APPEAL OF SVIC AKA CORDOBA CENTER

PLANNING FILE #2145-11P-11A-11G-11EA/South County Partners
FROM: People's Coalition For Government Accountability (PCGA)  
Post Office Box 23  
Gilroy, California 95021  
E-MAIL: Maria Mello (melloangus@aol.com)

DATE: August 16, 2012

TO: Supervisor Wasserman, District 1  
Supervisor Hsirakawa, District 2  
Supervisor Cortese, District 3  
Supervisor Yeager, District 4  
Supervisor Kniss, District 5

RE: APPEALING PLANNING COMMISSION DECISION - CORDOBA CENTER  
APPELLANTS: People's Coalition for Government Accountability  
FILE NUMBER: 2145-11P-11A-11G-11EA/South County Partners  
MEETING DATE: Planning Commission Hearing/August 2, 2012  
PURPOSE: Use Permit & Architecture & Site Approval/Grading  
for Religious Institution and Cemetery  
LOCATION: 14045 Monterey Road, San Martin.

Dear Board Members:

On August 2, 2012, the Santa Clara County Planning Commission Approved Application for Use Permit, Architecture & Site Approval & Grading to establish a religious institution and cemetery, i.e., PLANNING COMMISSION REVISED CONDITIONS OF APPROVAL.

Appellants are contesting the following issues:

1. HOURS OF OPERATION, P.1, ITEM 3.

"Hours of operation 6 a.m. to 11 p.m. daily". (DELETED)

QUESTION: How can Planning Commissioners delete a Department of Environmental Health (DEH) requirement which was a part of the "Conditions of Approval"; and the Initial Study that was used to adopt the Mitigated Negative Declaration.

a) If this religious facility was located within "city limits", "hours of operation" would not be an issue.

b) This proposed project is located in a small, rural, unincorporated community adjacent to Llagas Creek; more particularly this site is further restricted by the "Special Area Policies" and "Overlay Map" labeling this site as "San Martin Industrial Use Permit Area" requiring minimal water usage and minimal waste water discharge.

The Cordoba Project (according to Ann Peden) is a commercial facility and one of several requirements Ann listed for evaluating this project was "Hours of operation" which is necessary to determine wastewater discharge flows."
REBUTTAL: ITEM 3, on P. 1, "Hours of operation 6 a.m. to 11 p.m. daily", therefore, cannot be deleted.

c) The Environmental Assessment (EA) which was used to adopt the Mitigated Negative Declaration was based on "Hours of Operation". Does deleting that item negate the Environmental Assessment (EA) & Mitigated Negative Declaration?

2. LAND DEVELOPMENT ENGINEERING: DRAINAGE P. 9, #29, ITEM 2.

"The on-site drainage will be controlled in such a manner as to not increase the down stream peak flow or cause a hazard or public nuisance".

(a) The detention system depicted on the Site & Septic Plan shows a drainage pipe connected to the detention pond which transports water from the detention system to the southwest corner of subject property which will cause a deluge of stormwater to gush onto neighboring properties that have historically suffered costly catastrophic flooding.

RWQCB: See Attach. I. May 16, 2012 which was sent to SVIC from the Regional Water Board; wherein on P. 3, Paragraph 3, Thea Tryon, stated, "Additionally, a majority of stormwater or surface flow across the property is to the south-southeast, away from the northern property boundary."

"Central Coast Water Board staff has determined that there is no threats from the septic system and cemetery to surface water from flooding or stormwater runoff flows.

(b) See Exhibit 1, "Objection to Mitigated Negative Declaration", letter written by Donald Bonino; wherein he states that stormwater flows south-southwesterly.

(c) See Exhibit 2, a Petition signed by seventy-five (75) property owners who have suffered "costly" catastrophic flooding and/or witnessed flooding in the past 50 years.

(d) The manhole cover on the main Morgan Hill/Gilroy sewer system pipeline located on California Avenue exploded and sent sewage across California Avenue onto the Christmas Tree Farm (it was reported that $50,000 was paid for damages) then continued downgradient one mile southwesterly before entering the basement of a home.

COMMENT: This is the kind of "layman's engineering" residents and property owners of San Martin understand.
Will CCRWQCB and the County be legally responsible when this project exasperates the rate of stormwater runoffs?

3. DEPARTMENT OF ENVIRONMENTAL HEALTH, P. 14, ITEM #37a*. "This septic system is adequate to serve a population of 80 persons per day maximum".

REBUTTAL: See Exhibit 3, E-mail dated October 21, 2011; whereby Rick Spohn asked Colleen Oda for an update because Ann Peden did not respond to his earlier inquiry.

"I recently discussed with Ann Peden your question of the septic system testing. She has recently returned from vacation."

"I have confirmed with Ann that percolation tests concluded in 2006 failed. "For the current application, new percolation tests were conducted and are currently under review."

After numerous attempts by PCGA to obtain test results for the "current application", a concerned citizen e-mailed County Counsel and asked if County Counsel could confirm whether or not a new percolation test was performed in 2011.

COUNTY COUNSEL: In her e-mail dated 07-24-12, Marcy Berkman writes about the May 18, 2012 Initial Study on page 19 paragraph 1 which discusses permeable soils; and the most recent percolation test (which PCGA was unable to obtain copies of). Ms. Codiga asked for assistance in obtaining a copy of the 2011 percolation test; due to the fact that Ann Peden confirmed that the 2006 percolation tests failed.

EVIDENCE: See Exhibit 4, whereby County Counsel states, "I was advised that the percolation language (for the Initial Study) was derived from the 2006 report and provided a copy of that report, which was forwarded to you in my last email. From the information I received, it would appear that this is the most recent report. (The 2006 report) (Exhibit 5)

County Counsel proved that Colleen Oda gave misleading information to staff when they conducted the environmental assessment (EA); and used this same misleading information to adopt a Mitigated Negative Declaration.

At the July 31st, 2012 SMPAC Meeting held at the Grange Hall; as well as at the August 1, 2012 SCJPAC Meeting
held at the Morgan Hill Community Center, Ann Peden displayed information on a screen, to wit: "Applicants must conduct new percolation tests". And, Planning Commission Hearing (scheduled for August 2, 2012) would be continued. (Exhibit 6)

At the August 1, 2012 meeting, a supporter of the Cordoba Project said, "We don't know what happened". Last week the County said that everything was approved and last night, they said we have to do another percolation tests". "How could that happen?" (Available on Video Tape) Answer: Neither the 06-14-06 or 11-08-06 percolation tests passed.

4. On P. 14, #37a*(i), Per Ann Peden, "The peak wastewater flows from the Prayer Hall resulting 300 + 300 linear feet of drain line, the Multi-Purpose Hall 700 + 700, and the Outdoor Restrooms 100 + 100, totaling 1100 + 1100."

"Peak wastewater flows" are used to determine wastewater discharge flows and cannot be calculated without knowledge of "hours of operation". (The formula for calculating peak wastewater flows is Gallons x Number of People x an eight hour period). Therefore, you must include hours of operation.

5. On P. 14, #37b, Per Ann Peden, "Up to four (4) special events exceeding 80 persons are allowed with the sizing of the septic system. These four (4) special events are allowed to augment their restroom capacity with portable toilets.

ARGUMENT: Per ARTICLE 2. ON-SITE DISPOSAL SYSTEMS, Sec. B11-65 "Every place where persons congregate, reside or are employed, and which cannot be connected to a sanitary sewer, must be provided with a water flush toilet sewage disposal system. (Exhibit 7)

Approval granted on August 2, 2012 must be temporarily rescinded. This Application cannot be legally approved until 1) percolation tests are conducted by a reputable environmental consultant 2) holes are excavated to a required depth of 15 feet and 3) wet weather soils testing is complete based on the time of year; and percentage of total rainfall must be calculated into the equation.

a) Jeremy C. Wire, Hydrogeologist, HG-93, with Geo-Consultants, Inc., conducted tests on August 27, 2007, i.e., Geology & Soils and Ground Water testing and concluded that, "There should be no adverse effects on the septic system from high ground-water levels".
b) UNDER LIMITATIONS: Jeremy C. Wire wrote: "Geo-Consultants, Inc. does not guarantee nor warrant that a satisfactory septic disposal system can be developed at the subject site, or warrant or guarantee approval of a septic disposal system at the subject site by regulatory authorities".


c) On April 10, 2012, GeoConsultants, Jeremy Wire did an update concerning ground-water conditions since 2007, particularly as related to the proposed cemetery on the property. The focus of this updated study is to determine any possible adverse impacts that the cemetery might have on the relatively shallow ground water in the area relative to nearby individual water supply wells.


d) UNDER LIMITATIONS: Jeremy C. Wire wrote: Geo-Consultants, Inc. does not guarantee nor warrant that a satisfactory project can be developed at the subject site or warrant or guarantee approval of the project by regulatory authorities.


e) GeoConsultants maps depicting individual wells located south-westerly from subject property will be affected by storm water running downgradient from the site. And, the regional board approved this project using the aforementioned defective data. (See Exhibit 8, GeoConsultants map showing wells located south-southwesterly from site).

