odor
 - Emissions: No emission of dirt, dust, fly ash, and other forms of particulate matter.
 - Smoke: No smoke from any project source shall be emitted of a greater density than that described in No. 2 on the Ringelmann Chart (as published currently by the United States Bureau of Mines)
 - Radiation: No dangerous amount of radioactive emissions.
 - Toxic Gases: No emission of toxic, noxious or corrosive fumes of gases.
 - Glare: No intense glare that is not effectively screened from view at any point outside the project boundary.
7. Lighting. The glare from any luminous source, including on-site lighting shall not exceed one-half (0.5) foot-candle at property line. All lighting shall be limited to that necessary for security purposes. This is to allow minimum obstruction of night sky remote area views. No light shall project onto adjacent roadways in a manner that interferes with on-coming traffic.
8. Clear Sight Triangle. Adequate visibility for vehicular and pedestrian traffic shall be provided at clear sight triangles at all 90 degree angle intersections of public rights-of-way and private driveways. All signs, structures and landscaping located within any clear sight triangle shall comply with the height and location requirements specified by County Development Code (SBCC§ 83.02.030) or as otherwise required by County Traffic.

LAND USE SERVICES/Code Enforcement (909) 884-4056

9. Enforcement. If any County agency is required to enforce compliance with the conditions of approval, the property owner and "developer" shall be charged for such enforcement activities in accordance with the County Code Schedule of Fees. Failure to comply with these conditions of approval or the approved site plan design required for this project approval shall be enforceable against the property owner and "developer" (by both criminal and civil procedures) as provided by the San Bernardino County Code, Title 8 - Development Code; Division 6 - Administration, Chapter 86.09 - Enforcement.
10. Weed Abatement. The developer shall comply with San Bernardino County weed abatement regulations [SBCC§ 23.031-23.043] and periodically clear the site of all non-complying vegetation. This includes removal of all Russian thistle (tumbleweeds).

PUBLIC HEALTH/Environmental Health Services (DEHS) (800) 442-2283

11. Noise. Noise level shall be maintained at or below County Development Code Standards, Section 83.01.080 Contact DEHS – Land Use Section for information.
12. Septic System. The septic system shall be maintained so as not to create a public nuisance and shall be serviced by a DEHS permitted pumper. If the septic system fails the center must connect to sewerage agency, repair the existing septic system or replace the existing septic system with a system sized for the intended use. Santa Ana Regional Water Quality Control Board approval may be needed depending on the proposed repairs or size of the septic system. For information, please call DEHS/Wastewater Section at: 800-442-2283.
13. Refuse Storage/Removal. All refuse generated at the premises shall at all times be stored in approved containers and shall be placed in a manner so that visual or other impacts, and environmental public health nuisances are minimized. All refuse not containing garbage shall be removed from the premises at least one (1) time, and refuse containing garbage shall be removed from the premises at least two (2) times per week to an approved solid waste facility in conformance with San Bernardino County Code Chapter 8, Section 33.081 et. seq. For information, please call DEHS/LEA at: 800-442-2283.

CHINO VALLEY FIRE DISTRICT (909) 902-5280

14. Fire Jurisdiction. The above referenced project is under the jurisdiction of the Chino Valley Fire District herein ("Fire Department"). Prior to any construction occurring on any parcel, the developer shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current Uniform Fire Code requirements and all applicable statutes, codes, ordinances and standards of the Fire Department.

PUBLIC WORKS/Land Development - Drainage (909) 387-8218

15. Tributary Drainage. Adequate provisions should be made to intercept and conduct the tributary off site - on site drainage flows around and through the site in a manner, which will not adversely affect adjacent or downstream properties at the time the site is developed.
16. Additional Drainage Improvements. In addition to drainage requirements stated herein, other "on-site" and/or "off-site" improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.

PUBLIC WORKS/Land Development – Road (909) 387-8145

17. Road Standards. All required street improvements shall comply with latest San Bernardino County Road Planning and Design Standards and the San Bernardino County Standard Plans.

PRIOR TO OCCUPANCY/USE
The following shall be completed:

LAND USE SERVICES/Building and Safety (909) 387-8311

18. Van Accessible Parking. Provide van accessible parking spaces for the disabled. One in every eight accessible spaces, but not less than one, shall be served by an access aisle eight feet wide and shall be designated "Van Accessible". The words "NO PARKING" shall be painted on the ground within each eight-foot wide loading area as specified in the California Building Code.
19. Path of Travel. Provide a path of travel from all parking spaces for the disabled up to the primary entrances of each building.

