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A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Jeffrey Barnett, Vice Chair Susan Burnett Adam Mayer Joseph Sordi Rob Stump
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
Transcribed by:	Vicki L. Blandin (619) 541-3405

P R O C E E D I N G S:

VICE CHAIR BARNETT: Now moving onto Item 5, which, again, is a consideration of a request for approval to modify an existing Conditional Use Permit for expanded hours of operation in an institution for religious observance, West Valley Muslim Association, on property zoned R-1:8, located at 16769 Farley Road. APN 424-210062. Categorically exempt pursuant to CEQA Guidelines 15301, Existing Facilities. Property owner, West Valley Muslim Association, Osmar Ghafoor, President. Applicant, Razi Mohiuddin. The project planner is Jocelyn Shoopman. Ms. Shoopman, do we have a Staff Report?

Oh, yes, Commissioner Thomas has to leave, because she's in proximity.

CHAIR THOMAS: Yes, I live in proximity to this project, so I need to recuse myself, so thank you.

VICE CHAIR BARNETT: Ms. Shoopman

JOCELYN SHOOPMAN: Thank you, and good evening.

On April 22nd the Planning Commission discussed this item and received testimony from both the Applicant and a representative of the neighborhood group. At the April 22nd meeting the Planning Commission continued this item to a date certain of May 13th with direction to Staff to bring

1 back a revised resolution and Conditions of Approval that
2 incorporated the modifications provided by the Planning
3 Commission.

4 Since the publication of the Staff Report, there
5 has been an Addendum and Desk Item reports with additional
6 public comments. The Desk Item report provided this
7 afternoon also includes Alternative Conditions of Approval
8 for consideration by the Planning Commission, including an
9 updated draft resolution as well.

10 This concludes Staff's presentation, and we are
11 available for any questions.

12 VICE CHAIR BARNETT: Thank you, Ms. Shoopman. Are
13 there questions for Staff? No. Okay, thank you very much.

14 I'm going to ask the Town Attorney to address the
15 issue of the public meeting, which was closed at our last
16 session, and determine what recommendations are made at
17 this time.

18 ATTORNEY WHELAN: In today's Desk Item there are
19 Alternative Conditions of Approval for the Commission's
20 consideration, and the reason those are there is since the
21 last Planning Commission meeting the Town received a lot of
22 public comment on this issue, and Staff ran all those
23 public comments through RLUIPA analysis, and as the
24 Commission will recall, the RLUIPA analysis consists of
25

1 determining whether or not there is a substantial burden
2 created by a condition, what the compelling government
3 interest is, and whether the proposed condition is the
4 least restrictive means of addressing that compelling
5 government interest.

6 In addition, the Town needs to determine whether
7 the conditions treat the use on equal terms with comparable
8 uses and do not discriminate amongst different faiths.

9 In addition, with regard to each Condition of
10 Approval that the Town adopts, the Town needs to articulate
11 what the impact is that needs to be addressed, and then
12 articulate how the Condition of Approval mitigates that
13 impact. With that in mind, Staff is proposing some
14 alternative conditions, and I'd be happy to run through
15 those if that would be helpful to the Commission.

16 I also wanted to say that based on due process
17 concerns, since the alternative conditions do deviate from
18 what was originally presented to the Planning Commission,
19 my recommendation to the Commission would be that the
20 public hearing be reopened for the limited purpose of
21 speaking only to those Conditions of Approval that have
22 changed.

23 VICE CHAIR BARNETT: Thank you for that. So, the
24 redline showing the changes is Exhibit 41, is that correct?
25

1 ATTORNEY WHELAN: That's correct, and then in
2 addition there are some other changes to the conditions
3 that were proposed in the Staff Report that are not
4 captured in the Desk Item Exhibit 41, and I can read those
5 into the record as well.

6 VICE CHAIR BARNETT: This would be a good time to
7 do that.

8 ATTORNEY WHELAN: The first one is Condition of
9 Approval 23 in the Desk Item, and it was number 25 in the
10 Staff Report. The condition previously read that parking
11 lot monitoring training would be provided by the Los Gatos-
12 Monte Sereno Police Department, if available, and Staff has
13 confirmed that training is not available from the Police
14 Department, and so Staff is proposing that the condition
15 read instead "with training, as available by an entity that
16 provides this type of training."

17 VICE CHAIR BARNETT: Thank you.

18 ATTORNEY WHELAN: The next change is Condition 26
19 in Attachment 41, and it was number 28 in the Staff Report.
20 The condition previously proposed that the parking lot add
21 a specific number of spaces, and the current proposal is
22 that "The Applicant shall submit an application proposing
23 additional parking spaces to the Community Development
24 Department within six months of the final approval date,
25

1 and complete the construction improvements within one year
2 of the final approval date. The parking lot expansion shall
3 add 23 parking spaces, or up to as many possible based on
4 compliance with Town standards," and then the rest of that
5 condition would remain the same.

6 VICE CHAIR BARNETT: Okay, thank you for that.

7 ATTORNEY WHELAN: The next change is to Condition
8 of Approval 31 in Attachment 41, and number 33 in the Staff
9 Report. It previously said that the Applicant would
10 complete its Building Permit application process to
11 construct a door to allow pedestrian ingress and egress.
12 The new proposal is "The Applicant shall submit a Building
13 Permit application and receive final inspection to
14 construct an opening in the concrete wall in front of the
15 property for the purpose of allowing pedestrian ingress and
16 egress to the site without walking in the driveway within
17 one year of the final approval date."

18 Then the final one is Condition of Approval 32 in
19 the Desk Item, and number 34 in the Staff Report. It
20 previously read that "All site and parking lot lighting
21 shall be full cutoff, downward directed, and at the
22 Building Code minimum brightness level during Quiet Hours,"
23 and Staff is proposing to add "within one year of the final
24 approval date" to the end of that sentence.
25

1 Those are the items that were captured in the
2 Staff Report but not the Desk Item, and so now, if this is
3 a good time, I could run through the rest of the changes to
4 the Conditions of Approval if the Commission is interested
5 in considering Alternative Conditions of Approval.

6 VICE CHAIR BARNETT: I think in the interest of
7 public communication, and for those who may not have had an
8 opportunity to look at the redline, which was only recently
9 produced, that it would be (inaudible) for us to do that,
10 if you would.

11 COMMISSIONER STUMP: Did you say as you go
12 through these to offer alternatives, or at the conclusion?

13 ATTORNEY WHELAN: I wanted to run through the new
14 Alternative Conditions of Approval so that the Commission
15 has a good understanding, and also the public can hear what
16 they are.

17 The first change would be to Condition of
18 Approval 7 in both the Desk Item and the Staff Report. It
19 used to say that there would be an annual compliance review
20 in perpetuity, and the alternative condition would say,
21 "For the three years following approval, the Planning
22 Commission shall conduct an annual compliance review of the
23 Conditional Use Permit. This compliance review shall be
24 completed at the Applicant's expense." The reason that this
25

1 alternative is being proposed is that Staff is conscious of
2 the RLUIPA requirement that religious faiths be treated on
3 equal grounds and that similar uses be treated equality.
4 Staff conducted a review of other Conditional Use Permits
5 that have been issued by the Town, and we did not locate
6 any Conditional Use Permits that have longer than a three-
7 year compliance review period.

8 The next change would be regarding general hours,
9 which is number 12 in the attachment to the Desk Item. It
10 previously spoke to hours of operation in general, and
11 Staff wanted to make a distinction between hours for
12 worship service versus hours for other activities, and so
13 the new proposed language would say that "Worship services
14 shall not begin earlier than 1.5 hours before sunrise, or
15 extend past 10:30pm daily, except as specified in Condition
16 13, Seasonal Late Hours Exception," and then a new
17 Subsection B would be added to say, "Other activities are
18 limited to the hours of 8:00am to 10:00pm."

19
20 VICE CHAIR BARNETT: Thank you.

21 ATTORNEY WHELAN: Then, with regard to Condition
22 of Approval 14, it previously stated that vehicles would be
23 limited to the number of onsite parking spaces, and that
24 the evening prayer service would be limited to the maximum
25 building occupancy for the facility. We were not able to

1 locate any other Conditional Use Permits that had a
2 limitation on the number of vehicles, and then we were also
3 concerned that it would be difficult to enforce, because
4 vehicles are allowed to park on public streets.