These properties have flooded year after year. The people residing contiguous to subject site experienced being inundated with stormwater completely surrounding their house.

4. WASTEWATER DISPOSAL (SEPTIC SYSTEM), P. 14, 37a.

"This septic system is adequate to serve a population of 80 persons per day maximum".

REBUTTAL: See letter dated 03-20-12 sent to the Regional Water Quality Control Board, Dan Niles, from the South Valley Islamic Center as Exhibit 9.

P. 1, Item 1), "Waste water discharge from bathrooms and kitchen into the leach field". "The septic system for this project has been designed for a capacity of 90 people."

"Two separate pump systems have been designed and based on the field percolation rate and ground water test results, duly approved by the Santa Clara County Dept. of Environment Health for the project. Those are clearly shown
on the project Site & Septic Plan provided by Carnes & Associates.”

P. 14, 37(b), continued. "Up to four (4) special events exceeding 80 persons are allowed with the sizing of the septic system.

These four (4) special events are allowed to augment their restroom capacity with portable toilets.

NOTE: The Santa Clara County Wastewater Discharge Ordinance
ARTICLE 2. ON-SITE DISPOSAL SYSTEMS, Sec. B11-65 (a)
"Every place where persons congregate and which cannot be connected to a sanitary sewer, must be provided with a water flush toilet sewage disposal system." (Exhibit 7)

PCGA asked Ann Peden & Colleen Oda to send us a State Health & Safety Code that allows portable toilets for a religious institution facility where people gather. THEY IGNORED OUR REQUEST.

P. 14, P. 37(b) cont. (i.*) "If there are additional special events exceeding 80 persons, the septic system will need to be enlarged with more capacity both for the septic tank(s) and the leachfields".

NOTE: SEPTIC SYSTEM WILL BE ENLARGED. HOW? UPHILL? OVER ONTO THE CEMETERY? ONTO THE PARKING LOT? WHO APPROVED A SYSTEM FOR LOT 2 IN THE FIRST PLACE GUARANTEEING THAT LOT 2 COULD SERVE 80 PERSONS WHEN APPLICANTS HAVE NEVER PRODUCED A PASSING PERCOLATION TEST?

Besides, applicants reported to the regional board that the maximum occupancy was 90 persons; not 80 persons. (Exh. 9)

Colleen Oda, lead agent conducted an environmental assessment for 80 persons. However, in the 05-25-11 Planning Letter, Colleen calculated (using State Building Codes) a maximum occupancy of the 5000 s.f. Mosque to be 671; and the 5000 s.f. Multi-Purpose Hall at 245 (reduced to 2800 s.f. to 137 maximum occupancy). And an additional 150 children for weekend retreats; which totals 958. (Exhibit 10)

COLLEEN WAS LEGALLY BOUND BY CEQA RULES TO INCLUDE FUTURE GROWTH POTENTIAL OF THE 1/5000 & 1/2800 S.F. BUILDING; PLUS ADDITIONAL CHILDREN ON WEEKENDS FOR THE ENVIRONMENTAL ASSESSMENT (EA).
See Exhibit 11, dated August 2, 2012 Item #7, Planning Commission from Colleen Oda, Paragraph 5, "General Plan Policy R-LU 57 and Zoning Ordinance Code Section 2.20.010(D) can not be implemented for this project in a manner that limits the ability of the applicant to exercise religion, such as dictating residency requirements of patrons using the facility.

COLLEEN ODA CHANGED LANGUAGE THE FOLLOWING LANGUAGE.

R-LU 57. Residential, agricultural and open space uses are the primary uses. Commercial, industrial and institutional uses may be established only where they serve the needs of the resident population and result in a net overall reduction of travel demand.

Per Zoning Sec. 2.20 of the Zoning Ordinance, religious institutions shall be limited in scale, and local serving to the communities in which they are located.

NOTE: On P. 3, Item 5, 05-25-11 Planning Letter, Colleen Oda added for emphasis, "In this case the community is San Martin". Please provide written justification that demonstrates how the project meets these requirements.

What Colleen did was to add language to a Land Use Code that was adopted by the Board of Supervisors; however, it did not change the intent of the Code.

See Exhibit 10, the 09-19-11 Planning Letter, regarding Zoning Sec. 2.20, Colleen went even further and added, "and surrounding rural areas." That was a false and material misrepresentation. It is also called fraud.

Colleen Oda has no respect for the General Plan, Rural Land Use Codes, Zoning Codes or South County "SC" Joint Plan Codes that were specifically adopted to protect water quality in San Martin.

NOTE: In the 05-25-11 "Incomplete" Letter, Colleen Oda stated: "Please provide a written justification that demonstrates how the project meets these requirements."

Gary Carnes, Applicant, responded, "San Martin offers a relatively central location for the congregants coming from these communities."
REBUTTAL: There is no Ordinance, Land Use or Zoning Code that "provides" for arbitrarily selecting a location that is convenient for congregants of religious institutions to meet.

In the local newspapers, applicants stated that congregants would be coming from South San Jose to Hollister. And 150 children from the Bay Area as guests on weekends.

Colleen Oda has no qualms about making up whatever reasons she needs to justify her decisions.

Colleen Oda's deviant behavior could potentially result in injury to thousands of people relying on well water.

See Exhibit 11, where Colleen became omniscient and took it upon herself to alter a County Policy, i.e., "General Plan Policy R-LU 57 and Zoning Ordinance Code Section 2.20.010(D) can not be implemented for this project in a manner that limits the ability of the applicant to exercise religion, such as dictating residency requirements of patrons using the facility. (Exhibit 12, General Plan - Local Serving)

Colleen Oda played Judge and Jury when she took it upon herself to add language to R-LU 47 & Zoning Sec. 2.20. If our County wants to change the codes; then Planning staff should ask the Board of Supervisors to amend the Codes. Colleen Oda has made a habit of citing the codes verbatim in her letters to applicant's; then totally reverses County Policies.

In San Jose Christian College v. City of Morgan Hill, the City denied Colleges application due to College's failure to comply with the City's application requirements.

College subsequently filed a complaint, the basis of which was that City's zoning process violated the First Amendment and the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 42 U.S.C. Sec. 2000cc et seq. College also included that the CEQA regulations to College's application "substantially burdened" its religious exercise.

The Court concluded that the City's denial of College's application did not deprive College of its First Amendment Right to the Free Exercise of Religion.

Substantial Evidence Supported the City's Finding that College failed to comply with the CEQA Regulations on the fact that College's "environmental analysis did not consider
the foreseeable future development and potential impacts of such development." In making its finding, the City took notice of the discrepancy between the plans submitted to the City and the far more grandiose plans touted in College's newsletters.

It was reasonable for the City to conclude that the truncated plans were proffered to the City to avoid addressing the environmental impacts of the more ambitious plans. (1200 students; instead of 400). And, City reasonably determined that college had failed to meet the requirements of its zoning ordinance and CEQA.

Likewise, Colleen Oda, in the 05-25-11 Planning Office Letter calculated (using State Building Codes) a total of 808 + 150 children on weekends; but only addressed environmental impacts for 80 persons; instead of 808 + 150 children on weekends which does not comply with CEQA Guidelines.

SVIC did not submit plans for two 5000 s.f. buildings and six bathrooms with multiple stalls for a maximum occupancy of 80 persons. NO REPUTABLE FIRM CONDUCTING EIR STUDIES WOULD CONDUCT A STUDY ON THIS PROJECT WITHOUT PERCOLATION TESTS RESULTS; IRRESPECTIVE OF FIRST AMENDMENT RIGHT. See Exhibit 16, GENERAL PLAN - LOCAL SERVICE.

AMPLE INFORMATION IS AVAILABLE TO EXPERTS REGARDING CODES ESTABLISHED FOR DEVELOPMENT NEAR LLAGAS CREEK.

Marcy Berkman, County Counsel, in her 07-24-12 e-mail states, "I was advised that the percolation language for the Initial Study was derived from the 2006 report. It would appear that this is the most recent report. (the 2006 report) (Exhibit 5)

CONCLUSION: Based on County Counsel's discovery, it would appear that the Environmental Assessment (EA) (Initial Study) and the Mitigated Negative Declaration have no value, and, as a result, becomes null and void.

THE SITE & SEPTIC PLAN BOLDLY FLAUNTS THE RESULTS OF THE 11-08-06 PERCOLATION TESTS RESULT FOR 100% EXPANSION OF LOT 2 AS ACCEPTABLE WITH HOLES EXCAVATED FROM FOUR FEET TO SEVEN FEET.

RLUIPA would work in favor of San Martin because of the substantial burden this project would bring to bear on our community; as well as thousands of people in three
remaining located along the Llagas Creek/Pajaro River/Monterey Bay Estuary; then emptying into the Pacific Ocean.

College's case sets a precedence which is recognized as authority for the disposition of future cases. Case Law sets a precedence for all future litigation.