PUBLIC WORKS /Land Development Division – Drainage Section (909) 387-8145

20. Drainage Facility Design. A Registered Civil Engineer shall investigate and design adequate drainage facilities to intercept and conduct the off-site and on-site drainage flows around and through the site in a manner, which will not adversely affect adjacent or downstream properties.
21. Drainage Improvements. All required drainage improvements shall be completed by the applicant, inspected and approved by County Public Works.

PUBLIC WORKS/Land Development - Roads (909) 387-8218

22. Improvement. The developer shall submit for review and obtain approval from the County Public Works of the following plans and permits for the listed required improvements, designed by a Registered Civil Engineer (RCE), licensed in the State of California. These shall be submitted to the Department of Public Works (DPW), located at 825 E. Third Street, San Bernardino CA 92415-0835. Phone: (909) 387-8145.

Phillips Blvd. (Secondary Highway – 88')

- Design driveway approach per San Bernardino County Standard 129, and located per Standard 130.
23. Encroachment Permits. Prior to installation of road and drainage improvements, a permit is required from County Public Works, Transportation Operations Division, Permit Section, (909) 387-8039, as well as other agencies prior to work within their jurisdiction.

24. Transitional Improvements. Right-of-way and improvements (including off-site) to transition traffic and drainage flows from proposed to existing, shall be required as necessary.
25. Road Improvements. All required on-site and off-site improvements shall be completed by the applicant, inspected and approved by County Public Works.

PUBLIC WORKS/Traffic Division (909) 387-8186

26. Traffic Controls. The main driveway shall be right in/right out only. An R3-2 sign shall be placed for the westbound traffic restricting the left turning movement into the property at the main access. An R3-2 sign shall be placed leaving the project driveway on the main access. All signs shall be placed within County Road right of way per CA-MUTCD and County of San Bernardino Standards.

PUBLIC HEALTH/Environmental Health Services (DEHS) (800) 442-2283

27. Fees Required. The Environmental Health Services (EHS) Temporary Use Permit (TUP) review fee of **\$564.00** must be paid to EHS.
28. Water. Water purveyor shall be Monte Vista Water District.
29. Water Letter. Applicant shall procure a verification letter from the water agency with jurisdiction. This letter shall state whether or not water connection and service shall be made available to the project by the water agency. This letter shall reference the Assessor's Parcel Number. For projects with current active water connections, a copy of water bill with project address may suffice. For information, contact the Water Section at 800-442-2283.
30. Sewer. Method of sewage disposal shall be City of Chino, Montclair, Inland Empire Utilities Agency (IEUA), or, **EHS approved onsite wastewater treatment system (OWTS).**
31. Sewer Letter. Applicant shall procure a verification letter from the sewer agency with jurisdiction. This letter shall state whether or not sewer connection and service shall be made available to the project by the sewer agency. The letter shall reference the Assessor's Parcel Number.
32. On-site Wastewater Treatment System. If a new onsite wastewater treatment system(s) will be constructed then: A soil percolation report shall be submitted to DEHS for review and approval. A plot plan showing the location of the septic system may be required by DEHS prior to the issuance of building permits. If the percolation report cannot be approved, the project may require an alternative OWTS. If sewer connection is available, a new onsite wastewater treatment system will not be approved for construction. For information, please contact the Wastewater Section at (800) 442-2283.

33. Existing Septic System. Existing septic system may be used if applicant provides certification from a qualified professional (i.e., Professional Engineer (P.E.), Registered Environmental Health Specialist (REHS), C42 contractor, Certified Engineering Geologist (C.E.G.), etc.) that the system functions properly, meets code, and has the capacity required for the proposed project. Applicant shall provide documentation outlining methods used in determining function. Based on the California Plumbing Code, flows from churches (sanctuary) are 5 gallons per seat (7 gallons per seat for facilities with kitchens). This means, if the current septic tank is 750 gallons, no more than 100 people (without kitchen) or 71 people (with kitchen) can visit the center per day. If the current septic tank is 1000 gallons, no more than 134 people (without kitchen) or 96 people (with kitchen) can visit the center per day. If the current septic tank is 1200 gallons, no more than 160 people (without kitchen) or 114 people (with kitchen) can visit the center per day. For information, please contact the wastewater section at (800) 442-2283
34. LAFCO Approval. Submit verification of annexation to DEHS for any project that requires water or sewer connection outside a purveyor's jurisdiction. For information, contact LAFCO at: 909-387-5866.
35. Regional Board Approval. If a new septic system is constructed, written clearance shall be obtained from the designated California Regional Water Quality Control Board (listed below) and a copy forwarded to the Division of Environmental health Services.
- Santa Ana Region, 3737 Main St., Suite 500, Riverside, CA 92501-3339,
909-782-4130.
36. Acoustical Information. Submit preliminary acoustical information demonstrating that the proposed project maintains noise levels at or below San Bernardino County Noise Standard(s), San Bernardino Development Code Section 83.01.080. The purpose is to evaluate potential future on-site and/or adjacent off-site noise sources. If the preliminary information cannot demonstrate compliance to noise standards, a project specific acoustical analysis shall be required. Submit information/analysis to the DEHS for review and approval. For information and acoustical checklist, contact DEHS at 800-442-2283.
37. Food Handling. Plans for food establishments shall be reviewed and approved by DEHS. For information, call DEHS/Plan Check at: 800-442-2283.

