



# LAND USE SERVICES DEPARTMENT PLANNING DIVISION PLANNING COMMISSION STAFF REPORT



**HEARING DATE: August 21, 2014**

**AGENDA ITEM # 2**

Project Description

Vicinity Map

**APN: 1013-072-02-0000**  
 Applicant: CAROL YONAN AND DIANE SCHUMANN  
 Community: CHINO/4TH SUPERVISORIAL DISTRICT  
 Location: 4797 PHILLIPS BLVD, APPROX. 330' EAST OF YORBA AVE.  
 Project No: P201400260/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: August 8, 2014  
 P.C. Field Inspection Date: August 4, 2014

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)

	<u>AGENCY</u>	<u>COMMENT</u>
City Sphere of Influence:	City of Chino	Referral not required
Water Service:	Monte Vista Water District	Already Served
Septic Service:	EHS - On-site system	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.

**PROJECT DESCRIPTION:**

On June 3, 2014, Staff conditionally approved a second Interim Operation Temporary Use Permit (TUP) to establish a temporary place of worship within an existing 2,200 square-foot residential structure located 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 influence 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 is on file with the San Bernardino County Land Use Services Department. In compliance with the San Bernardino County Development Code (Development Code) [§ 84.25.060(a)], a TUP may be issued for the interim operation of any use requiring a CUP provided the review authority makes the findings required for approval of a CUP.

**BACKGROUND:**

The Planning Commission conducted a hearing on December 8, 2011, and conditionally approved an application for a CUP to establish a 7,512 square-foot religious center on 1.54 acres (CUP Project). 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 approval of the CUP Project was appealed to the Board of Supervisors (Board), which denied the appeal and approved the CUP Project on February 28, 2012, following the adoption of a Mitigated Negative Declaration (“MND”).

A neighborhood group, Save Our Uniquely Rural Community Environment (SOURCE), filed a lawsuit challenging the County’s approval of the CUP Project on the basis that the County failed to comply with the California Environmental Quality Act (CEQA). SOURCE contended that there was substantial evidence in the administrative record supporting a fair argument that the CUP 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 Report (EIR) would be required. On February 6, 2013, the Court issued its ruling, finding that the approval was in compliance with CEQA in all aspects except for sanitation. However, according to the writ that was issued in conjunction with this ruling, the County was required to set aside the environmental finding and all approvals associated with the CUP Project and prepare an analysis of sanitation that complies with CEQA.

The Board vacated and set aside its approvals of the CUP Project on April 8, 2014. The environmental review of the sanitation issue is currently in process.

An Interim Operation TUP for the use of the existing single-family residence for prayer meetings was approved on September 7, 2012. After subsequent unsuccessful appeals to both the Planning Commission and Board, the TUP became effective on May 21, 2013, and expired on May 21, 2014. On April 10, 2014, the applicant filed an application for a subsequent TUP, which was approved by staff on June 3, 2014.

### **APPEAL:**

On June 16, 2014, two residents of the neighborhood in which the Project is located filed a timely appeal of the County staff action to approve the Project. The appeal application cites multiple concerns, which are summarized by the following material issues, which includes Staff's response:

#### Procedure

##### *Appellants' Contention:*

Planning Division decision to grant the TUP ignores County Code, and staff did not provide written notice or conditions of approval for the permit granted.

##### *Staff Response:*

In compliance with the Development Code [§ 84.25.060(a)], a TUP may be issued for the interim operation of any use requiring a CUP for a period of time not to exceed 12 months, provided the TUP does not authorize the construction or establishment of new permanent structures and the review authority makes the findings required for approval of a CUP in compliance with Chapter 85.06 (Conditional Use Permit/Minor Use Permit). The permit may be extended for an additional 12 months, and may be extended multiple times not to exceed a total of 5 years [§ 85.15.080(f)(5)].

In compliance with the Development Code (Code) [§ 85.15.060(b)], the procedure for required for issuance of a TUP 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. As with the TUP approval issued on September 7, 2012, a Notice of Decision was mailed and the appeal was filed as a result of this notice. Subsequent to the mailing of the Notice of Decision, several residents requested a copy of the conditions of approval, which were provided to each via email on June 17, 2014.