I. IMPROPER NOTICING OF PLANNING COMMISSION HEARING.

PCGA received an e-mail from Bill Shoe on June 12, 2012; wherein he stated, "Due to the requirements of Section B6 of the Ordinance Code, it does not appear possible to hold a hearing before the planning commission next month....the project will not be on a Planning commission agenda until the Sept. 6 meeting date, at the earliest. (Exhibit 13)

NOTE: Based on this information, people planned to go on vacation. Then all of a sudden, Colleen Oda sends out Notices regarding the August 2, 2012 Planning Commission Hearing.

At the July 31, 2012 SMPAC & the August 1, 2012 SCJPAC Meetings, Ann Peden (using a projector and large screen), Ann Peden advised applicants, to wit:

Planning claimed that they decided to omit the cemetery at this time - it would be discussed at a later date; but it was on the Agenda and it was approved without noticing requirements discussed by Bill Shoe. (Exhibit 13)
See Exhibit 14, Department of Planning & Development

STAFF RECOMMENDATION. (Exhibit 6)

- ADDITIONAL PERCULATION STUDIES NEEDED FOR EXPANSION SYSTEM
- RECOMMEND CONTINUANCE.

Once again, as a result of those two notices, people from San Martin did not attend the Planning Commission Hearing on August 2, 2012. A few people did go just to see how commissioners would announced that the SVIC Item on the Agenda would be continued.

THE BEHAVIOR OF BILL SHOE, COLLEEN ODA AND ANN PEDEN WAS IN VIOLATION OF NOTICING CODES REGARDING THE CEMETERY; DUE TO THE FACT THAT THE CEMETERY AREA WAS NOT POSTED WITH SIGNS EVERY 300' 20 DAYS PRIOR TO THE PLANNING COMMISSION HEARING. (See Exhibits 12 & 13).
II. ZONING.

A. Dept. of Planning & Development; Special Area Policies.

1. San Martin Industrial Use Permit Area
2. Geohazard: County Landslide Hazard Zone
3. Habitat Conservation Plan
4. FEEMA Flood Zone: D (99.7%)

On P. 1, ITEM 3, of the 07-05-06 Planning Office Letter, Mark J. Connelly, Planner wrote "The subject property currently has a split zoning of RR-5ac to the northeast, and Al-5ac to the southwest.

Although the five-acre zoning is consistent with the General Plan, the proposed three lot subdivision creates irregular zoning that staff may require to be amended through the subdivision process.

1. Staff completely ignored the 3:1 Depth to Width Ratio for Lot Configuration. LOTS 1 & 2 conformed to the 3:1 ratio, but LOT 3 did not; therefore, the entire subdivision is illegal.

2. Moreover, staff completely ignored the over lay may designed for the corridor along Monterey Road which restricts development of subject parcel to Industrial Use Permit Area Only.

III. GENERAL PLAN, ZONING, LAND USE & SOUTH COUNTY PLAN CODES.

On P. 3 of 12, Paragraph 1, Ranu Aggarwal, Planner, wrote "The property is located in the San Martin Planning Area with the southwestern portion of the property located in the Industrial Use Permit Area in San Martin...and to the northeast in the area of the proposed cemetery...and to the southwest in the area of the proposed prayer hall multipurpose hall and the parking.

1. PCGA e-mailed Colleen Oda informing her of this serious error made by Ranu Aggarwal, and asked her to correct the description. We never received an answer from her.

2. A few months later, a PCGA member met with Colleen
and looked at the Site & Septic Plan; at which time Colleen
was reminded that she was asked to correct the error. She
acknowledged that the Cemetery was, in fact, located on the
southwest side of the property on LOT 3; not on the northeast
portion of the property along Monterey Highway on LOT 1. And,
that the buildings were located in the Industrial Use Permit
Area.

3. It is permissible to obtain a use permit to build a
   prayer hall in RR-5ac zoning; but NOT IN THE INDUSTRIAL
   USE PERMIT AREA.

**QUESTION:** Why has this project been allowed to linger for
6 years?

Applicants cannot build a commercial facility on
LOT 1; therefore, it doesn't pass zoning.

It doesn't pass R-LU 129; or R-LU 57 & Zoning Sec.
2.20. Project must be sized & designed for 6000 people who
can use the facility. Very few Muslims reside in San Martin.
NON-MUSLIMS CANNOT USE THIS FACILITY; Therefore, SVIC can't
locate in our Rural, Unincorporated Community. They must
locate their facility within City Limits.

According to SC 17.6, if the Cities of Gilroy
and Morgan Hill want this facility in South County, it must
be located in one of their cities. Why are they ignoring this
South County Plan Code?

SVIC has never conducted a passable percolation test
or wet weather soils tests. Could it be that they know water
can be found almost at ground level during winter months?

The following Codes are some of the easier Codes
to read and comprehend. Staff didn't have a problem telling
the Baptist Pastor that he could never pass a percolation
test and that groundwater was too high. **Why are these same
principals not applicable to the Cordoba Center?**

The most egregious violations committed by staff
for lack of enforcement were:

1. Per R-LU 129, No new septic systems shall be
developed in the highly permeable soils near Liagas Creek.

2. Per R-LU 144, Types of area which have been
designated areas of particular concern for development are
soils of high permeability.
3. Per R-LU 145, "In the areas of soils of high permeability activities permitted would be limited to those uses which:
   a) do not provide the potential for contamination of surface runoffs;
   b) will not require additional septic systems;
   c) will not add potential for generating significant volumes of organic liquid wastes or nitrates to the ground water aquifers.

4. Per R-LU 116, "The County endorses the concept of community participation by residents and property owners in decisions affecting San Martin.
   a) County staff interpret this code to have been satisfied by allowing a handful of residents speak for three (3) minutes at a community meeting and one (1) minute before the Planning Commission.

   b) A PCGA member asked Jack Bohan, our representative on the Planning Commission for one hour of his time before the SCJPAC meeting. He said he did not have time because he had to take care of his elderly mother-in-law.

5. Per SC 18.10, "Issues of its future level of development and form of governance (for San Martin) should be resolved by community residents.

6. Per R-LU 124, Commercial Land Uses should be granted within the boundary of the San Martin Commercial Use Permit Area.
   a) The Rocca Family had buyers who wanted to tear down the current building and re-build to same structure. It is zoned Commercial Use Permit Area and only have three (3) employees. The County said that they could not do so because they cannot have a commercial business on a septic system. (for 3 people; not 80)

IV. DEH REQUIREMENTS.

1. 07-05-06. Per Gwen Sax. "This parcel as a whole is in an area of potential high groundwater.

2. It appears to be in a low lying area adjacent to Llagas Creek. (Exhibit 14)

3. High groundwater usually located at less than 15 feet below the natural grade is generally a barrier to installation of a septic system.
4. On 06-14-06, groundwater was found between 4 and 15 feet.

5. Soil profile locations where percolation tests were conducted was not excavated to the required depth of 15 feet.

6. All three lots will be required to have a wet weather groundwater soil profile due to the presence of high groundwater.

NOTE: After applicants received the aforementioned requirements, they performed a percolation test on 11-08-06 for 100% expansion of LOT 2; but excavated the holes to a depth of 4', 5', 5', 7', 7' and 7'. (See Exhibit 5)

THESE RESULTS WERE MADE A PART OF THE SITE & SEPTIC PLAN ON 10-05-10. COUNTY STAFF REVIEWED AND APPROVED THE 10-05-10 PLANS; AND THESE PLANS WERE USED TO APPROVE THE ENVIRONMENTAL ASSESSMENT (INITIAL STUDY) AND MITIGATED NEGATIVE DECLARATION.

CEMETERY. 02-11-11 Planning Office Letter, P. 8, paragraph 5.

The Cemetery is located in an area of high groundwater. Burials in this location could potentially affect groundwater adversely. Provide an alternative to the currently proposed location of the cemetery in an area where groundwater issues do not pose a hazard to public health and safety. (Exhibit 15)


The World Health Organization (WHO) proposes that human remains must not be buried within 820 feet of any well. This distance may be greater if the site has a steep hydrological gradient or velocity of groundwater flow within an aquifer is rapid. THE PROPOSED CEMETERY DOES NOT MEET ANY OF THE ABOVE REQUIREMENTS.

Submit three copies of a hydro-geology report to determine the flow rate of the groundwater.


DEH is still waiting for guidance from the CCRWQCB regarding high seasonal groundwater concerns.

GENERAL PLAN – LOCAL SERVING (COMPARABLE FACILITIES) (Exh. 12)

1. Buddhist (VoVu) Church – Approved May 2009 (4.6 acres)
1300 Church Ave. - 5000 sq. f. 50 persons, 8 caretakers, 6 events of 100 people.

REBUTTAL:

1. The Buddhist Church is located 3.2 miles south-east of the Cordoba Center.

2. They do not have 50 persons on site daily. They have one service per week on Sundays.

3. An unknown lady spoke at the Community Center and said that they bring in bus loads of people; and cars park on each side of the road causing a hazardous situation. THIS IS NOT TRUE. Automobiles are the only source of transportation.