CHINO VALLEY FIRE DISTRICT (909) 902-5280

38. Fire Hydrants. Provide the location of the closest existing fire hydrant. Based on this location, a new fire hydrant may be required to be installed closer to the property.
39. Floor Plan. Provide a demo plan and new floor plan for the existing structure. The floor plan shall include a seating diagram or proposed seating arrangement.

40. Construction Plans. Separate plan submittals are required for:
 - a. Private On-Site Water Protection Improvements (Underground)
 - b. Building ConstructionAll plans shall be submitted to a contracted consultant with the Chino Valley Fire District. Plans shall be approved and a permit obtained prior to the commencement of work. The permit and an approved/stamped set of plans shall be maintained onsite during construction. Fees are to be paid at time of submittal.
41. Addressing. Addressing must comply with Chino Valley Fire Std. #122 – Minimum of 8" numbers shall be provided. The site shall have one main address and all other buildings on site shall be identified by a letter.
42. Finish Requirements. The decorations and interior finish shall comply with the current building and fire codes.
43. Exit Hardware. The existing exit hardware shall be changed out to comply with Chapter 10 of the building and fire codes.
44. Operational Permit. The building use will require an operational permit for a 'Place of Assembly' as stipulated in Section 105 of the California Fire Code.

COUNTY FIRE/Hazardous Materials Division (909) 386-8401

45. Emergency Plan. Prior to occupancy, operator shall submit a Business Emergency/Contingency Plan for emergency release or threatened release of hazardous materials and waste or a letter of exemption. Contact Office of the Fire Marshall, Hazardous Materials Division at: (909) 386-8401.
46. Handlers Permit. Prior to occupancy, developer shall be required to apply for one or more of the following: a Hazardous Materials Handler Permit, a Hazardous Waste Generator Permit, an Aboveground Storage Tank Permit, and/or an Underground Storage Tank permit. For information call County Fire Department/Hazardous Materials Division, Field Services at (909) 386- 8401.

END OF CONDITIONS

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EXHIBIT C

CONDITIONAL USE PERMIT FINDINGS

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FINDINGS: Conditional Use Permit

1. The site for the proposed use is adequate in terms of shape and size to accommodate the proposed use and all landscaping, open spaces, setbacks, walls and fences, yards, and other required features pertaining to the application. The 1.54-acre site is able to accommodate the proposed 7,512 square-foot prayer hall and parking facilities. All setbacks meet the requirements of the Development Code for the proposed land use and the existing zoning. In addition, the project meets the required percentage of landscaping and maximum lot coverage, provides the required number of parking spaces and adequate drive aisles.
2. The site for the proposed use has adequate access, which means that the site design incorporates appropriate street and highway characteristics to serve the proposed use because the site is adjacent to Phillips Boulevard, which provides legal and physical access to the site.
3. The proposed use will not have a substantial adverse effect on abutting properties or the allowed use of the abutting properties, which means that the use will not generate excessive noise, traffic, vibration, lighting, glare, or other disturbance. The proposed project is a religious facility in a residential area, and any potential adverse effects will be reduced by the implementation of the appropriate buffering measures, which include landscaped setbacks and a 6-foot block wall around the perimeter of the site. In addition, the use will not substantially interfere with the present or future ability to use solar energy systems. The Project has incorporated the use of solar energy systems into the design of the proposed structure.
4. The proposed use and manner of development are consistent with the goals, maps, policies, and standards of the County General Plan and any applicable community or specific plan. The proposed Conditional Use Permit site plan together with the provisions for its design and improvement are consistent with the County General Plan. The Project specifically implements the following goals:

Goal LU 1: The County will have a compatible and harmonious arrangement of land uses by providing a type and mix of functionally well-integrated land uses that are fiscally viable and meet general social and economic needs of the residents.