#### Conditions of Approval

##### *Appellants' Contention:*

The conditions of approval from the original TUP have not been met.

*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 Development Code and applicable development standards, both prior to and as a part of the operation. Staff has determined that all the previously-applied conditions have been satisfied, although there are issues relative to three conditions which affect the driveway approach and traffic signs (Conditions 22, 23, and 26). Staff's recommendation is predicated on the resolution of these two matters which is anticipated to be concluded by the time of the hearing.

As to the first, an asphalt driveway approach (not meeting the County standards as required by Condition 22) has been installed. However, because this is a temporary use, Department of Public Works has determined that it substantially conforms to the condition so long as it is removed and a concrete approach is constructed for the permanent use. Also, the applicant constructed the current driveway approach before obtaining an encroachment permit as identified in condition #23. This has been communicated to the applicant, who is currently working with the Department of Public Works to comply with this requirement and staff expects to have this issue resolved by the time the Planning Commission hears this matter.

Traffic signs have been installed per Condition 26, but may need to be relocated. Again, this issue has been communicated to the applicant who is working with the Traffic Division of Public Works to make the necessary changes.

The fact that the current structure is a residence and that the anticipated use relates to the exercise of religion is significant. The structure at the project site remains fully permitted and usable as 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. Thus, whether the current permit is approved or not, the County will continue to receive and evaluate complaints as they are made, but that does not mean that enforcement actions are necessarily justified.

Inquiries to both County Code Enforcement and the Sheriff's Department concluded that there have not been any complaints or noted violations for the site in the past 12 months.

**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

# **ATTACHMENT A**

## **Appeal Application and Attachments**

### 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: JUNE 16, 2014

File/Index #: P201400161

Building Permit No.: N/A

Project Applicant(s): AL-NUR ISLAMIC CENTER

Appellant's Name (s): CAROL YONAN / DIANE SCHAUMANN

Appellant's Address: 4814 ORANGE BLOSSOM LANE / 4760 ORANGE BLOSSOM LANE  
CHENO, CALIF 91710 / CHENO, CALIF 91710

City: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: 909-721-1652 / 909-627-9502 FAX No.: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Assessor's Parcel No. of Subject Property: 1013-072-02

General Location of Property: 4797 PHILLIPS AVENUE, ONTARIO, CAL 91710

Community/Area: CHENO

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) APPROVE TEMPORARY USE PERMIT

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)

Carol Yonan  
[Signature of Appellant(s)]

Authorized Legal Agent(s)

Diane Schumann  
[Signature of Appellant(s)]

Other Interested Person(s)

Date: \_\_\_\_\_

## **WHAT IS BEING APPEALED**

This is an administrative appeal of the County of San Bernardino Planning Commission's decision of June 3, 2014, to grant a temporary use permit to the site at 4797 Phillips Boulevard, Ontario, California, Project # P201400161, to take effect June 16, 2014. This appeal is to exhaust administrative remedies prior to judicial review. As required by San Bernardino County Development Code §§ 86.06.020, 86.07.070, 86.08.030, this appeal is timely filed, before 5 p.m. on June 13, 2014, on the required forms.

The appellants, Carol Yonan and Diane Schumann, on behalf of themselves as well as many other homeowners in the area, appeal the decision of the Planning Commission to grant a Temporary Use Permit to the Al-Nur Islamic Center, to be located in a rural area of single family homes at 4797 Phillips Blvd., Ontario, California. Appellants prevailed in a CEQA lawsuit on sanitation issues, which still have not been formally addressed.

This appeal is based on the fact that there are multiple significant land use issues, including (1) sanitation, (2) water diversion and drainage, (3) traffic and air pollution, (4) noise/congestion, and (5) creation of public and private nuisances in the neighborhood. The County appears to be relying on multiple false and misleading statements, without performing any independent review of the facts. Further, there is no provision in the San Bernardino County Code of Ordinances that allows such a temporary use permit.