4. This facility is not open from 5:00 a.m. to 11:00 p.m./7 days a week/365 days/year. Plus 150 children from the Bay Area every weekend for retreats. (See Exh. 16)

5. There is no mountain on one side of the site that causes storm water to flood hundreds of properties down gradient from the site.

6. This site is zoned RR5ac. NOT INDUSTRIAL USE PERMIT AREA restricted to minimal water usage; and minimal waste water disposal.

7. This site is not burdened with the County "SPECIAL AREA POLICIES"; NOR IS IT LOCATED IN THE COUNTY HAZARD LANDSLIDE ZONE OR FEEMA FLOOD ZONE 99917%.

8. THE BUDDHIST CHURCH IS NOT LOCATED ADJACENT TO THE LLAGAS CREEK THAT RECHARGES OUR WELLS; including the well used by the Buddhist Church. The Cordoba Project could potentially contaminate their well also.

9. This site is located 3.2 miles away from Llagas Creek; and is not burdened with permeable soil. Percolation tests passed for this facility. COUNTY COUNSEL CONFIRMED THAT THERE ARE NO PERCOLATION TEST RESULTS FOR THE CURRENT APPLICATION.

10. High groundwater is not a concern for this facility; and they don't plan on having an ablution facility and 4 acre cemetery. (See Exhibit 16)

11. IF COUNTY STAFF USED THIS FACILITY TO APPROVE THE
CORDOBA CENTER, THEY DO NOT HAVE A GOOD COMMAND OF COUNTY POLICIES REGARDING DEVELOPMENT ADJACENT TO LLAGAS CREEK (TO PROTECT OUR WELLS), I.E., 1) NO NEW SEPTIC SYSTEMS TO BE DEVELOPED IN THE VICINITY OF LLAGAS CREEK DUE TO PERMEABILITY OF SOIL 2) MOVE CEMETERY TO ANOTHER LOCATION; DUE TO HIGH GROUNDWATER 3) COUNTY STAFF FOUND GROUNDWATER AT 4 FEET IN JUNE, AND 4) SAN MARTIN RESIDENTS MUST BE INVOLVED WITH DECISIONS REGARDING DEVELOPMENT IN SAN MARTIN.

2. THE MORGAN HILL BIBLE CHURCH facility was grandfathered in using antiquated land use rules because it was a saloon, dance hall; and whatever called the Silver Saddle.

1. THIS PROPERTY IS LOCATED IN MORGAN HILL; NOT SAN MARTIN. THIS IS NOT A COMPARABLE PROPERTY; NOT ZONED INDUSTRIAL. AND NOT BURDENED BY "SPECIAL AREA CODES" FOR SAN MARTIN.

SCOPE OF PROJECT.

1. The Cordoba Site is a 15+ acre parcel. NOT APPROXIMATELY 50 ACRES AS DEPICTED ON THE MAP SUBMITTED BY THE CONSULTING GEOLOGIST.

2. THIS 50+/- ENCROACHES ON SEVEN NEIGHBORING PROPERTIES. NEIGHBORS ASKED JIM BAKER, COUNTY GEOLOGIST TO SEND THE SOILS REPORT BACK FOR AN AMENDED UPDATE USING ONLY 15+ ACRES. MR. BAKER REFUSED TO DO SO.

QUESTION: What area of the 50 +/- acrege did the geologist use for his report?

3. See County Map showing Morgan Hill as Northern boundary; instead of County of Santa Clara Llagas Creek Park, 50.97 with Llagas Creek adjacent to Cordoba Site. (Exhibit 16)

NOTE: It would be interesting to know how County Staff; the Planning Commission Members; and the Board of Supervisors would have and will have voted if they owned property in San Martin or were residents of this community. And, more particularly, if they lived downgradient from the Cordoba Site. (Members of PCGA asked that we include this question)

SEE ATTACHMENTS I, II, III, IV & V; AND BY THIS REFERENCE MADE A PART HEREOF.

PCGA (appellants) reserve the right to supplement the appeal with additional grounds or facts for appeal at or before the hearing by the Board of Supervisors.
EXHIBITS 1-17
To: CoHeen Oda  
Department of Planning & Development  
79 West Hedding Street  
East Wing  
San Jose, CA 95110

Dear Ms. Oda,

In response to concerns regarding the Cordoba Project:

A statement has been made by the regional board claiming that the storm water in San Martin runs south-southeast. Please ask someone who has lived in San Martin all their lives & for several generations about this. The water will leach into the Llagas Creek & then it will flow south south-west. Why do you think so many of the wells on the west side of Monterey Road are contaminated with perchlorate? Some folks still cannot drink the water from their well due to perchlorate contamination. Some of these wells are approximately ¼ - ⅔ of a mile from the site of the Cordoba site. The water from the Cordoba site will run into these wells in this area & make contamination worse.

Who is going to monitor the project once it is built? It is being planned to hold many people and the planned bathrooms are not enough. Do you think that by bringing in portable toilets that they are not going to use the built in bathrooms whenever there is a crowd? Who from the county is going to stand around & count how many will use the bathrooms that empty into the septic system???

This project does not fit in with the planned growth of the county and of San Martin. Please take all this into consideration. We do NOT want dead bodies decomposing and tons of sewage leaching into the ground water that we use for cooking, bathing & drinking.

It seems that there could possibly be law suits in the future against the county for contamination problems if the project is approved.

Sincerely,

Don & Lynne Bonino  
San Martin, CA
WE, THE UNDERSIGNED, DO HEREBY DECLARE THAT WE ARE RESIDENTS OF WEST SAN MARTIN AND CAN ATTEND TO THE FACT THAT FLOODING HAS BEEN A SERIOUS PROBLEM FOR ADJOINING PROPERTIES AS WELL AS PROPERTIES LOCATED SOUTH & SOUTHWEST OF THE CORDOBA PARCEL.

1. Eugene Ted Cunningham 13769 Harding Ave San Martin 6/18/12
2. James Jud Cunningham 13769 Harding Ave San Martin 6/18/12
3. E.B. Rubino Carlstlund 535 Calif Ave San Martin CA
4. Rick Schorn R Schorn 13771 Harding Ave San Martin CA
5. Brian Crouse PPC 13485 Harding Ave San Martin, CA 6/18/12
6. Richard Frenk R Affleck 13770 Harding Ave San Martin CA
7. Debra B 13770 Harding Ave SM CA
8. Edward Rebender Edward Reberder 2754 California Sm 6/18/12
9. Evelyn Rebender Evelyn Reberder 2754 California Sm 6/18/12
10. Steve Schapp 2751 California Sm 6/18/12
11. Mary Meredith 205 California Sm 6/18/12 Mary Morden
12. Daytona Court 13805 Colony Ave Sm 6/18/12
13. Jonne Court 13805 Colony Ave Sm 6/18/12
14. W. Lma Ash 13775 Colony Ave Sm 6/18/12
15. Sheryl Summers 580 California Ave Sm 6/18/12
16. Dwight Summers 580 California Ave Sm 6/18/12
17. Linda MNJ 1380 Harding Ave San Martin CA 95046
18. Suzanne Sherman 13775 Harding Ave San Martin CA 95046
19. Nonie Russel Houseland 13875 Aps 99 San Martin CA 95046
20. Brian Russel Bailin 13875 Aps 99 San Martin CA 95046
21. Craig Jud CM 1035 East St Morgan Hill CA 95037
22. Eric Jud Ej 740 California Ave San Martin CA 95046
23. Tristi Jud CM 1035 East St Morgan Hill CA 95037
24. Eva Rasmussen Eva Rasmussen 1375 Harding Ave San Martin CA 95046
25. Arne Rasmussen Arne Rasmussen 13767 Harding Ave San Martin CA 95046