Goal LU 8: Beneficial facilities, such as schools, parks, medical facilities, sheriff and fire stations, libraries, and other public uses, as well as potentially hazardous sites, will be equitably distributed throughout the County.

5. There is supporting infrastructure, existing or available, consistent with the intensity of the development, to accommodate the proposed project without significantly lowering service levels, because County maintained access roads are adjacent to the project site and are required to be improved as a condition of the project approval. The project, which will serve the surrounding community, will not generate a significant increase in traffic.
6. The lawful conditions stated in the approval are deemed reasonable and necessary to protect the overall public health, safety and general welfare because the conditions of approval include measures to reduce air quality impacts and enforce performance standards.
7. The design of the site has considered the potential for the use of solar energy systems and passive or natural heating and cooling opportunities, through the orientation and design of the building to take advantage of passive solar heating capabilities.
8. In compliance with the California Environmental Quality Act (CEQA), an Environmental Initial Study has been prepared, and has been determined not to have a significant effect on the environment with implementation of all the required conditions of approval and mitigation measures. The County exercised independent judgment in making this determination.

EXHIBIT D

PRIVATE SEWAGE DISPOSAL SYSTEM CERTIFICATION

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County of San Bernardino • Department of Public Health
DIVISION OF ENVIRONMENTAL HEALTH SERVICES

www.sbcounty.gov/dehs

PRIVATE SEWAGE DISPOSAL SYSTEM CERTIFICATION

Applicant shall complete top 3 lines only. Certification shall be completed, on both sides, by a licensed contractor (A, B, or C-42) or other qualified professional (R.P.E., C.E.G., R.E.H.S., etc.) Use n/a where necessary. For information, please call 909-387-4666.

Property Owner: <u>DR. KABIR AHMED</u>	Applicant Name: <u>AL-NUR ISLAMIC Center</u>
Property Address: <u>4797 W. Phillips Ontario</u>	APN: <u>101-3-072-02</u>
Type of Project (Specify) TR, PM, CUP, DR, LUR, etc.: <u>temporary place of worship</u>	File Index Number: <u>P201200137</u>

Number of Units	Garbage Disposal Y <input checked="" type="checkbox"/> N <input type="checkbox"/>	Tank Last Pumped (mo. / yr.) <u>UNKNOWN</u>
Bedrooms <u>4</u>	Vacant Y <input checked="" type="checkbox"/> N <input type="checkbox"/> How Long (yrs.)	Tank Age (yrs.) <u>UNKNOWN</u>
Bathrooms <u>3</u>	Basement Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	Disposal Area Age (yrs.) <u>UNKNOWN</u>

Commercial Development	Type of Fixtures (per UPC) Indicate type and number of each		
	Total Number of Fixture Units <input type="checkbox"/> Grease Interceptor <input type="checkbox"/> Clarifier <input type="checkbox"/> None <input type="checkbox"/>		

Type of Septic Tank (Specify) <u>Concrete</u>	Dimensions (L x W x D) (ft.) <u>8 x 5 x 5</u>
Type of Cover (Specify) <u>Steel</u>	Tank Capacity (Gallons) <u>1200</u> No. of Compartments <u>2</u>
Specify Any Damage or Defects Observed:	

Type of Disposal Area	Seepage Pit <input checked="" type="checkbox"/> Leachlines <input type="checkbox"/> Other <input type="checkbox"/> (Specify)
Distance From Well ft.	Distance from Foundation ft.
Distance from Nearest Lot Line	
<input type="checkbox"/> Front <input type="checkbox"/> Side <input type="checkbox"/> Rear	
Specify Any Damage or Defects Observed:	