5 Condition 15 address lot closure. Originally, the
6 language read that the lot was required to be vacated
7 within 30 minutes of the end of the last service. This
8 would add a new sentence to say, "For all other activities,
9 the parking lot shall be vacated by 10:00pm."
10

11 VICE CHAIR BARNETT: Yes, that (inaudible) sense.
12 Thank you.

13 ATTORNEY WHELAN: Food vendors is number 18, and
14 that originally stated that only the interior of the
15 parking lot would be used for food vendors. We felt it
16 would be better to have it be more specific, and so the
17 alternative language would say, "Food vendors associated
18 with events shall be located at least 20 feet from the
19 property line."
20

21 The next one is 19, High Attendance Guidelines.
22 It looks like that was just relocated, and that provides at
23 least 30 days before any recurring or seasonal period of
24 high attendance where onsite parking is insufficient to
25 accommodate parking demand, the Applicant shall provide
members and attendees written reminders regarding

1 respectful parking practices, including use of onsite
2 spaces, carpooling where possible, and avoidance of
3 spillover impacts on surrounding residential streets,
4 minimizing congregating in the parking lot to adhere to
5 Quiet Hours requirements, and compliance with all
6 applicable Conditions of Approval. Documentation of this
7 communication, (e.g. copy of written notice, email, and
8 posting on the facility's website), shall be maintained on
9 file and made available to the Community Development
10 Director upon request.
11

12 Section 20 addresses noise mitigation, and Staff
13 is proposing an alternative condition that would provide
14 that the Applicant must comply with the Town's Noise
15 Ordinance. At the last Planning Commission meeting, the
16 Commission was interested in prohibiting amplification
17 altogether, however, Staff was not able to locate any other
18 Conditional Use Permits in town that prohibit amplification
19 altogether, and so Staff is recommending being consistent.
20

21 Parking lot monitoring is number 23, and the
22 alternative condition provides that, "Training by the Los
23 Gatos-Monte Sereno Police Department" will be provided if
24 available."
25

1 Number 24, Driveway Operations. That's redlined,
2 but that's not a new change, that is simply saying that the
3 Right Turn sign at the end of the driveway can be removed.

4 Then, number 26, the alternative language is
5 proposed to clarify exactly what is intended by repairs to
6 the parking lot, and so the last two sentences would read,
7 "Within six months of the final approval date the existing
8 parking lot shall be repaired so that cracks, bumps, or
9 other anomalies do not contribute to additional noise
10 generation of passing vehicles. Thereafter the parking lot
11 shall continue to be maintained to avoid conditions like
12 cracks and bumps, which generate noise."

14 Condition 28, the alternative provides for
15 different ways of providing sound and light mitigation.
16 "The Applicant is to fill in any gaps in plantings or
17 fencing by either planting a hedgerow to fill in gaps at
18 perimeter fences, planting a variety of native trees and
19 shrubs for the purpose of sound and light mitigation, or
20 installing screens, as approved by the Community
21 Development Director within one year of the final approval
22 date. If plantings are selected, they shall be a minimum
23 size of three gallons, and the selected plantings shall
24 grow 2-4' per year. The specific plantings shall be based
25 on discussions with the Applicant and the Community

1 Development Director. The plantings shall be maintained at
2 a height of 8'. Additionally, the Applicant shall offer to
3 provide plantings or moveable barriers to the neighbor
4 across the street in order to reduce headlight intrusion
5 into the residential property across the street."

6 Condition of Approval 29 reflects what the
7 Commission discussed at the last meeting, which was
8 obscuring vehicle headlights through the use of privacy
9 mesh, windscreens, or portable planters or screenings as
10 proposed in the letter that the Commission received prior
11 to its last meeting.

12 Section 30 is regarding fencing, and it used to
13 require that the Applicant apply for a Fence Height
14 Exception for the entire fence currently, and then the
15 alternative language says, "As portions of the fencing are
16 replaced in the future, the Applicant shall submit an
17 application for a Fence Height Exception for purpose of
18 increasing the height of the existing fences to 8' in order
19 to mitigate noise and light pollution."

20 Condition 33, the alternative language provides
21 that the Applicant's online calendar will provide at least
22 a 60-day notice in advance of events and activities
23 scheduled to take place, so the change is to replace the
24 word "proposed" with "scheduled activities," and the intent
25

1 was to make it clear that this notice is intended to be
2 required for activities that are pre-scheduled.

3 Then Condition 20 previously provided that the
4 Applicant would provide written notice to members five to
5 ten days prior to a scheduled event anticipated to have an
6 attendance of 100 or more persons, and to remind attendees
7 of the rules regarding the use. The alternative language
8 would provide that, "The Applicant will provide a monthly
9 notice to its membership," and the purpose of that is to
10 avoid repetitive notices, and all the admonitions could be
11 given in one monthly notice to the membership.
12

13 Then, the conditions regarding having the
14 Applicant request information from Santa Clara County Fire
15 Department and the Police Department have been removed, and
16 the reason that that alternative is being proposed is that
17 Staff will be requesting that information rather than
18 asking the Applicant to request it.

19 That is a summary of the changes that are
20 contained in the Alternative Conditions of Approval.

21 VICE CHAIR BARNETT: Thank you so much for that.
22 Much appreciated. With respect to your recommendation that
23 the public hearing being opened for the specific purpose of
24 talking about those changes, is that a decision to be made
25 by the Planning Commission as a whole?

1 ATTORNEY WHELAN: Yes.

2 VICE CHAIR BARNETT: So, my proposal to my fellow
3 Commissioners is that we need a motion to reopen the public
4 hearing for the specific purpose of discussing with the
5 Applicant and members of the public those changes which
6 were just read by the Town Attorney. Commissioner Burnett.

7 COMMISSIONER BURNETT: I'll second that.

8 VICE CHAIR BARNETT: I didn't make a motion. Did
9 you make a motion?
10

11 COMMISSIONER BURNETT: I thought that was the
12 motion.

13 VICE CHAIR BARNETT: No, I'm looking for a
14 motion. Commissioner Stump.

15 COMMISSIONER STUMP: I just wanted to ask for a
16 clarification. There are some things that may be changed by
17 Commissioners, or recommended changes. Are we going to
18 propose those recommended changes now, or after we open the
19 public hearing?

20 VICE CHAIR BARNETT: That's a good question.

21 ATTORNEY WHELAN: That is at the Commission's
22 discretion. I do think it would be good to have that
23 discussion now, so that members of the public can react to
24 the potential changes.
25

1 VICE CHAIR BARNETT: I agree with that
2 recommendation. It makes common sense. Commissioner Stump,
3 did you want to commence with your proposed changes that
4 are in addition?

5 COMMISSIONER STUMP: Yes, I'll be glad to start
6 the process. As you all know, at the last meeting I
7 proposed a couple of capacity measures. One was to take a
8 look at the early morning service and the last evening
9 service, and specifically asked Razi, and thank you for
10 giving me numbers, and so tried to work through the numbers
11 and then discovered that those numbers would not be fair,
12 would not be used, would not be supported.

13 So, then you saw us move to vehicles. You've got
14 180 spaces in your lot currently, so the number would be
15 180.
16

17 My whole reason for doing this is because I still
18 have serious concerns about public safety on Farley Road,
19 not only for the residents, but also for the mosque-goers,
20 and the traffic flow, etc., and just trying to put a
21 capacity in here somewhere.

22 So, what did I do? Today, because we just found
23 out yesterday that the number of 180 would not be
24 acceptable and to base it on parking, I did a deep dive
25 into the CUPs for religious institutions in Los Gatos. I

1 reviewed eight CUPs, and that's really the majority of the
2 CUPs for religious institutions in Los Gatos, and found
3 that all of them had a stated capacity in their CUP.

4 Four of them, and that included Calvary Church,
5 Venture Church, Los Gatos Methodist Church, and Assembly of
6 God, had specific calculations for their maximum capacity,
7 and that calculation is very simple, and once again, it
8 takes us right back to parking, parking times four. So, for
9 all of those religious institutions, their capacity is
10 calculated based on parking spaces times four, and so what
11 I would be recommending, again, in the spirit of public
12 safety, etc., that we do put a capacity number on this CUP
13 as well to be consistent with the other religious
14 institutions in the Town of Los Gatos.