There have been (1) significant misrepresentations of material facts by the Al-Nur Mosque proponents, and (2) almost no written notices whatsoever to appellants or to their neighbors, concerning any modifications of the project or specifying what conditions are to be met prior to the Temporary Use Permit taking effect, thus depriving appellants of the opportunity to prepare or research the impact of any changes to the original plans and/or any conditions imposed by the County. In spite of numerous requests by several different individuals, the County Planning Staff has refused to provide a copy of the conditions.

Thus, this project remains as originally proposed – operating 20 hours a day, 7 days a week, 52 weeks a year, on a 2-lane county road that is 11 feet 4 inches wide (less than the required 12 feet per lane), without storm drains or sewer hookups, and with repeated parking on the dirt lot next door which creates ongoing dusty conditions that trespass onto the neighboring properties.

### **WHAT CHANGES ARE SOUGHT**

Appellants request that the County of San Bernardino Planning Division deny a temporary use permit to the applicants. Essentially none of the original Conditions of Approval have been met, and most of these original Conditions of Approval are unlikely to ever be met, making this project doomed from its inception.

Appellants request that any temporary use permit be stayed until the current conditions are provided to appellants, and a suitable time allowed after receipt for the appellants to respond.

Appellants request that the Planning Division independently verify the “facts” given them by the mosque proponents, some of which are set forth below.

Appellants have provided a significant amount of written material to the Planning Division, and hereby incorporate their written materials by reference into this appeal.

## PROCEDURAL BACKGROUND

Applicants applied for a conditional use permit to build a massive Islamic Community Center, and this project was approved prior to any public hearings. At the first public hearing, neighbors raised a number of significant land use issues, but the conditional use permit was granted without discussion by the Planning Commission.

Neighbors then appealed this decision to the Board of Supervisors, who also approved the project. Neighbors then filed a CEQA lawsuit, which they won because the sanitation issue was not addressed. The Al-Nur mosque project cannot proceed without an Environmental Impact Report, as ordered by the court.

While the CEQA lawsuit was pending – and the conditional use permit automatically stayed – the applicants somehow were granted a temporary use permit, to use the existing single family home for gatherings, in violations of numerous codes and ordinances.

This grant of a temporary use permit was appealed to the Planning Commission on February 7, 2013. The Planning Commission approved the project, without the Conditions of Approval being met.

On May 21, 2013, appellants appealed the Planning Division's decision to the Board of Supervisors, which upheld the decision to grant a temporary use permit, subject to the conditions of approval. During the past year, many of the conditions of approval have not been met, far more than the allowed 30 individuals have been at the property at one time, an outdoor loudspeaker has been used repeatedly, and traffic has been delayed significantly by the mosque. Calls by neighbors to code enforcement and the sheriff's office complaining of nuisance activities have either been ignored, or the callers told to contact Heidi Duron at the Planning Division. There has been no enforcement whatsoever of the conditions of approval.

Appellants filed a lawsuit for trespass in the fall of 2013, and a larger lawsuit for declaratory relief in March 2014. These cases were consolidated on June 12, 2014, and depositions have been set for three (3) of the parties.

### SUMMARY OF THE PROJECT

Applicants are an out-of-area group with no ties to the community, who seek to build a massive community center, with primarily secular activities, operating 20 hours a day, 7 days a week, 52 weeks a year, in an area zoned only for single family homes and surrounded by single family homes.

Applicants purchased property that they knew was zoned for single family residences, yet they sought to build their massive community center with many secular activities on a very small parcel, without infrastructure in the area to support such a massive project.

Applicants are now using their property without any regard whatsoever for the rights of the neighbors, and in violation of the conditions of their temporary use permit. Applicants contend that they are exempt from land use regulations based on their religious affiliation.