EXHIBIT 2 (3 pages)
**Residency Declaration**

We, the undersigned, do hereby declare that we are residents of West San Martin and can attest to the fact that flooding has been a serious problem for adjoining properties as well as properties located south & southwest of the Cordoba parcel.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Phone</th>
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</thead>
<tbody>
<tr>
<td>Susan Jacobovoc</td>
<td>19938 Santa Teresa Ave, CA 95046</td>
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<tr>
<td>Marilyn Yacovoc</td>
<td>19938 Santa Teresa Ave, CA 95046</td>
<td></td>
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<tr>
<td>Bobby Hensley</td>
<td>680 Ca Ave, San Martin, CA 95046</td>
<td>6/24/12</td>
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<tr>
<td>Henry Jenkins</td>
<td>680 Ca Ave, San Martin, CA 95046</td>
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<tr>
<td>Bill Haley</td>
<td>575 California Ave, SM 95046</td>
<td>4/29/12</td>
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<tr>
<td>Bill Stiles</td>
<td>575 California Ave, ST 95046</td>
<td>6/28/12</td>
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<tr>
<td>Bill Stiles</td>
<td>575 California Ave, San Martin, CA 95046</td>
<td>6/28/12</td>
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<tr>
<td>Maria Wakamado</td>
<td>999 California Ave, SM 95046</td>
<td>6/28/12</td>
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<tr>
<td>Kent Douglas</td>
<td>15054 Kisluk Dr, San Martin, CA 95046</td>
<td>6/28/12</td>
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<tr>
<td>Barbara R. Green</td>
<td>275 California Ave, SM 95046</td>
<td>6/28/12</td>
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<tr>
<td>Rene Cuadros</td>
<td>13820 Harding Ave, San Martin, CA 95046</td>
<td>6/24/12</td>
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<tr>
<td>Edward Farmer</td>
<td>350 Palomino Ln, San Martin, CA 95046</td>
<td>6/24/12</td>
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<tr>
<td>Eileen Farmer</td>
<td>350 Palomino Ln, San Martin, CA 95046</td>
<td>6/24/12</td>
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<tr>
<td>Ben Bravo</td>
<td>310 Palomino Ln, San Martin, CA 95046</td>
<td>6/24/12</td>
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<tr>
<td>Kathy Anglin</td>
<td>310 Palomino Ln, San Martin, CA 95046</td>
<td>6/24/12</td>
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<tr>
<td>Eunice Kopp</td>
<td>305 Palomino Ln, San Martin, CA 95046</td>
<td>6/24/12</td>
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<tr>
<td>Maria Ruiz</td>
<td>13765 Azoa Dr, San Martin, CA 95046</td>
<td>6/24/12</td>
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<tr>
<td>Kristy Mukas</td>
<td>300 Palomino Ln, San Martin, CA 95046</td>
<td>6/24/12</td>
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<tr>
<td>Marjorie Russo</td>
<td>300 Palomino Ln, San Martin, CA 95046</td>
<td>6/24/12</td>
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<tr>
<td>Philip Chung</td>
<td>495 W. 3rd Martin Ave, San Martin, CA 95046</td>
<td>6/24/12</td>
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<tr>
<td>Joy Kopp</td>
<td>13771 Harding Ave, San Martin, CA 95046</td>
<td>6/24/12</td>
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<tr>
<td>Richard Torres</td>
<td>13765 Harding Ave, San Martin, CA 95046</td>
<td>6/24/12</td>
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<tr>
<td>Manel Mello</td>
<td>14126 Harding Ave, San Martin, CA 95046</td>
<td>6/24/12</td>
</tr>
</tbody>
</table>
WE, THE UNDERSIGNED, DO HEREBY DECLARE THAT WE ARE RESIDENTS OF WEST SAN MARTIN AND CAN ATTEST TO THE FACT THAT FLOODING HAS BEEN A SERIOUS PROBLEM FOR ADJOINING PROPERTIES; AS WELL AS PROPERTIES LOCATED SOUTH & SOUTHWEST OF THE CORDOBA PARCEL.

1. Maria Melo Vella - 485 W. Harding Ave., San Martin, CA 95046, 6/29/12
2. Nori Gales - 485 W. San Martin Ave., San Martin, CA 95046, 4/30/12
3. Mike Law - 485 W. San Martin Ave., San Martin, CA 95046, 4/25/12
4. Mike Soto - 485 W. San Martin Ave., San Martin, CA 95046, 6/20/12
5. Oscar Torres - 485 W. San Martin Ave., San Martin, CA 95046, 4/20/12
6. Chris Frechette - 515 W. San Martin, San Martin, CA 95046, 4/18/12
7. Laurie Frechette - 515 W. San Martin, SM CA 95046, 6/30/12
8. Kim Yurosky - 635 W. San Martin, SM CA 95046, 6/30/12
9. Robert Yurosky - 635 W. San Martin, SM CA 95046, 6/30/12
10. Marlena Frechette - 645 W. San Martin Ave., SM CA 95046, 6/30/12
11. Jan Frechette - 645 W. San Martin Ave., SM CA 95046, 6/30/12
12. E. Frechette - 640 W. San Martin Ave., SM CA 95046, 6/30/12
13. David Evenson - 640 W. San Martin Ave., SM CA 95046, 6/30/12
14. Howard Gable - 225 Creek Ave., San Martin, CA 95046
15. Peter Camin - 245 Creek Ave., San Martin, CA 95046
16. David Warren - 1300 Creek Ave., San Martin, CA 95046
17. Rio Holmes - 13200 Colony Ave., San Martin, CA 95046
18. Helen Mandre - 13200 Colony Ave., San Martin, CA 95046
19. Donald Burke - 12015 Colfax Ave., SM CA 95046
20. Karen Rasmussen - 12015 Colfax Ave., SM CA 95046
21. Susan Merz - 824 Edna Ave., Soquel, CA 95073
22. Robert Clapper - 1420 Water Ave., San Martin, CA 95046, 7/4/12
23. Robert Clapper - 1420 Water Ave., San Martin, CA 95046, 7/4/12
24. Shantilini - 580 California Ave., San Martin, CA 95046, 8/19
25. Phil L. Coeff - 580 California Ave., San Martin, CA 95046, 8/19
includes comments from Dept. of Environ. Health. You are welcome to
review the file. All letters and other documents are available for public
review. Simply ask for file 2145 at the front counter.

The owner recently contacted me indicating that revised plans and
documents are ready to submit. Staff will review the information after it is
submitted. I am in the process of setting up an internal review meeting for
staff to preliminary review the plans and documents before it is officially
submitted.

Colleen

Colleen A. Oda
Planner III
Santa Clara County Planning Office
70 W. Hedding St., E. Wing, 7th Floor
San Jose, CA 95110
Phone: (408) 299-5797
Fax: (408) 288-9198
Email: Colleen.Oda@pln.sccgov.org

Please consider the environment before printing this email.

On Oct 31, 2011, at 8:46 AM, Rick Spohn wrote:

Hi Colleen. I haven't gotten an update in awhile and I wondered
where things are at with the permit process. I never did hear
back from Ann. Please give me an update, thanks.

On Fri, Sep 2, 2011 at 9:03 AM, Colleen Oda
<colleen.oda@pln.sccgov.org> wrote:

Rick,

I recently discussed with Ann Peden your question of the
septic system testing. She has recently returned from
vacation.

I have confirmed with Ann that percolation tests concluded in
2006 failed. For the current application, new percolations tests
were conducted and are currently under review. The proposed
septic system is not located where percolations tests failed in
2006. For further information, you may contact Ann Peden at
Hi Georgine:

Following receipt of your email below, I enquired again whether the 2006 percolation study already forwarded to you is the most recent one, and was advised that it is.

Marcy

---

Hi Georgine:

As noted in my email below, I asked for two items: (1) the report from which the percolation language on page 19 of the Initial Study was derived; and (2) the most recent percolation report. In response, I was advised that the percolation language was derived from the 2006 report and provided a copy of that report, which was forwarded to you in my last email. From the information, I received; it would appear that this is the most recent report.

You email advises that you were told that a new percolation test was performed and that is why you are requesting the results. If you can let me know who told you that and any other information you have that would be useful in tracking down any such report, I can continue to make further inquiries to determine whether or not your understanding is correct and, if so, continue to try to locate a copy of any such report.

Marcy L. Berkman
Deputy County Counsel
Office of the County Counsel
County of Santa Clara
70 West Hedding Street
East Wing, 9th Floor
San Jose, CA 95110
Main: 408-299-5900
Direct: 408-299-5929
Fax: 408-292-7240
email: marcy.berkman@cco.sccgov.org

EXHIBIT 4 (3 pages)
From: Georgine Scott-Codiga [mailto:gyscott@dslextreme.com]
Sent: Tuesday, July 24, 2012 3:34 PM
To: Marcy Berkman
Subject: Re: CPRA Request for Cordoba Center Percolation Test

Hi Marcy,

Thank you so much for the information. I am still somewhat confused though. The set of test results that you sent me for Batz Environmental Consulting are the percolation tests that were performed in 2006. What I would like to know is; are there any other percolation tests that were done on this property after the 2006 tests?

You sent me the Geoconsultants, Inc. reports which are on the condition of the soil. I want to know the the water tables as reported on the percolation tests. If there were no other percolation test performed after the 2006 ones (Batz) please let me know so that I can stop requesting a copy of them.

I was told that new percolation test were performed, that is why I am requesting the results.

Feel free to call me if you have any questions.

Thanks,
Georgine Scott-Codiga

--- Original Message ---
From: Marcy Berkman
To: Georgine Scott-Codiga
Sent: Tuesday, July 24, 2012 11:27 AM
Subject: CPRA Request for Cordoba Center Percolation Test

Georgine:

Thank you for taking the time to speak with me this morning.

My understanding from our conversation and your email is that you made a CPRA request, received a written response from Rina Banks advising that there were no responsive records, and that the document you seek is a copy of the most recent percolation test for the Cordoba Center property located at 14065 Monterey Road, San Martin.