16 I'm not sure where it would fit here, because we
17 have obviously eliminated general hours vehicle limitation,
18 but it might be general hours capacity, and that capacity
19 would be set at 720; that is 180 times four.

20 Obviously, you've got a parking lot expansion
21 potentially on the horizon, and it sounds like that's
22 something that could be addressed in the next annual review
23 if that parking lot expansion is addressed. My opinion at
24 this point.
25

1 When we get to late hours, we'll talked about
2 needing a reasonableness to expand for late hours.

3 VICE CHAIR BARNETT: Commissioner Stump. Can you
4 tell me how many do you have? Because I'm wondering if we
5 should vote independently on each of them, so we don't lose
6 track.

7 COMMISSIONER STUMP: Let me just start with two,
8 and I'm on number 12, but it's been eliminated. It says,
9 "General hours vehicle limitation."
10

11 VICE CHAIR BARNETT: Okay, thank you.

12 COMMISSIONER STUMP: And then, it's down below
13 Seasonal Late Hours Vehicle Limitation. I would change that
14 to capacity. And so, for the late hours, obviously there is
15 a capacity that's been set by Santa Clarify County Fire
16 Department, which is 869 as a maximum capacity, and so that
17 would be the maximum capacity during the late hours. Seven
18 hundred and twenty during general period of time, that's 11
19 months of the year, and 869 during the Ramadan period, so
20 that would read, "General hours capacity and seasonal late
21 hours capacity." They probably could be merged, those two
22 items.

23 VICE CHAIR BARNETT: So, we have a motion. Is
24 there a second?
25

1 COMMISSIONER STUMP: I move to set capacities for
2 general hours and seasonal late hours of 720 and 869
3 respectively.

4 VICE CHAIR BARNETT: All right, thank you for the
5 clarification. Is there a second? Commissioner Burnett.

6 COMMISSIONER BURNETT: I will second that.

7 VICE CHAIR BARNETT: Discussion? Commissioner
8 Mayer.

9 COMMISSIONER MAYER: Question for the Town
10 Attorney. Is Commissioner Stump's point about the
11 calculation four times the amount of parking spaces, is
12 that consistent with the other religious CUPs that he
13 cited?
14

15 ATTORNEY WHELAN: We've done the math for, I
16 think, two of the other CUPs, and correct me if I'm wrong,
17 but I believe it was a ratio of 1:4.

18 JOCELYN SHOOPMAN: That's correct. The ratio of
19 1:4 is coming from the Town Code. The Town Code requires
20 one parking space for every four seats, so that's where
21 that's coming from, and we identified two Conditional Use
22 Permits that this attendance cap was used for.

23 COMMISSIONER STUMP: I guess I would dispute
24 that, because I went in and researched today and come up
25 with four that use that same methodology, and I named

1 those: Calvary Church, Venture Church, Los Gatos Methodist
2 Church, and the Assembly of God, so I'm pretty certain
3 about that.

4 VICE CHAIR BARNETT: I appreciate that, and we
5 did hear that. Comments by anyone else? I'd like to ask the
6 Town Attorney whether those proposed changes are consistent
7 with RLUIPA?

8 ATTORNEY WHELAN: In my opinion, yes, because the
9 faith would be being treated on equal terms with other
10 Conditional Use Permits that have been issued to other
11 congregations in town.

12 VICE CHAIR BARNETT: And is there a way to know
13 under that law whether there needs to be unanimity among
14 the other congregants, the other religious institutions,
15 with respect to that kind of a limitation on capacity?

16 ATTORNEY WHELAN: The law just provides that a
17 public agency can't discriminate amongst different faiths,
18 and so I think a court would say different faiths have to
19 be treated roughly the same, and of course you can take
20 into account different characteristics of different uses.

21 VICE CHAIR BARNETT: I guess there are a number
22 of religious institutions on the comparison chart that do
23 not have such limitations, is that correct?
24
25

1 ATTORNEY WHELAN: I think that's correct, yes.
2 Also, another thing is, whenever the Commission is imposing
3 a condition, it's good to specify what the impact is that
4 needs to be addressed, and how the condition will address
5 that impact.

6 VICE CHAIR BARNETT: Commissioner Stump, do you
7 wish to respond to that recommendation by the Town
8 Attorney?

9 COMMISSIONER STUMP: I'm sorry, could you repeat
10 the question?
11

12 ATTORNEY WHELAN: When it comes to a vote, it
13 will be good to articulate on the record what the impact is
14 that's being addressed by any new Condition of Approval
15 that the Town opts to impose on the permit. So, address
16 what impacts need to be addressed via a Condition of
17 Approval and how that Condition of Approval mitigates the
18 problem.

19 COMMISSIONER STUMP: I will state the impact to
20 the mosque, or the mosque will state the impact?

21 ATTORNEY WHELAN: If the Commission opts to add
22 new Conditions of Approval, as part of the discussion the
23 record should reflect what the impact is that needs to be
24 addressed, and how the Condition of Approval solves for
25 that problem.

1 COMMISSIONER STUMP: I guess I would look back
2 and say, one, there is a consistency with other religious
3 institutions in the Town of Los Gatos, at least eight of
4 them, that have capacity numbers that have been
5 specifically identified that aren't necessarily set by
6 Santa Clara County Fire Department, and that it's for their
7 safety as well.

8 And as I mentioned, just the overall public
9 safety, traffic flow, and pedestrians. Again, we've got
10 3,500 people a week traveling through that neighborhood. We
11 have 5,000 a week traveling through that during Ramadan.
12 This at least provides some target ceiling, and in fact, I
13 think which we're going to fine. We've said 720, right?
14 That's per service, times five. They could have 3,500
15 people at their site a day, so what is really the
16 restriction? It really comes down to this is a capacity
17 number that's established in consistency with other
18 religious institutions in Los Gatos.

20 VICE CHAIR BARNETT: Let's assume that that's
21 part of our motion. Is there any further comment at this
22 point?

23 I'd like to express my strong opinion that we're
24 interfering with the First Amendment and RLUIPA rights of
25 congregants to attend the institution of their choice to

1 exercise their religion, and those points are made by legal
2 counsel in the Staff Report, and I think that those need to
3 be deeply considered because of the consequences of a
4 violation. So, I would be voting against that motion.

5 But if there is no other discussion, I'll call
6 the question.

7 COMMISSIONER STUMP: Chair, my question though
8 would be then, I guess you're saying we're in violation
9 with all the other CUPs that we have with religious
10 institutions in the Town of Los Gatos.

11 VICE CHAIR BARNETT: I'm addressing the
12 application that's before the Planning Commission.

13 COMMISSIONER STUMP: I understand, and I guess
14 I'm sticking with the consistency of what the Town of Los
15 Gatos has done to date. And by the way, obviously, I
16 respect your opinion. I desperately want to make sure that
17 we do things right, and I would never want to put the Town
18 at risk, etc., but like I said, 720 people per service,
19 that doesn't seem like a real capacity constraint.

20 VICE CHAIR BARNETT: I'll just add before we call
21 the question that if we're not dealing with fire safety
22 with an occupancy limitation, then we're looking at
23 restricting someone's right to exercise their religious
24 preference. Commissioner Sordi.

1 COMMISSIONER SORDI: Can I ask for clarification
2 from the Town Attorney on that? I had thought, and forgive
3 me if I'm getting confused here, I thought the question was
4 put to you whether Commissioner Stump's suggestion, as long
5 as we justified it properly by citing the impact and the
6 rationale for it, would not violate RLUIPA in your opinion.
7 So, it seems like your opinion is differing from the
8 Chair's opinion.

9 ATTORNEY WHELAN: And that's to be expected,
10 because the courts go in all different directions on these
11 cases. It's just very fact specific, so it's going to come
12 down to the facts of what is in front of the Commission
13 tonight. It's going to be those very same five factors that
14 we always consider. Is it a substantial burden? What's the
15 interest being solved? Is this the least restrictive means?
16 Are we treating this use comparable to non-religious uses?
17 And are we discriminating amongst faiths? That's the same
18 analysis that the court would do when it comes to a court.