### **A. THE GROUNDS FOR APPEAL**

1. The Planning Division staff did not provide written notice of any changes or any modifications of the original plan for the site, and refused to provide a copy of the current conditions for the temporary use permit granted on June 3, 2014, so there was no opportunity for appellants to review, investigate, and prepare any challenges.
2. The Planning Division has ignored the substantial evidence presented by the opponents of the project, and has not independently verified “facts” that appellants have pointed out are erroneous.
3. The Planning Division’s decision was arbitrary and capricious, and ignores the San Bernardino County Code of Ordinances.
4. The temporary use permit is subject to meeting original Conditions of Approval, as well as the current conditions imposed on June 3, 2014 (still not provided to appellants), and these conditions have not all been met. No valid temporary use permit can be in effect until the Conditions of Approval are met.

## **B. THE DESIGN BEING APPEALED**

The specific design being appealed is unknown. There were many numbers thrown out at the meeting – 150 people a day, 100 people a day, 114 people a day, 30 people five times a day, or 30 people an hour. Nothing in writing has been provided to appellants. It has become obvious that the mosque proponents knowingly violate the conditions of the temporary use permit by allowing far more than 30 people at a time on the premises, on a frequent basis, and repeatedly create nuisance conditions.

### **C. LAND USE APPLICATIONS AT ISSUE**

1. Septic concerns - the project proponents plan to have 114 individuals visiting the site a day, for 20 hours a day. One 1200 gallon septic system is not sufficient to handle this amount of discharge. Neighbors will find themselves living next to a sewage holding tank that needs to be pumped regularly, with all the attendant noise and highly noxious odors. There is a court order in place that no further activities occur until the sanitation issues are adequately addressed, which has NOT been done to date.

2. Hours of operation – any facility operating 20 hours a day, 7 days a week, 52 weeks a year, is unheard-of in a residential neighborhood. The large gatherings at the site are already a problem for neighbors, with the increased traffic, noise, and air pollution from so many additional cars, and headlights from exiting vehicles shining into neighbors’ bedrooms until well after midnight.

3. Vehicular traffic – The County has already determined that a home business can have only 10 vehicles a day, to prevent disturbance of the neighborhood. However, the Planning Division allowed a total of 114 vehicles a day – almost 15 times the amount of the vehicular traffic allowed for a home business. There is no logic whatsoever to this decision.

4. Phillips Avenue is not sufficient to handle the traffic - Phillips Avenue between Yorba and Monte Vista is only 22 feet wide – barely a two-lane country road. There is a jag in the road at Monte Vista, which makes for frequent accidents already. The City of Ontario requires all traffic lanes to be 15 feet for safety, so such a narrow street already does not meet safety standards. The traffic congestion has already become a significant hassle from so many people and all the secular activities, and poses a significant safety hazard to the many children who walk along its streets.

5. Unpermitted structures – applicants have installed three (3) large streetlights without permits, which pose a safety hazard and a fire hazard. Applicants are being granted exemptions for numerous codes and ordinances, without justification.

6. The San Bernardino County General Plan, which is presumed valid and correct, seeks to preserve neighborhoods, local cultures, and scenic views. All of these are violated by the decision to allow commercial activity in this residential area of single family homes. Thus, this project is not consistent with the general plan.

7. Noise and air pollution from the traffic - The sounds of automobiles are significant, with the motors running, opening and closing of doors, and clicking to lock and unlock doors, as well as many people talking to each other in the parking lot. Just stand by a Starbucks and imagine that in your backyard

8. The mosque does not fit into the community. The neighborhood consists of single-story, ranch and frame style homes. This project is three to six times as tall as the surrounding homes, and will tower over the surrounding homes, destroying all privacy in the neighbors’ backyards,

and blocking sunlight, air circulation, and views of the mountains. This project is a big rectangular box, similar to the newer commercial buildings along Haven Avenue north of the 10 freeway. It is far too close to existing homes – only 16 feet from the property line of one neighbor, and 25 feet from another neighbor’s property line.