As we discussed in our second telephone conference this morning, the May 18, 2012 Initial Study at page 19 paragraph 1 states that: "Percolation rate for area for the proposed septic fields is 1 inch per 108 minutes, which is significantly lower than the thresholds defined for permeable soils." That Initial Study is available on the internet, and during our discussion you indicated that you already have a copy.

I followed up to seek a copy of the report from which the above information was derived/the most recent percolation study. In response, I was directed to the 2006 percolation study. A copy of that 2006 percolation study is attached.

In addition, page 19 of the May 18, 2012, further references a groundwater study prepared by hydrogeologist Jeremy Wire of Geoconsultants, Inc. dated August 27, 2007, and an April 10, 2012, addendum to that study. From our conversation, it does not sound like these groundwater studies are the documents you are seeking; however, because you were interested in recent studies, I am also attaching copies of
these, just in case they are what you are looking for.

~Marcy
Marcy L. Berkman
Deputy County Counsel
Office of the County Counsel
County of Santa Clara
70 West Hedding Street
East Wing, 9th Floor
San Jose, CA 95110
Main: 408-299-5900
Direct: 408-299-5928
Fax: 408-292-7240
email: marcy.berkman@co.sccgov.org

From: Georgine Scott-Codiga [mailto:gs codiga@dynamic extreme .com]
Sent: Tuesday, July 24, 2012 9:41 AM
To: Marcy Berkman
Subject: Fw: Response to Records Request 072012B

FYI
 Original Message
From: Banks, Rina
To: 'gs codiga@dynamic extreme .com'
Sent: Monday, July 23, 2012 4:22 PM
Subject: Response to Records Request 072012B

Good afternoon Georgine Scott-Codiga,

Thank you for your recent record request received on July 20, 2012. In compliance with the California Public Records Act, please review the attached response to your record inquiry.

Best regards,

Rina Banks
Office Specialist III
Department of Environmental Health
1555 Berger Drive, Building 2, Suite 300
San Jose, CA 95112
www.ehinfo.org
408-918-3428 Direct Line
408-298-6261 Fax
Email: rina.banks@deh.sccgov.org

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Colleen Oda is the Agent in charge and submitted this project to County staff to conduct an environmental study based on the aforementioned percolation test that was never discussed in the 07-20-06 or 09-20-07 Planning Office "letters". This test was conducted on 11-08-06 for 100% expansion for LOT 2; but no reference was made regarding a new test for 100% expansion until Gwen Sax made it a requirement one year later in the 08-20-07 Planning Office letter (Attachment 3) on P. 5 of 8, item 25, (b) (iii) "Additional percolation tests will be required to establish an expansion area". Contact Ann Peden to schedule the additional soil profile and percolation tests. This letter was sent out nine months after Batz Consultants performed the aformentioned test on 11-08-06.

(See May 16, 2012 regional board letter as (Attachment 1); whereby the regional board approved plans for the Project. Thea Tryon stated, "The Cordoba Center project plans include an individual domestic wastewater disposal system (septic system) for a proposed community and events center.

EXHIBIT 5
Recommendation:

- For expansion system

Additional Percolation studies needed

Staff Recommendation
ARTICLE 2. ON-SITE DISPOSAL SYSTEMS

Sec. B11-65 44. Private sewage disposal systems; when used.

(a) Every residence, place of business, or other building, or place where persons congregate, reside, or are employed, and which cannot be connected to a sanitary sewer, shall must be provided with a water flush toilet sewage disposal system. Where the volume of waste produced is in excess of twenty-five hundred (2,500) gallons per day or where more than five (5) units are proposed, said the sewage disposal system shall must be constructed, altered, reconstructed, and maintained as approved by the California Regional Water Quality Control Board having jurisdiction consistent with section B11-12 of this chapter.

(i) The director shall will require soil percolation tests and at least one (1) soil boring or excavation per site. Additional exploratory tests or other information may be required to verify adequate depth of permeable soil and/or separation between trench bottom and groundwater. Where the director has adequate evidence to demonstrate suitable permeable soil and groundwater separation, testing requirements may be waived.

(j) Soil percolation tests shall will be required on every parcel unless the director determines, on a case-by-case basis, that a percolation test is not necessary. The director shall will determine the percolation test method and the number and location of the percolation test borings.
March 20, 2012

Dan Niles
Engineering Geologist
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401-7906
Phone: 805-549-3355
Fax: 805-788-3557
Email: dniles@waterboards.ca.gov

RE: The Cordoba Center Project, 14065 Monterey Road, San Martin CA

Dear Mr. Niles,

This letter is in response to your questions about waste water discharge at the Cordoba Center project site. There are two types of discharges proposed at this site:

1) Waste water discharge from bathrooms and kitchen into the leach field.

The septic system for this project has been designed for a capacity of 90 people based on a maximum daily flow rate of 10 gallons per person (900 gallons per day max). If more capacity is needed occasionally, we have proposed to use portable toilets to handle the additional discharge. Two separate pump septic systems (1,500 Gal & 3,000 Gal) have been designed and, based on the field percolation rate and ground water test results, duly approved by the Santa Clara County Dept of Environment Health for the project. Those are clearly shown on the project Site & Septic Plan provided by Carnes & Associates.

2) Human remains discharge in a cemetery.

According to Islamic traditions the body of a deceased is ritually bathed with clean water and the “bare body” is then shrouded in plain white cloth. The bodies are not embalmed and absolutely no chemicals or any type of preservatives whatsoever are used in preparation for the burial. In other words, nothing other than clean water and clean cloth touches the deceased. More importantly, the bathing and shrouding of the body is done at a morgue BEFORE being brought to the cemetery for burial. The Cordoba Center project plan does not propose an onsite morgue and hence all bodies will be prepped for burial at an offsite morgue. [It is also important to note that “ablution” is an orthodox biblical]
tradition common to Christianity, Judaism and Islam. In Islamic practice, it commonly refers to ritual washing of one's face, hands and feet with clean water before offering prayers. It does not refer to washing deceased bodies.] In Islamic traditions, the shrouded body is either placed directly in the grave or placed in a cardboard (or untreated wood) coffin and then placed in the grave. Both methods are followed in various Islamic cultures and deemed acceptable. The fundamental concept is that of “dust to dust,” meaning, full bio-degradation of human remains in natural environment. Hence, Muslim graves while may be lined with concrete walls and a slab cover in certain cases to protect against caves-ins, they are never sealed or lined with anything at the bottom.

I assume it is clear from the above description that there will be no discharge from the grave sites other than whatever happens in a “natural” bio-degradation process. The waste water in the leach field will be whatever is normally discharged from bathroom and kitchen facilities. There are no other discharges of any type anticipated in this project. I would also refer you to the hydro-geology study prepared by GeoConsultants for this project which states that “The ground-water elevation contour lines are generally at a right angle to the axis of the valley in the site vicinity and exhibit a gradient from northwest to southeast...” which I interpret to mean that the discharge water from the leach fields would flow “away” from the cemetery since the leach field lies to the east (downstream) of the cemetery.

I hope I have answered your questions clearly and adequately. In case of further questions or clarifications, please do not hesitate to contact me.

Thank you.

Sal Akhter
Project Manager
The Cordoba Center, a project of SVIC
Direct: (408) 205-9936
Email: sakhter@induswest.com
May 25, 2011

South County Partners, LLC/Cencon Invest. LLC
17210 Quail Court
Morgan Hill, CA 95037

FILE NUMBER: 2145 - 70 - 32 - 11P - 11A - 11G
SUBJECT: Use Permit, Architecture & Site Approval, Grading Approval
SITE LOCATION: Monterey Highway
DATE RECEIVED: 4/25/2011

Dear South County Partners, LLC/Cencon Invest. LLC:

Your application for an Use Permit, Architecture & Site Approval, and Grading Approval, is incomplete. In order for application processing to resume, you must resolve the following issues and submit the information listed below.

PLANNING OFFICE
Contact CELLEN ODA at (408) 299-5797/cellen.oda@pln.sccgov.org for information regarding the following item(s).

1. More clarified project description information needs to be submitted as follows:

   (a) Provide project description for the soccer fields use - no written information has been submitted. Submit detailed proposal which explains hours of operation, activities, days of week, # of maximum occupants, and who the users are. Will the soccer fields be rented out to other groups such as soccer league organizations, or is this an accessory recreational use for the church members?

   (b) The submitted project description indicates that youth retreats for 150 people shall occur certain weekends and summer months. Please be more specific - how many weekends per month, which months of the year (June to August?). Who attends the youth retreats? Schools? Youth of the church only? Non-profit groups? How many staff members at the retreats? What activities will take place - any outdoor socials or other events?

3. Per California Building Code occupant load standards, it appears that the buildings are oversized. A rough estimate of the 5,000 sq. ft. prayer hall indicates accommodation for 471 to 671 people (varied assembly between standing, chairs, and arrangement of tables and chairs), and the rough estimate of the 5,000 sq. ft. multi-purpose hall indicates accommodation for 245 people (assembly with tables and chairs). Areas of storage, restrooms, utility, and kitchen space were removed to make the above calculations. Please submit revised floor and site plans to reduce the size of the buildings to accommodate the maximum occupants proposed. Per the proposal, up to 50 people would use the prayer hall and up to 70 people would use the multi-purpose hall on a weekly basis. There are only 8 proposed events per year to accommodate 150 to 200 people.