19 VICE CHAIR BARNETT: Questions of Staff?
20
21 Comments? Commissioner Burnett.

22 COMMISSIONER BURNETT: Yes, I have question. The
23 four CUPs of religious organizations in Los Gatos, was it
24 identified why the specific calculations were made? Was it
25

1 based on safety? Was it based on fire? What was it based
2 on?

3 ATTORNEY WHELAN: I don't think Staff has that
4 information tonight.

5 COMMISSIONER BURNETT: And that didn't come up in
6 Commissioner Stump's inquiry?

7 ATTORNEY WHELAN: I'm sorry, I'm just speaking
8 for Staff's research.

9 COMMISSIONER BURNETT: Okay, thank you.

10 VICE CHAIR BARNETT: If there is no other
11 discussion, I'll call the question on Commissioner Stump's
12 motion. All those in favor, raise their hand, please. We
13 have three. And those against? Two. The motion passes.
14 There were two parts to your motion. I just want to make
15 sure that we've captured both of them, right? Okay.

16 Does anyone else have changes to the proposed
17 conditions that were presented by the Town Attorney. I
18 don't see any. I have a couple.

19 On Condition 26, Parking Lot Expansion, it was
20 always my intent that any of those cracks, bumps, or other
21 anomalies be treated on a localized basis, not having a
22 resurfacing of the entire parking lot, and so my proposal
23 is to say, "Within six months of the final approval date,
24 the existing parking lot shall be repaired on a local basis
25

1 so that cracks, bumps, and other anomalies do not
2 unreasonably contribute to additional noise generation of
3 passing vehicles." That's one. I have two more.

4 On Condition 28, relating to Landscape Plantings,
5 "The Applicant shall fill in any existing gaps in plantings
6 or fencing by either planting a hedgerow in gaps or
7 perimeter fences, planting a variety of native trees, etc."
8 I think that should only be at residential perimeters, not
9 at all sides.

10 My third one was in Condition 33, on Activity
11 Calendars. I was persuaded by the Applicant's materials
12 that that should remain at 30 days rather than 60 days.

13 Do we want to discuss those individually, or move
14 through? I can make a motion to approve all those
15 separately or combined. Commissioner Burnett.

16 COMMISSIONER BURNETT: I have a question. Did you
17 say on Condition 33 that you wanted the Applicant's online
18 calendar shall provide at least a 30-day rather than 60?

19 VICE CHAIR BARNETT: Thirty rather than 60, yes.
20 The reasons are articulated for that.

21 I'll make a motion to approve those three changes
22 that I just mentioned, and looking for a second.
23 Commissioner Mayer.

24 COMMISSIONER MAYER: I'll second.

1 VICE CHAIR BARNETT: Discussion? All those in
2 favor, raise your hand. And that passes unanimously. Thank
3 you.

4 I didn't hear other Commissioners who had changes
5 in addition to the Staff's proposals.

6 COMMISSIONER STUMP: Can you give just one
7 minute, really quick, just to look it over?

8 VICE CHAIR BARNETT: Sure.

9 COMMISSIONER STUMP: Thanks.

10 (PAUSE)

11 VICE CHAIR BARNETT: You have other proposals?
12 No, okay. Thank you very much.

13 So, now we'll come to the question of whether or
14 not to open the public hearing again for the specific
15 purpose of considering the proposed modified conditions
16 prepared by the Town Staff and Attorney, as well as the
17 changes that were approved just now by Commissioner Stump's
18 motion and mine. Is there a motion on that?

19 COMMISSIONER BURNETT: I'll make a motion to
20 reopen discussion based on specific questions that were
21 related here.

22 VICE CHAIR BARNETT: All right, is there a
23 second? Commissioner Stump. All right, is there discussion?
24 All right. In light of the Town Attorney's recommendation

1 in this regard, I'll call the question and have those in
2 favor raise their hand. And it passes unanimously.

3 Would it be Staff's recommendation that the
4 Applicant proceed first, I assume, to address this?

5 ATTORNEY WHELAN: Yes.

6 VICE CHAIR BARNETT: Okay, if you'd please come
7 forward. Thank you so much.

8 RAZI MOHIUDDIN: Thank you. Is there a question,
9 or should I just address?

10 VICE CHAIR BARNETT: Well, my preference would be
11 if you'd look through the redline and articulate to us
12 those that are acceptable to the Applicant, and those that
13 are not, and for those that are not, the reason.

14 RAZI MOHIUDDIN: Okay. Thank you so much, Vice
15 Chair Barnett, and also I want to thank the Staff and Town
16 Attorney for looking through this thing and proposing an
17 alternative set on conditions. Really appreciate that.

18 This is definitely in the right direction, but we
19 still have a number of objections to that, and I want to
20 highlight that and would like your consideration for that.

21 The number one objection that we would have is
22 the three-year following approval of the Planning
23 Commission, the compliance review.
24
25

1 We just went through two years of Ramadan in the
2 past two years, and you can see the way that we have acted
3 here and have improved our operations in a significant
4 manner here. The amount of expense and the amount of things
5 that our community has gone through over the last 21 months
6 has been a tremendous burden for us, and we would not like
7 to subject again for another three years, so we would like
8 to request that we go back to...

9
10 And I have not seen any Conditional Use Permit
11 that has a three-year compliance review, at least in my
12 analysis, and I have looked through and spent a tremendous
13 amount of time on every Conditional Use Permit, so I'd like
14 to request that that be scaled back to a single review one
15 year from here. So, that's number one, and I have a few
16 more points over there, but happy to answer any questions
17 about that.

18 VICE CHAIR BARNETT: I don't see any questions.
19 Please proceed.

20 RAZI MOHIUDDIN: The second one is I want to come
21 to the parking lot. In general, the parking lot adding
22 additional spaces is something that we would definitely
23 like to do, however, adding spaces without actually going
24 through fixing the root damage and reconfiguration is a
25 formidable cost for us, and it is actually even more... This

1 is something that has not been... Even though we have been
2 trying to figure out how to plan and fund this thing, it
3 has been a bigger issue for us.

4 What we would like to do is recommend that we be
5 given some additional time for that, for adding spaces
6 specifically. Not for the changes that you requested, which
7 was to repair from a noise perspective. So, for adding
8 spaces, we would like to request a three-year time period
9 for that, because it's not just a matter of adding spaces,
10 we'll have to actually reconfigure the remaining lot, and
11 that requires the million dollar-plus expense.

12 VICE CHAIR BARNETT: I understand that, thank
13 you.
14

15 RAZI MOHIUDDIN: The third item is that there was
16 a significant change from our perspective in the language
17 that was made from hours of operations to worship services,
18 and currently the way that we operate, and this is
19 something that we're already doing today, is that usually
20 there is always a prayer service, and the prayer service is
21 immediately typically followed by a brief talk for a brief
22 discussion group, essentially a small discussion group that
23 this handled over there.

24 On some occasions, like for example, on
25 Saturdays, we typically have something we call "Fajr and

1 Coffee." What that basically means is that we pray the Fajr
2 and then we usually have a coffee among all of the things.
3 It's the natural thing for us to do in order to have a
4 community get together, effectively. That's part of our
5 normal services that we provide as part of that.

6 One of the concerns I have is that, as I've
7 pointed out before, every little language essentially is
8 being sometimes used against us effectively in order to
9 call the Police Department or the Fire Department. I spent
10 an hour on Friday with the deputy fire marshal, because
11 somebody called the fire marshal and said check our space
12 again, as an example.

14 So, we are under intense scrutiny, and what I
15 would like to do is request that the language be very clear
16 so that we are not found in violation of small things that
17 happen, so I would like to make sure that we request that
18 that be changed back to hours of operation, ideally,
19 because I don't want to say that you can only pray and you
20 must leave immediately after. No, you cannot have coffee
21 afterwards, or you cannot have a small group discussion or
22 a talk by our religious leader there, so I would really
23 appreciate if that can be changed back to the hours of
24 operation, or at a minimum, it be clarified that worship
25 service is followed by any other related activities.