#### **D. JUSTIFICATION FOR APPEAL**

1. The Planning Division did not follow the required procedures, as there was no written description of the changed or modified project or the new conditions provided to opponents of the project.
2. The Planning Division acted in an arbitrary and capricious manner, ignoring all the evidence presented by the neighbors, while accepting false and misleading information from the applicants.
3. The Planning Division’s decision is not supported by substantial evidence. The substantial evidence presented at the hearing and at prior hearings indicates the project is completely unsuitable for the location. There is no other such project in a similar neighborhood. No reasonable person could have reached the same conclusion, that this project is appropriate for the area.
4. The Planning Division relied on false information. The traffic engineer indicated the street was 31 feet wide, when it measures only 11 feet 4 inches each lane – far less than the 15 feet per lane required by the City of Ontario (which is the postal address for the site). The traffic study was done on a nearby quiet side street, not on Phillips Avenue near the proposed mosque. The septic expert report submitted by the project proponents indicated the septic tank could support 100 people for one day – there was no calculation for daily use for 20 hours a day by 114 people.

#### **E. SOLUTIONS SOUGHT**

Appellants request that the use of the property be limited to what it was designed for – a single family residence, subject to the same restrictions as every other parcel in the area.

The project applicants cannot have had any reasonable expectation that they could build whatever they wished on a residentially zoned parcel in an area without infrastructure, so they are suffering no harm whatsoever.

Per the Religious Land Use and Institutionalized Persons Act (RLUIPA) “No government shall impose or implement a land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a non-religious assembly or institution.” Here, the County of San Bernardino would be unlikely to allow a four-story J.C. Penny store or a six story office building on the parcel, so there is no genuine “less-than-equal” argument. If anything, the County of San Bernardino is favoring a religion, which is unconstitutional.

## **ATTACHMENT B**

### **Temporary Use Permit Approval and Conditions**

# LAND USE SERVICES DEPARTMENT

BUILDING & SAFETY • CODE ENFORCEMENT • FIRE HAZARD ABATEMENT  
LAND DEVELOPMENT • PLANNING



COUNTY OF SAN BERNARDINO

- 385 N. Arrowhead Avenue, First Floor • San Bernardino, CA 92415-0187  
(909) 387-8311 Fax (909) 387-3249
- 15900 Smoke Tree Street, First Floor • Hesperia, CA 92345  
(760) 995-8140 Fax (760) 995-8167

TOM HUDSON  
Director

June 5, 2014

**Expiration Date: June 16, 2015**

Al-Nur Islamic Center  
4797 W. Phillips Blvd.  
Ontario, CA 91762

Attention: Rashid Ahmed

**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 #: P201400161**

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** on June 3, 2014 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 June 16, 2014 and shall expire and become void after 12 months on June 16, 2015. 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.

If you have any questions or concerns, please feel free to contact me at (760) 995-8152 or via email at [Heidi.Duron@lus.sbcounty.gov](mailto:Heidi.Duron@lus.sbcounty.gov).

Sincerely,

Heidi Duron, Supervising Planner

HD/cks

GREGORY C. DEVEREAUX  
Chief Executive Officer

Board of Supervisors  
ROBERT A. LOVINGOOD.....First District      JAMES RAMOS.....Third District  
JANICE RUTHERFORD, Chair.....Second District      GARY C. OVITT, Vice Chair.....Fourth District  
JOSIE GONZALES.....Fifth District

## CONDITIONS OF APPROVAL

### Interim Operation Temporary Use Permit AI-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 (P201400161).
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 June 16, 2014 and shall expire and become void after 12 months on June 16, 2015.
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.

LAND USE SERVICES/Land Development Division – Road Section (909) 387-8311

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.

LAND USE SERVICES /Land Development Division – Drainage Section (909) 387-8311

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. The applicant shall complete all required drainage improvements. Public Works will then inspect and approve them.

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**

# **ATTACHMENT C**

## **Conditional Use Permit Findings**

## **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 existing single-family residence and required parking area. 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.
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 the use of an existing single-family residence for prayer and is required to adhere to the general performance standards outlined in the Development Code, as well as the conditions of approval. 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 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), the proposed use is exempt under a Class 1 Categorical Exemption (15301 Use or Minor Alteration to Existing Facilities), which 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, and under a Class 3 Exemption (Conversion of Small Structures), which provides for the conversion of existing small structures from one use to another where only minor modifications are made to the structure. The County exercised independent judgment in making this determination.