California Building Code occupancy load for assembly areas is as follows:

   Chairs - 7 net sq. ft. per occupant
   Standing space only - 5 net sq. ft. per occupant
   Unconcentrated (tables and chairs) - 4 2/3 net sq. ft. per occupant.

EXHIBIT 10 (3 pages)
DEPARTMENT OF ENVIRONMENTAL HEALTH
Contact ANN PEDEN (408-299-5748 / Ann.Peden@deh.sccgov.org) for information regarding the following item(s).

22. The World Health Organization (WHO) proposes that human or animal remains must not be buried within 250 meters (820 ft) of any well, borehole or spring from which potable water supply is drawn and that place of interment should be at least 30 meters (98 ft) from any other spring or watercourse and at least 10 meters (62 ft) from any drainfield. This distance may be greater if the site has a steep hydrological gradient or the velocity of groundwater flow within an aquifer is rapid (WHO, 1998). The proposed cemetery does not meet any of these setbacks. Revise location of cemetery to meet the above requirements.

23. Submit three (3) copies of a hydro-geology report to determine the flow rate of the groundwater. Cemetery setbacks from water sources may need to be revised depending on the outcome of the report, per §22 above.

FIRE MARSHAL
Contact MAC BALA (408-299-5763 / mac.bala@pln.sccgov.org) for information regarding the following item(s).

24. A new will serve letter from West San Martin Water Works is required confirming ability to provide domestic and fire water supply. Please submit four (4) copies. The previous will serve letter (dated May 2, 2007) addresses 2 single family dwellings and 1 commercial lot. To better determine the fire flow capabilities of West San Martin Water works hydrant system the residual and static pressures of the hydrant being tested is required.

25. Revise site plans to show correct width of access roads as described in incomplete item #15.

GEOLOGY
Contact JIM BAKER (408) 299-5774 / jim.baker@pln.sccgov.org) for information regarding the following item.

27. Connolly’s “Engineering Geologic Investigation” report (dated 11/20/07) present the results of a fairly thorough filed investigation for a new building on the crest of the ridge (Elevation 338); but recommends that the planned building be “moved” to the south, away from the headscarp of a landslide on the north-facing slope. However, the plans show two larger buildings to be built on the south-facing slope with a 14-foot high (8-foot deep) cut slope near the northeast corner of one building, downhill of the area where Connelly’s Test Pit 3 encountered more than 15 feet of colluvium.
Sincerely,

Colleen A. Oda
Colleen A. Oda, Planner III

cc:
Rob Eastwood, Gary Park, Bill Shoe, Planning
Mark Connolly, ALUC
Ann Pedan, DEH
Mac Bala, PHO
Jim Baker, Geology
Shelly Theis, LDS
Yvonne Arroyo, SCVWD
Felix Lopez, Roads
Resubmittal; Referral to Greg Bazhaw (copy of application and letter only)

Gary Carnes
Carnes & Associates
9505 Sugar Babe Dr.
Gilroy, CA 95020
The subject property is zoned “RR-5Ac-d1” (Rural Residential), and “A1-5Ac-d1” (General Use), and is designated Rural Residential in the County General Plan. In discussing allowed uses in the Rural Residential districts, General Plan Policy R-LU 57 states:

“Residential, agricultural and open space uses are the primary uses. Commercial, industrial and institutional uses may be established only where they serve the needs of the resident population and result in a net overall reduction of travel demand.”

Similarly, for Rural Residential zones, Zoning Ordinance Code Section 2.20.010(D) states:

“Commercial industrial and institutional uses may be established only where they serve the needs of the resident rural population and result in a net overall reduction in travel demand for rural residents.”

These qualifications are intended to limit the size, scale and use intensity of non-residential uses in rural areas, consistent with County growth management and land use policies, the lack of available public services, and other related policy considerations. General Plan Policy R-LU 57 and Zoning Ordinance Code Section 2.20.010(D) can not be implemented for this project in a manner that limits the ability of the applicant to exercise religion, such as dictating residency requirements of patrons using the facility. Thus, as stated above, General Plan Policy R-LU 57 and Zoning Ordinance Code Section 2.20.010(D) is used to evaluate the size, scale and intensity of a proposed religious facility to determine if it is consistent with broader County growth management policies. If in the case of religious institutions or other types of institutional uses, a proposal is consistent with the scale of similar established uses in the rural area, and are generally low intensity, it has been historically considered an allowable use consistent with the purpose and intent of these policies.

The project meets the intent of General Plan policies R-LU 57 to minimize use intensity. Facility is appropriately sized to a limited maximum occupancy of 80 people including the 3 staff members, and allowed occupancy up to 150 people including the 3 staff members during special scheduled events three (3) times a year as described in the project description and Use Permit conditions. This scale is commensurate with the scale of religious institutions found in rural settings and consequently has the potential to reduce travel demand in the rural areas depending upon the local demand for religious services.

The prayer hall and multipurpose hall buildings have been sized consistent with Building Code occupancy standards. Building Code standards require 15 net sq. ft. per person. The assembly area of 2,200 sq. ft. in the prayer hall will accommodate 147 people. The assembly area of 1,822. sq. ft. in the multipurpose hall will accommodate 122 people. Other “non-assembly” space in the buildings includes storage space, office, bathrooms, and kitchen.
Monterey Rd. - 6,030 sq. ft.
2. Morgan Hill Bible Church - Approved 1994 (8.7 acres) 15055 Ave. - 5,000 sq. ft. 50 persons; 6 caretakers, 6 events of 100 people
1. Buddhist (Vo Vu) - Approved May 2009 (4.6 acres) 1300 Church
Comparable Facilities in San Martin

First Amendment Rights

Staff Evaluates Size, Scale, Intensity of Institution

Travel demand "may be established only where serve the needs of...

General Plan - Local Servicing
Sheryl Summers

From: Bill Shoe [Bill.Shoe@pln.sccgov.org]
Sent: Tuesday, June 12, 2012 9:43 AM
To: Sheryl Summers
Cc: Colleen Oda

Subject: Re: Intergovernmental Coordination SCC Planning File #2145

Ms. Summers,

Thank you for following up. My understanding is that staff had discussions with the applicant as recently as yesterday to review the considerable noticing requirements involved with a proposed cemetery. Due to the requirements of Section B6 of the Ordinance Code in this regard, it now does not appear possible to hold a hearing before the Planning Commission next month. The meeting date for the Planning Commission was moved this year to July 12 to reduce conflicts with the July 4 holiday week prior. My sense is now that to meet the noticing and signage requirements, the project will not be on a Planning Commission agenda until the Sept. 6 meeting date, at the earliest, and a SMPAC (San Martin Committee) meeting will be held before the Planning Commission meets.

As this project will be bundled (Use Permit and Cemetery Permit) and heard by the Board of Supervisors for final approval, the Planning Commission's role will be that of providing recommendations to the Board. A Board hearing cannot be scheduled until the Planning Commission's action is taken, possibly late October. One caveat with scheduling the SCJPAC meeting is that it may be held any time prior to the Board's final hearing and decision, given that the Board and not the Planning Commission is the final granting authority for this bundled Use Permit and Cemetery permit. If things work out such that we can utilize the next regularly scheduled SCJPAC meeting in October, October 11, without having to schedule a special meeting just for this item, then the cities and County will likely favor that approach.

Thank you for your patience in these matters. Scheduling is always dependent on a variety of factors. All dates are tentative until finalized on a published agenda.

The proposed notice for CEQA documentation is now available also, and if you have interest or questions, please direct them to Colleen Oda.

Bill

On Jun 12, 2012, at 9:24 AM, Sheryl Summers wrote:

Dear Mr. Shoe,

According to your e-mail dated April 5, 2012, in response to PCGA's e-mail dated March 22, 2012, regarding intergovernmental coordination, you state that at such time as the project is ready for public hearing before our Planning Commission, it will be agendized for consideration before the South County Joint Planning Advisory Committee (SCJPAC) for comment and possible recommendations to our Planning Commission.

However, the Planning Commission hearing is scheduled for July 6, 2012 and the SCJPAC meeting for June has been cancelled.

You also state that prior to any Planning Commission hearing, the project will appear on a San Martin Planning Advisory Committee (SMPAC) immediately prior to the Planning Commission meeting and that SMPAC will hold a hearing and make its recommendations to the Planning Commission.

EXHIBIT 13 (4 pages)
Sec. B6-5. - Notice of hearing.

(a)

The secretary of the Planning Commission shall cause a copy of the notice of hearing on such application to be published in a newspaper of general circulation in Santa Clara County at least ten days preceding the date of hearing.