1 VICE CHAIR BARNETT: Could you explain that last
2 comment, please? We're talking about Condition 12?

3 RAZI MOHIUDDIN: Yes, Condition 12.

4 VICE CHAIR BARNETT: And your objection is to B,
5 "Other activities are limited to the hours of 8:00am to
6 10:00pm?"

7 RAZI MOHIUDDIN: Yes. So, for example, if there
8 is a small talk, a small lecture, as an example, is that
9 okay to have or not okay to have? We do that today. After
10 prayer we will have our Imam or religious leader give a
11 small talk for 10 or 15 minutes. On Saturdays we have, like
12 I said, Fajr and Coffee, where we get together and sit
13 around, indoors, and have coffee. So, I want to make sure
14 that we are not in violation of the conditions (inaudible)
15 by just calling it worship services.

16 VICE CHAIR BARNETT: I understand. Okay, thank
17 you.

18 RAZI MOHIUDDIN: It actually also applies to 14,
19 Lot Closure Rule, as well. "Notwithstanding the Quiet Hours
20 limitation for worship, the parking lot shall be vacated..."
21 So, that's kind of another place where the word "worship"
22 appears as opposed to the hours of operation.
23
24
25

1 VICE CHAIR BARNETT: The last sentence, "For all
2 other activities, the parking lot shall be vacated by
3 10:00pm"?

4 RAZI MOHIUDDIN: No, the first part of that. I
5 will come back to the last sentence that you highlighted in
6 a minute here. I'm looking at Exhibit 41, Lot Closure Rule.
7 It starts off with saying, "Notwithstanding the Quiet Hours
8 limitation for worship, the parking lot shall be vacated by
9 11:00pm." Right?

10 VICE CHAIR BARNETT: I'm looking at 40, I think.

11 RAZI MOHIUDDIN: The marked-up copy.

12 VICE CHAIR BARNETT: Yes, 15 is Lot Closure Rule.

13 RAZI MOHIUDDIN: Yes.

14 VICE CHAIR BARNETT: Just so I understand, what
15 specific language is it that you find objectionable based
16 on the closeness of these activities, or you might even
17 characterize it as part of the worship?

18 RAZI MOHIUDDIN: I would clarify that for worship
19 and related services, related activities.

20 VICE CHAIR BARNETT: Okay, we can go on to your
21 next one.

22 RAZI MOHIUDDIN: On the Lot Closure Rule, I have
23 two other items. I would like to request a resident
24 exclusion on that. Currently our Imams reside there. Right
25

1 now, it does not have a resident exclusion over there, so I
2 would like to request that, "Notwithstanding the Quiet
3 Hours limitation or worship, *and residence*, the parking lot
4 shall be vacated..." Okay, so that's number one.

5 The last one is the last sentence in that that
6 got newly added. It says, "For all other activities the
7 parking lot shall be vacated by 10:00pm." I'll tell you the
8 challenge that we have with this one. One of the biggest
9 problems for us is actually, and the reason why we
10 requested a flat 10:30pm closure, is because there is a
11 tremendous amount of confusion. I don't even know, right
12 now there are multiple times listed here in this thing.
13 Sometimes it says 10:30pm, sometimes 11:30pm, sometimes
14 12:00am, sometimes 10:00pm, and it's very confusing and
15 it's very hard for us to manage that, and I don't even know
16 what it means when it says, "For all other activities, the
17 parking lot shall be vacated by 10:00pm."

18 Notice that in other places it says we will have
19 30 minutes to vacate the parking lot after our hours of
20 operation, so there is a tremendous amount of confusion
21 that exists over here, and we would like that last sentence
22 to be struck out.
23

24 VICE CHAIR BARNETT: Okay, I think we all
25 understand that request.

1 RAZI MOHIUDDIN: Then I have one other final
2 thing. Just to clarify, the building occupancy limit by
3 Fire Code today is 869 with chairs, and 1,217 without
4 chairs. We don't have chairs or pews in our facility. Of
5 course, we use it if there are seminars or things like
6 that. For prayer services, we do not use chairs, we have a
7 standing, and so the Fire Code building capacity is 1,217
8 at this point in time.

9
10 COMMISSIONER STUMP: If I could just ask a
11 question. I don't recall how many meetings ago now,
12 probably two meetings ago, we had this conversation,
13 because I said, "Please help me understand what happens in
14 your prayer services," because I understand obviously in
15 your carpet you have lines that really identify where
16 people will stand, so I said, "When you pray, are you
17 standing the entire time you pray, or are people kneeling
18 and prostrating themselves?" and I thought the answer was
19 yes, and that takes up just as much space as somebody
20 sitting in a chair, as much as seven to ten square feet,
21 because a chair is tagged seven square feet of space. So,
22 that's where I'm kind of confused, because I've always
23 wondered what is standing room only, because that would
24 literally mean you've got people standing for an hour,
25 you've got people standing two hours, and...

1 VICE CHAIR BARNETT: I think he understands the
2 question.

3 COMMISSIONER STUMP: Well, I'm trying to get a
4 clarification.

5 VICE CHAIR BARNETT: I think he understands the
6 question.

7 RAZI MOHIUDDIN: Yes, the way that I look at this
8 is the following. Yes, when we pray, we stand, we bow, we
9 prostrate, and we come up, effectively, so if I were to
10 line up, as an example, then it would be exactly how much
11 it would be. My width is approximately about a foot, foot-
12 and-a-half probably, and it's about a 4' prayer rug, so 4'
13 times 1.5 is 6' approximately. I don't know what the
14 calculation 1,217 is, but certainly the chairs are much
15 wider than that, because I have hands and things of that
16 nature, and walkway space, and so on, so certainly capacity
17 would be more than 869, so my request would be that we look
18 at the building capacity of 1,217 and use that as a factor,
19 so that would be my recommendation for that.
20

21 VICE CHAIR BARNETT: So, you're referring to 11
22 on Occupancy Limits.

23 RAZI MOHIUDDIN: Yes.
24
25

1 VICE CHAIR BARNETT: That provision refers to
2 building occupancy established by the Fire and Building
3 Code.

4 RAZI MOHIUDDIN: Yes.

5 VICE CHAIR BARNETT: But it's also in...

6 COMMISSIONER STUMP: Again, we did not have
7 numbers for them, Chair, because I said general hours
8 capacity 720, seasonal late hours capacity 869 was the
9 number that I put forward, and I think that Razi is
10 suggesting that number should be 1,217, is that correct?
11

12 RAZI MOHIUDDIN: That's right.

13 COMMISSIONER STUMP: Okay.

14 VICE CHAIR BARNETT: Okay.

15 RAZI MOHIUDDIN: I think that's all...

16 VICE CHAIR BARNETT: Was there any further with
17 respect to the written ones or the ones that were passed
18 just this evening by Commissioner Stump and my motion?

19 RAZI MOHIUDDIN: I think Commissioner Stump's
20 motion was about the 869, so I commented on that already.

21 In terms of your motion, you had three additional
22 things that I noted which I think which was local fixing of
23 the parking lot.

24 VICE CHAIR BARNETT: Thirty days.
25

1 RAZI MOHIUDDIN: Thirty days, and residential
2 properties. We appreciate that as well, because one side of
3 the property is on empty land, so we'd like to limit that
4 on the residential properties only, so really appreciate
5 all three of those ones as well.

6 I don't remember if there was a second thing that
7 Commissioner Stump had besides the 869 thing. Was there
8 another one?

9 COMMISSIONER STUMP: That was setting a capacity
10 for general hours, and that capacity was 720.

11 RAZI MOHIUDDIN: Yes, appreciate that. My
12 suggestion is instead of using a 720, use a 4X parking
13 available spot, including offsite parking that might be
14 available, if that's okay with you.

15 VICE CHAIR BARNETT: It will come up in further
16 discussion.

17 RAZI MOHIUDDIN: That's right, thank you. I don't
18 think I have anything else. Okay, that's all I had. We
19 appreciate. Thank you so much for your time.

20 VICE CHAIR BARNETT: And thank you. Since we've
21 opened the public hearing for a specific discussion on the
22 altered proposed conditions, we haven't had an opportunity
23 to have cards submitted, and does Staff have a
24 recommendation in that regard?
25

1 ATTORNEY WHELAN: I would recommend that people
2 who are interested in speaking line up at the mic, and then
3 they can submit speaker cards after that. Or alternatively,
4 the Commission could take a break to allow for people to
5 submit speaker cards.