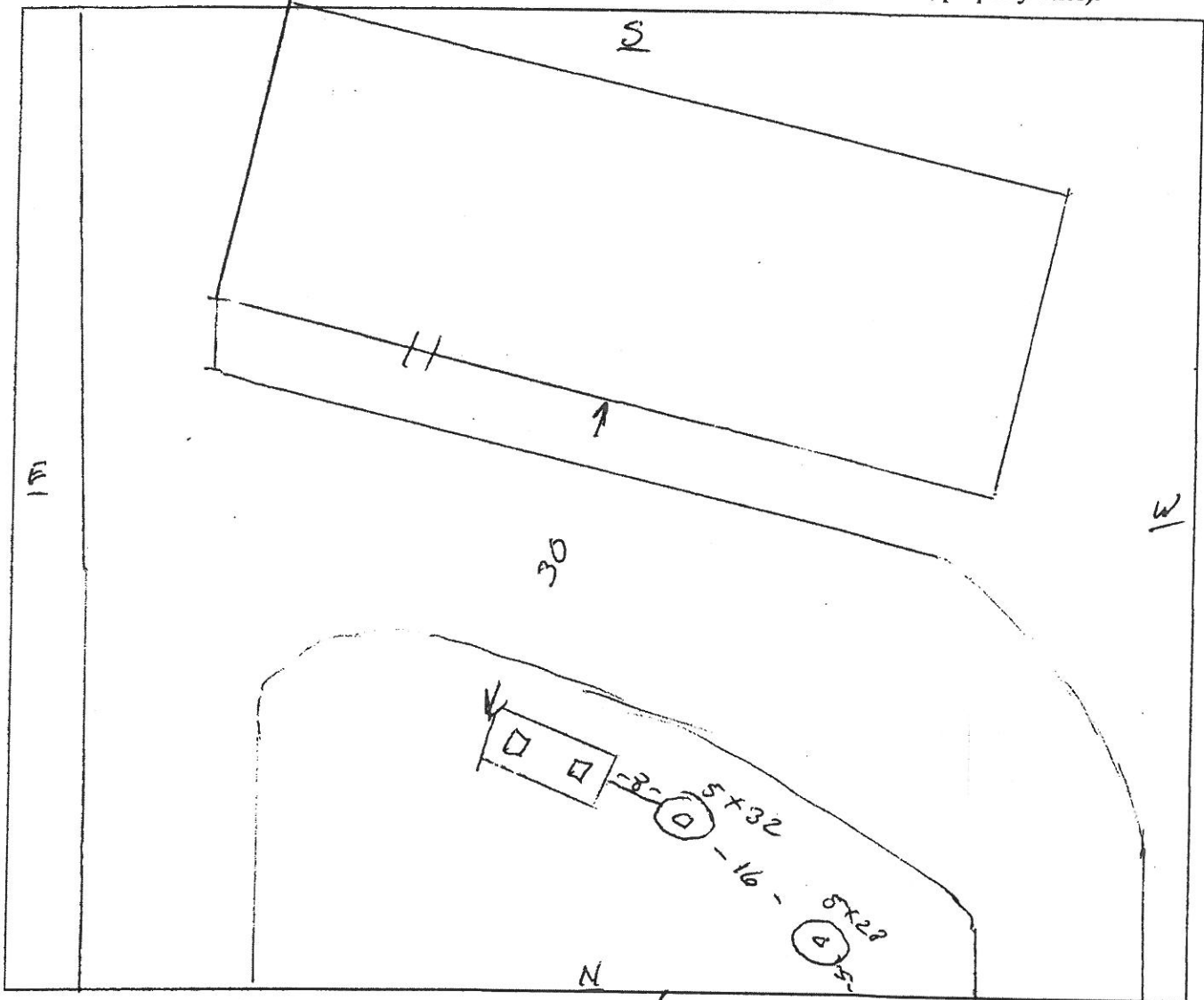
Seepage Pits	Number of Pits <u>2</u>	Outside Diameter (ft.) <u>5</u>	Depth (ft.) <u>5x32 5x28</u>
	Depth of Pit Below Inlet (ft.) <u>28 + 23</u>		Lining Material (Specify) <u>Block</u>

Leachlines	Number of Lines	Trench Width (in.)	Average Length of Lines (ft.)
	Total Absorption Area (sq. ft.) Bottom of Trenches		Depth (in.) Finish Grade to Top of Line
	Distance Between Lines (ft.)	Type of Filter Material Beneath Line (in.)	
	Depth of Material Above Line (in.)	Depth of Material Beneath Line (in.)	

Specify Indications of Previous System Failures (Odors, Seepage, etc.): Use Additional paper if necessary		
Dye Test Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	Hydraulic Test Y <input type="checkbox"/> N <input checked="" type="checkbox"/>	NOTE: Attach test results and copies of building permits.

Tank & Disposal Area Information

In the space provided, show the location of the septic tank and disposal area in relation to the buildings and other landmarks (i.e. wells, trees, shrubs, driveways, parking, paving, drainage courses, property lines).



It is the opinion of the certifier that this sewage disposal system, ☒ Meets current code, ☒ Can be expected to function satisfactorily and is not likely to create any unsanitary conditions. OR ☐ Cannot be expected to function satisfactorily.

Date: 8-23-12	Signature: <i>Paul V. [Signature]</i>	Type of License: C-42	Reg. Number: 679094	Expiration: 6-30-14
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Name of Certifier: <i>A.M.C. CONTRACTORS</i>	Address: 21657 TEMESCAL CANYON CORDONA CA. 92833
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For DEHS Use Only

Reviewed By:	Date:
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<input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved - Reason