6 VICE CHAIR BARNETT: I like the second
7 suggestion. What time is it here? We've got 10:42. Let's
8 take a ten-minute break and we'll continue until 11:00, is
9 that correct, unless there is a motion? 11:30?

10 ATTORNEY WHELAN: The time at which a motion
11 would need to be made to extend is 11:30.

12 VICE CHAIR BARNETT: Okay, thank you. We'll see
13 you back in ten minutes.

14 (INTERMISSION)

15 VICE CHAIR BARNETT: Thanks, everyone, for taking
16 a seat. Now we're going to commence the public hearing by
17 hearing from members of the public who wish to speak, with
18 respect *only* to the modified conditions that have been
19 proposed tonight by the Planning Commission, and those that
20 are in the Staff Report in Exhibit 41. I'll begin with Lee
21 Quintana, if she's still here.

22 LEE QUINTANA: Lee Quintana. I'm not sure I can
23 speak to what you're asking, because that's a lot of stuff
24 that's been thrown at the public sort of at the last
25

1 minute. I never saw the copy of the redline, so it's hard
2 for me to even figure out right now what are the changes
3 that are being proposed. I guess that's for you to deal
4 with.

5 However, I've heard Commissioner Stump looked at
6 four or eight different CUPs, the Planning Department
7 looked at two, somebody else looked at I don't know how
8 many. I've looked at some also, and I came up with a little
9 bit of different ideas from some of the things. I really
10 think you need to see a table comparing all of the church
11 CUPs so that you can see where there is a discrepancy and
12 make it easier to figure out.

14 There is one church that doesn't have nearly the
15 parking spaces that they have the capacity in the church.
16 They may have spaces in the parking district, but I doubt
17 it's enough to make up a discrepancy that you're talking
18 about of four parking spaces per person or whatever it is.

19 To me, this has been a very confusing and not
20 well conducted process for a very important application
21 that has lots of implications for everybody in this town,
22 and I'm not here to say what needs to be done, what you
23 should approve, what you shouldn't approve, but I would
24 tell you that on the whole, when I review these conditions,
25 I feel that it's almost like you're trying to punish. It

1 doesn't seem like a level playing field to me. That's just
2 my overall comment.

3 VICE CHAIR BARNETT: Thank you very much. I
4 appreciate your...

5 LEE QUINTANA: One other thing I wanted to say.
6 When there are such changes, to have it... I guess it was
7 released this afternoon. I thought I checked to see for
8 updates. I didn't see any. But changes like that really
9 need to be available to the public early enough so that
10 they can really read them and digest and be able to comment
11 on them. Thank you.
12

13 VICE CHAIR BARNETT: Thank you for that comment.
14 Mr. Ratcliff on Zoom.

15 DIRECTOR PAULSON: Mr. Ratcliff, you can unmute
16 yourself.

17 JIM RATCLIFF: I'm Jim Ratcliff. I'm the direct
18 neighbor of the WVMA, and I wanted to talk a little bit
19 about the annual Conditional Use Permit review. I think
20 that's super important, because WVMA has a documented
21 pattern of violations and neighborhood impacts over the
22 past three years, and this condition is both reasonable and
23 necessary.
24

25 Public records show 34 reported violations of
volume noncompliance with Town ordinances. This is not

1 isolated incidents, but an ongoing pattern that has
2 effected the residents and surrounding neighborhood, and
3 there have been acknowledgments that rules were knowingly
4 broken, which raises serious concerns about accountability
5 moving forward.

6 The residents have seen little meaningful
7 enforcement or corrective action, especially during evening
8 hours and Ramadan when activity levels increase and many of
9 the most significant impacts occur. Unfortunately,
10 reporting and enforcement after 6:00pm appear limited,
11 leaving many neighbors feeling unheard and unsupported.

12 An annual review is not punitive, it's a
13 practical oversight tool that promotes transparency,
14 compliance, and accountability. It gives the Town an
15 opportunity to evaluate whether permit conditions are being
16 followed and whether neighborhood impacts are being
17 properly addressed. Until there is a reliable system for
18 compliance response and ordinance enforcement, an annual
19 review remains an important safeguard for the community and
20 for restoring public trust in the process.

21 I would just like to point out, Hillbrook is
22 another entity, and RLUIPA says religious and non-
23 religious, you can't discriminate, so there has got to be
24 perpetuity here.

1 I just want to remind the Planning Commission
2 that this CUP modification was about extending the five
3 prayer times and extending the hours for Ramadan. Now there
4 are so many different things that we're addressing here,
5 it's like they're able to amplify outside, they're going to
6 be able to rent the facility, they're going to have
7 unlimited activities on the weekends.

8 What is the neighborhood getting from all this?
9 There needs to be a balance. I want limited activities on
10 the weekends. I want a cap on the cars per day. I want some
11 relief from this traffic. I just think there needs to be a
12 balance here. Thank you.

13
14 VICE CHAIR BARNETT: Thank you, Mr. Ratcliff. Our
15 next speaker is Michele S.

16 MICHELE S.: Thank you.

17 VICE CHAIR BARNETT: Thank you for coming.

18 MICHELE S.: I represent one of the neighbors in
19 the Farley Road Neighborhood Coalition, and I want to make
20 sure people understand that we represent and welcome all
21 religions and cultures, both within the people who reside
22 in our space and those who visit our neighborhood.

23 I want to also say that the principles of
24 justice, of having compassion and human dignity, did not
25

1 improve the outcome for the residents, and we're very
2 disappointed at the current situation.

3 I think the biggest concern I have with the
4 changes that are being proposed is to revert back to an
5 operating hours philosophy versus the creative idea that
6 the Staff came up with of separating out prayer services
7 versus other activities. These new conditions have come so
8 far from the original request from the Applicant to have
9 the ability to pray five times a day and extend the hours
10 to support the luna calendar for their religious practices,
11 which we support.

12
13 Over the last several months, and 21 months and
14 four years having WVMA as our neighbors, these new
15 conditions are exasperating the intensity of use. It's not
16 five prayers. It's coffee, it's social hour, it's food
17 vendors, it's renting the halls for events, providing me a
18 three-gallon shrub to help me with light pollution. It has
19 completely omitted the residents' mental health and
20 wellbeing by not comprising any restrictions to the parking
21 along the fencelines, and by providing meaningful light and
22 noise pollution remedies.

23
24 I would like to respectfully ask that we stay
25 with the current prayer service hours, and that the other
hours of operation don't be one and all inclusive. I think

1 they need to stand separate in order for us to understand
2 what the rules are and how we can abide by those rules.

3 And the lot closure rule is just piling on
4 another half an hour of my sleepless night, so I
5 respectfully request that we leave all other activities as
6 part of the language, and we keep the hours of worship
7 services separate from all other events. Any questions?

8 VICE CHAIR BARNETT: I'll ask if there are any
9 questions from the Commissioners?

10 COMMISSIONER BURNETT: I do have a question,
11 thank you. If you had your choice of... If we were not able
12 to give the things you did want, would you prefer not to
13 then approve the modification?

14 MICHELE S.: Based on the instructions for this
15 part of the meeting, I was only allowed to speak to the new
16 language and conditions that were brought forward...

17 VICE CHAIR BARNETT: That's correct, yes.

18 MICHELE S.: ...which are the three-year objections
19 for the review; the parking lot, the hours; and the lot
20 closure rule. Am I missing anything else? If you want to
21 open up all of them, I can stand here all day.

22 VICE CHAIR BARNETT: Thank you very much.

23 MICHELE S.: Did I answer your question though?

1 COMMISSIONER BURNETT: I guess I have to withdraw
2 my question.

3 MICHELE S.: I'm sorry. I would love to answer
4 it. Anybody else?

5 VICE CHAIR BARNETT: No, thank you. I appreciate
6 your coming and providing those comments. Mary Hogan is
7 next.

8 MARY HOGAN: Thank you for considering us again.
9 My concern, or to address an item of tonight's topic, was
10 the hours. At the March 11, 2020 Planning Commission
11 meeting on CUP U-20-001, Kareem Syed, Community Outreach
12 and Youth Director for WVMA and the Applicant
13 representative stated, "As Diego mentioned, our request is
14 to extend operation of hours from 10:00pm to 11:00pm to
15 allow the finish of service and people to exit the
16 facility." The meeting was then opened to public comment. A
17 neighbor asked, "How much extension are we talking about?
18 How much more time, activity, are we talking about?"
19 Commissioner Hudes responded, "Staff Report says Applicant
20 proposed to expand hours of operation from 10:00pm to
21 11:00pm during 30 days annually of Ramadan." Public comment
22 was closed and the Applicant was invited back to respond.
23 Mr. Syed stated, "So, the hours of use that we're extending
24 is from 10:00pm to 11:00pm, and for that amount of time
25

1 we're expecting maybe about five to ten cars leaving prior
2 to 11:00pm, around that time, so it's not extensive in
3 terms of congregation that will be leaving at that time."

4 Commissioner Hanssen then asked, "And then could you
5 clarify for how long is this going to happen?" Mr. Syed
6 replied, "Oh, it's going to be for 30 days starting around
7 the end of April, going into May." Commissioner Hanssen
8 asked, "So, then for the rest of the year it would be
9 10:00pm?" and Mr. Syed replied, "Yes."

10
11 Tonight, regarding CUP U-24-010 and the proposed
12 modifications, I would like to ask the Applicant the same
13 basic question the neighbor asked in 2020: How much
14 extension are we talking about? How much more time and
15 activity are we talking about? Because tonight's proposed
16 language appears materially different from what was
17 discussed in 2020. The May 13th draft conditions state
18 services shall not begin earlier than 1.5 hours before
19 sunrise or extend past 10:30pm daily, except as specified
20 in Condition 14, Seasonal Late Hours Exception, and under
21 the seasonal late hours exception for a 30-day period
22 during Ramadan services may extend beyond 10:30pm as
23 follows: until 11:30pm when sunset is before 7:30pm, until
24 12:00am when sunset is after 7:30pm.
25

1 So, I am asking for clarification tonight. What
2 exactly is being extended? Is it hours of operation? Is it
3 the time of service may continue? Or the time by which the
4 parking lot must be cleared? And what level of additional
5 activity is anticipated after 10:30pm? Will it be five to
6 25 cars?

7 VICE CHAIR BARNETT: Thank you, your time is up,
8 but I'll ask my fellow commissioners if they have any
9 questions for you, Ms. Hogan. I don't see any. Thank you
10 very much.

11 MARY HOGAN: Can I ask the Applicant to reply?

12 VICE CHAIR BARNETT: No, you cannot. I understand
13 your concern, but I'm sorry, those are the rules. Osman
14 Ghafoor.

15 OSMAN GHAFLOOR: Thank you, Vice Chair and
16 Commissioners. I just have a couple of points I wanted to
17 address. Again, it's to the point that Razi had made about
18 the compliance review. I just want to add something to
19 that.

20 There is a sentence at the end of that that says,
21 "This compliance review shall be completed at the
22 Applicant's expense." That's a bit vague, so we just want
23 to have a better understanding of what that is. Is it
24
25

1 Staff's time? So, we just want to point that out, the
2 ambiguity over there.

3 The other point I just want to address is the
4 driveway options. This is, I think, in the revised number
5 24, Driveway Options. Again, just wording here. The last
6 sentence here, "The Applicant shall ensure that the ingress
7 and egress to the neighboring driveways is preserved." We'd
8 just prefer to have a bit more words around that that
9 doesn't make it, again, ambiguous. "The driveway is not
10 blocked" would be our preference for that.

11 Those are the only two points I'd like to add.

12 VICE CHAIR BARNETT: I'm sorry, can you identify
13 that?
14

15 OSMAN GHAFOR: Yes, it's number 24 of the
16 redlined, the Driveway Operations.

17 VICE CHAIR BARNETT: Which number are we doing?
18 I'm sorry.

19 OSMAN GHAFOR: Two-four. Twenty-four. The last
20 sentence there says, "The Applicant shall ensure that
21 ingress and egress to the neighboring driveway is
22 preserved." So, again, just to get more clarity, our
23 preference is to say, "...is not blocked."
24

1 VICE CHAIR BARNETT: Okay, thank you very much.
2 Are there questions for the speaker? Thank you very much,
3 sir. The next speaker is Mr. Ellahi.

4 JAVED ELLAHI: Thank you, Mr. Vice Chair Barnett
5 and the Planning Commission members. Thank you for this
6 opportunity. Thank you for taking the time.

7 I just wanted one clarification, the issue on the
8 eight or ten churches that have their parking ratio 4:1. I
9 think that's more of a building requirement. When you're
10 building a commercial property and it's so many square
11 feet, for each square-foot you have to have so many parking
12 spaces. I don't think the other way works. So, a church has
13 a 1,000 capacity. It may be required to 250 parking spaces,
14 but I don't believe there is a CUP violation if 1,200
15 people show up for a service in that particular church.

16 What you're asking us to do is to make it a
17 violation of the CUP. That does not apply in those eight
18 cases, I don't believe. I think churches or other places
19 will have the number of cars based on the number of seat
20 availability when they apply for the permit.

21 Correct me if I'm wrong. Does the permit say that
22 if the church goes over the four times the limit you're
23 going to close the church down? Thank you.
24
25

1 VICE CHAIR BARNETT: Thank you. Are there any
2 questions for Mr. Ellahi? And the last card I have is for
3 Anne Braidish. Thank you.

4 ANNE BRAIDISH: Hi. I'm the third member of the
5 bad voice club. Thank you, Commission, and I appreciate all
6 of the time and obvious diligence you've put into this.

7 I live on Farley Road. I live in between Los
8 Gatos Boulevard and the WVMA, so I am in a very, very high
9 traffic area. I haven't spoken yet at one of these, so I'm
10 happy to be able to do so tonight.

11 In light of all the conversation tonight and the
12 addendums that have been discussed around capacity,
13 parking, and public safety, I would like the Commission to
14 consider adding permit parking to one side of Farley Road
15 and making another side just no parking. I believe the area
16 around St. Mary's is a good example of this. I've been
17 ticketed there before, so I'm pretty sure that's true.

18 I have a daughter who likes to run through the
19 neighborhood. She does that training for soccer. She used
20 to roller skate when she was littler, and her two older
21 sisters who are now in collage did the same, and we could
22 be assured that they would be safe, and now that's just
23 near impossible with the number of cars coming in front of
24 my house on a daily basis.
25

1 If we're talking about 3,500 people a day,
2 according to the calculations we've discussed tonight,
3 that's a minimum of 900 cars on any given day, and that's
4 not high season.

5 I think that if we would look at making the
6 street closed to parking to some extent it would solve
7 problems around safety, capacity, and this general parking
8 issue that's been at play. Thank you.

9 VICE CHAIR BARNETT: Any questions? I don't see
10 any. Thank you so much. I'd like to ask Staff at this point
11 to comment on two points that were raised. The first one
12 was the cost of presenting a CUP.

13 SEAN MULLIN: Through the Chair, I believe
14 there's another card up there. I know I collected one from
15 the gentleman in the red hat.

16 VICE CHAIR BARNETT: Okay, thank you very much.
17 Gus.

18 GUS: First of all, I think the number of 3,500
19 or whatever, it should be the...it's the same people. It's
20 like 700, they're just going five times a day, so basically
21 it's 700.

22 The biggest problem that happened was they turned
23 right into the neighborhood. If at night nobody turns into
24 the neighborhood and just goes down and gets things, the
25

1 neighbors can't complain. Only six houses can complain. The
2 rest of the neighborhood, if anybody in the mosque just, if
3 they had to go back into the neighborhood, they can drive
4 down Frank Avenue, but just get on Los Gatos Boulevard, and
5 that's the biggest thing.

6 Another thing was... What was I going to say? I
7 forgot my train of thought. Sorry. I'll think of it later.

8 I know this is tearing up the Town, and a lot of
9 people are doing it. This is also 11:00 o'clock at night.
10 The public can speak when you have the Brown Act or
11 something like that.
12

13 I know what I was going to say. This is more
14 between us and you guys with like a... There is Pop Tart. He
15 has parking in his driveway and stuff like that. That
16 should count. Or right in front of his house, so those
17 types of things I don't think should be tied to the parking
18 lot. There are other ways. The capacity should be like
19 around 1,000, and I think they know that. Thank you.

20 VICE CHAIR BARNETT: Thank you, Gus.

21 DIRECTOR PAULSON: And Chair, we have a couple of
22 more hands raised.

23 VICE CHAIR BARNETT: On Zoom?

24 DIRECTOR PAULSON: The first is Courtney.
25

1 COURTNEY BUI: I actually have two points I
2 wanted to point out.

3 The first one is the annual review. I did share
4 that the CUPs for the Hillbrook School Los Gatos, the
5 Muslim Community Association in Santa Clara, as well as the
6 Islamic Association of Immigrants in Hayward all contain
7 annual compliance review requirements, so this goes to show
8 that the Town is actually not singling out the Applicant
9 here, we're just merely also ensuring that it's just really
10 neighborhood compatibility here, so I think that there are
11 other CUPs that require annual compliance review. So,
12 that's point one.
13

14 Point number two is the application merely states
15 that we're extending of one hour, and the key thing is that
16 to allow the five daily prayers, but as we've heard
17 throughout the night, the intensification of the use on
18 zoning is far from just the additional hour or five daily
19 prayers, it's activities year-round, every day, every
20 weekend, and there is no cap to it. So, that's another
21 point that I wanted to point out.
22

23 Lastly, the third point is the financial burden
24 that the Applicant talked about. We come to know that is in
25 escrow to purchase a property in Cupertino that's almost
\$16-17 million, and planning to have half a million dollars

1 in terms of improvement there. Now, for the safety of our
2 neighborhood and on Farley Road, it's over 100 years old
3 and there needs to be improvement, and to put a three-years
4 cap on it, I feel that the financial burden is really a
5 choice, not a burden here.

6 So, those are the three points that I wanted to
7 share with the Commission. Thank you.

8 VICE CHAIR BARNETT: Thank you very much,
9 Courtney.

10 DIRECTOR PAULSON: Next speaker is just titled
11 Zoom User. Zoom User, you can unmute yourself.

12 KIM RATCLIFF: Hello, hi, that's me. I'm Kim
13 Ratcliff, and I just wanted to say thank you, Planning
14 Commission, for all the work that you have done on this and
15 for reopening the public comment section.

16 I wanted to address number 20, the High
17 Attendance Guidelines, and just let you know that this
18 unfortunately does not address the biggest issue, the
19 safety out on our street. It says that the Applicant is
20 going to remind its members of respectful parking practices
21 and use of onsite space, and carpooling when possible, and
22 I just want to let you know that WVMA is already doing that
23 and we've seen how it works out.

1 There are up to 300 overflow cars parked on our
2 streets during Ramadan. On Friday a neighbor watched
3 multiple people park out on the street and walk into the
4 facility, because it's a hassle for them to come out and
5 wait in that long bottleneck line to get out.

6 I appreciate all the conditions, but it's very
7 confusing, and there are conditions on there that will not
8 help us with deliveries. What will help us is putting a cap
9 on outside events. WVMA uses it for weddings, and fairs,
10 and bazaars every weekend.

11 For example, no other church in Los Gatos uses
12 their outside parking lot for activities. Calvary does not
13 use their parking lot. Faith Lutheran does not use their
14 parking lot. St. Mary's uses their facility for an outside
15 event one time a year, for the St. Mary's Country Fair, and
16 I'm not even sure they get 5,000 people on one weekend,
17 which is what we got during Ramadan one week.

18 What I am asking the Town Planning Commission is
19 to hold off on this decision. There is so much subjective
20 information, and Commissioner Burnett, last time you said,
21 "We are just piecemealing this together," and the real
22 problem here is the traffic and the unsafe streets, and
23 that is not being addressed. I know everyone is trying
24 their best, but it's not working, it doesn't sound like,
25

1 for the Applicant, and it's definitely not working for the
2 neighbors.

3 I agree with the woman that spoke at the very
4 beginning. I feel that the neighbors are being punished,
5 and we've suffered long enough, and we just want to enjoy
6 safe streets, and enjoy our back yards, and not have to
7 look on WVMA's website and say, "Can we have people over?
8 Will people be able to park? I don't know, let's check it
9 out." I mean, we're not asking for a lot. It's not going to
10 take a lot for us to be okay.

11
12 VICE CHAIR BARNETT: I'm sorry, your time is up.

13 KIM RATCLIFF: Okay, thank you so much.

14 VICE CHAIR BARNETT: But thank you for your
15 comments. Do we have anyone else on Zoom before 11:30?

16 DIRECTOR PAULSON: No more hands raised.

17 VICE CHAIR BARNETT: Thank you. So, with that,
18 I'm going to close the public portion of the public
19 meeting, and I guess my proposal is to continue this
20 meeting to a date certain for the purpose of deliberation
21 by the Planning Commission, hopefully including Chair
22 Burch, and go through sequentially each of the proposed
23 modifications to the conditions, and hopefully come up with
24 a decision that's, how can I put this, as fair as possible
25 we can be to the competing interests that are valid,

1 competing interests and deep ones that are at stake in this
2 matter, and I know we're going to do our best to try to
3 achieve them.

4 DIRECTOR PAULSON: Through the Vice Chair, in
5 anticipation of this maybe being a possibility, and knowing
6 our upcoming calendars, we have three possibilities for a
7 special meeting. One is May 21st, one is June 3rd, and one is
8 June 4th. I don't know how many of you have your calendar in
9 your binder or in your pocket, but if one of those is
10 satisfactory to at least the majority of the Commissioners
11 here, that would be helpful.

12 VICE CHAIR BARNETT: You're suggesting that we
13 not do this at a regular meeting, because of time?

14 DIRECTOR PAULSON: Absolutely not, because we
15 have a number of items that are coming up on our regular
16 meetings.

17 VICE CHAIR BARNETT: Understood. Okay, so why
18 don't we take a minute and look at our...

19 DIRECTOR PAULSON: And so we're not in such a
20 rush, maybe we can get a motion to extend the meeting for
21 ten minutes while folks look at their calendars.

22 COMMISSIONER STUMP: So moved, ten minutes.

23 VICE CHAIR BARNETT: Second? Commissioner Mayer.
24 Ten-minute recess.
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(PAUSE)

VICE CHAIR BARNETT: Could you repeat the dates
for all of us?

DIRECTOR PAULSON: Sure, it's next Thursday, May
21st. Then Wednesday, June 3rd, or Thursday, June 4th.

VICE CHAIR BARNETT: Thank you.

(PAUSE)

VICE CHAIR BARNETT: Okay, so reconvening. Why
don't we start with Commissioner Stump, and state your
preference or preferences.

COMMISSIONER STUMP: May 21st.

VICE CHAIR BARNETT: Commissioner Sordi.

COMMISSIONER SORDI: May 21st.

VICE CHAIR BARNETT: Commissioner Burnett.

COMMISSIONER BURNETT: May 21st.

VICE CHAIR BARNETT: Commissioner Mayer.

COMMISSIONER MAYER: I prefer June 3rd or 4th, but
I could potentially make May 21st work, but I know
oftentimes the special meetings start an earlier hour, like
6:00pm. I wouldn't be able to make a 6:00pm start time. I
would be able to make a 7:00pm start time on the 21st.

DIRECTOR PAULSON: We would be looking at 7:00pm.

1 VICE CHAIR BARNETT: I have a conflict, but I
2 could make it go away, so a motion, the meeting will be
3 continued to May 21st at 7:00pm.

4 DIRECTOR PAULSON: There's a motion, and then you
5 just need a second, and then a vote.

6 VICE CHAIR BARNETT: Second? That's my motion.

7 COMMISSIONER STUMP: I move to set the next
8 meeting on May 21st, 7:00pm.

9 VICE CHAIR BARNETT: Second? I'll second the
10 motion. All those in favor? Okay, it passes unanimously. Is
11 there a motion to continue the meeting past 11:30?
12

13 DIRECTOR PAULSON: I think we already made that
14 motion to add ten minutes, so we should be good.

15 VICE CHAIR BARNETT: All right, glad we did that.
16 Very good. Thanks, everyone, for your patience and
17 participation. It's very much appreciated, and perhaps
18 we'll see you on the 21st.

19 With that, I'll call the meeting adjourned.

20 (END)
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