(b)

Not less than 20 days before the date fixed for said hearing, the secretary shall also cause notices of said hearing to be conspicuously posted along the exterior boundary line of the proposed cemetery, or extension of an existing cemetery, not more than 300 feet apart, and at each change of direction of said boundary line, and also in the same manner along both sides of all public streets within one mile of the exterior boundaries of the proposed cemetery, in such manner as would reasonably give notice to passersby of the matters contained in said notice.

(c)

Said notices shall contain a copy of the notice of hearing on said application, a rough sketch showing the boundaries of said cemetery or extension of an existing cemetery and all public highways within a distance of one mile from the exterior boundaries of such proposed cemetery, or extension of an existing cemetery, together with a statement which shall appear in a minimum of one-inch black face letters as follows: "Notice of Proposal to Establish Cemetery."

(d)

Where there are 50 or more buildings used either for residential or business purposes within a distance of one mile from the exterior boundaries of said proposed cemetery or extension of an existing cemetery, said secretary shall cause a postcard notice of said hearing to be mailed to all property owners within said distance at least 15 days prior to said hearing.

(e)

The applicant shall submit the mailing list of said property owners to the secretary using for this purpose the last known name and address of such owners as shown upon the records of the Assessor of Santa Clara County. Said secretary may require proof that said mailing list is complete and correct.

(f)

Inadvertent omissions, discrepancies or mistakes of a nonsubstantial matter relating to the mailing of notice shall not affect the validity of said permit.
Sec. B6-6. - Consolidation of hearing with use permit hearing.

At the time of filing said written application, the applicant may request the consolidation of the cemetery permit public hearing with those required for a use permit under the Zoning Ordinance for the County, provided that at said consolidated hearing, the Planning Commission shall first hear and determine the application for use permit.

Cross reference—Use permit, App. I, Ch. 5.65.

Sec. B6-7. - Contents of application.

Every application for a permit required under the terms of this division shall be signed by the president and secretary of the corporation which will be in charge of the operation of said cemetery and the owner or owners of the land to be included therein shall be verified as provided in the Code of Civil Procedure of the State of California for the verification of pleadings in civil actions and shall set forth in separate paragraphs or in exhibits attached thereto the following information:

(a)

The names and addresses of all persons owning all or any part of the property which it is proposed to use as a cemetery.

(b)

The names and addresses of the officers and directors of the corporation which will be in charge of the operation of the cemetery.

(c)

A map showing the exact location, exterior boundaries and legal description of the property which it is proposed to use for a cemetery and the location of all buildings, whether public or private, located within a distance of 1½ miles from the exterior boundaries of said premises, and the location and depth of all wells in said area from which domestic or irrigating water is obtained. Said map shall also show the location and the names of all public streets located within a distance of 1½ miles from the exterior boundaries of said premises, and if no public streets are located within said distance, then said map shall show the location and at least one-half mile of the extent of the three public streets having a length of at least one-half mile which are located nearest to said premises. Said map shall further show the elevation in feet above sea level of the highest and lowest points in said premises and the width, depth and location of all natural
watercourses and artificial drains or conduits for the drainage of storm water located upon said premises or within 2,000 feet from the exterior boundary thereof in any direction.

(d)

A financial statement of applicant showing the financial ability of applicant to establish, care for and maintain the proposed cemetery in such a manner as to prevent the same from becoming a public nuisance.

(e)

A statement setting forth that said cemetery is to be established as an endowment care cemetery and that an endowment fund is to be or has been created as required by law, the amount then on hand and the method, scheme or plan of continuing and adding to the same in full details sufficient to show that said cemetery will be maintained so as not to become a public nuisance.

(Code 1954, § 5.1.9-4; Ord. No. NS-508, § 1, 2-14-55; Ord. No. NS-508.1, § 2, 6-26-61)

Sec. B6-8. - Permit fee.

At the time of filing any application required under the terms of this division, the applicant shall pay to the secretary of the Planning Commission a permit fee of $100.00.

(Code 1954, § 5.1.9-5; Ord. No. NS-508, § 1, 2-14-55; Ord. No. NS-508.1, § 3, 6-26-61)

Sec. B6-9. - Conduct of hearing; matters considered.

At the time and place fixed for the hearing on any application for a permit required under the terms of this division, the Planning Commission shall hear the same and any protest or evidence relevant thereto, and upon such application, evidence and protest, if any, shall determine whether or not the establishment or maintenance of such proposed cemetery or extension of an existing cemetery will or may jeopardize or adversely affect the public health, safety, comfort or welfare and whether or not the establishment or maintenance thereof will or may reasonably be expected to constitute a public nuisance. Upon such hearing, the Planning Commission shall have power to consider the present or probable density of population in the area contiguous to said proposed cemetery or extension of an existing cemetery and if said Commission shall find that the locality is or will in all probability be thickly settled within a period of five years, may recommend to the Board of Supervisors a denial of a permit therefor. The Planning Commission shall also have power to consider the probable effect that the establishment or maintenance of said proposed cemetery or extension of an existing cemetery will have upon the health of the public and if, in the opinion of said Commission, the establishment or maintenance of said cemetery or extension of an existing cemetery would be likely to endanger the public
Department of Planning and Development

150 persons
3 special events annually to accommodate
Max Occupancy 80 persons

Parking Lot with 59 parking spaces

2 acres of cemetery grounds
2 detached bathroom buildings (450 sq. ft.
2,800 sq. ft. multi-purpose hall
5,000 sq. ft. prayer hall

Cemetery

For a Religious Institution and
Use Permit, ASA, and Grading
Wells within 1.5 miles of cemetery (8 wells)

- 2012 RWACB Letter - Waiver of Waste Discharge Permit (May 16)
- Review by RWACB
- Depth to Groundwater 7 ft.
- Distance to wells - exceed 100 ft.
- Groundwater Study (Geoconsultants, Inc., April 10, 2012)

Cemetery / Groundwater
Key Issues

1. General Plan Policies - Local Serving
2. Groundwater - Hydrogeology Reports
3. Traffic - Traffic Report
## The Cordoba Center - Summary Use Chart

(updated: 10-6-2011)

<table>
<thead>
<tr>
<th>Events</th>
<th>Expected # of People</th>
<th>Hours</th>
<th>Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prayer Hall (Mosque):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weekly &quot;Jummah&quot; Prayers</td>
<td>50 Persons Max</td>
<td>1:30PM - 2:30PM</td>
<td>Fridays 7 days a week for one month.</td>
</tr>
<tr>
<td>Nightly &quot;Taraweeh&quot; Prayers</td>
<td>30 Persons Max</td>
<td>11:40PM - 1:00AM</td>
<td>Twice per year. (See below)</td>
</tr>
<tr>
<td>Ramadan only.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annual Eid Prayer Services</td>
<td>150 Persons Max</td>
<td>8:00AM - 9:00AM</td>
<td>May vary depending on year.</td>
</tr>
<tr>
<td>Sunday School for children</td>
<td>30 Persons Max</td>
<td>11:00AM - 1:00PM</td>
<td>Saturdays.</td>
</tr>
<tr>
<td>Other religious services such as Baptisms, Weddings &amp; Funerals</td>
<td>150 Persons Max</td>
<td>Varies between 1:00PM and 6:00PM depending on event</td>
<td>4-6 times per year. Usually on weekends except for funerals.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Multi-Purpose Hall (outside seating - with appropriate permits - shall be arranged for events that exceed hall capacity):</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Event</td>
<td>Expected # of People</td>
<td>Hours</td>
<td>Days</td>
</tr>
<tr>
<td>Annual Muslim Festivals:</td>
<td>150 Persons Max</td>
<td>9:00AM - 11:30AM</td>
<td>Varies per lunar calendar.</td>
</tr>
<tr>
<td>a) Eid Al-Fitr Banquet</td>
<td></td>
<td></td>
<td>a) Day after end of Ramadan.</td>
</tr>
<tr>
<td>b) Eid Al-Adha Banquet</td>
<td></td>
<td></td>
<td>b) ~40 days after each month.</td>
</tr>
<tr>
<td>Monthly Potluck Dinner</td>
<td>50 Persons Max</td>
<td>7:00PM - 10:00PM</td>
<td>Either Saturday or Sunday.</td>
</tr>
<tr>
<td>Weekend dinners during the month of Ramadan.</td>
<td>70 Persons Max</td>
<td>5:00PM - 9:30PM</td>
<td>Dates vary from year to year.</td>
</tr>
<tr>
<td>Annual &quot;Open House&quot;</td>
<td>150-200 Persons Max</td>
<td>5:30PM - 7:30PM</td>
<td>Each Saturday during Ramadan.</td>
</tr>
<tr>
<td>Community Soup Kitchen</td>
<td>150 Persons Max</td>
<td>6:00PM - 9:30PM</td>
<td>Each Saturday during Ramadan.</td>
</tr>
<tr>
<td>Other occasional social and/or educational events</td>
<td>150 Persons Max</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Youth Retreat (mainly outdoor events):</td>
<td>150 Persons Max</td>
<td>9:00AM - 6:00PM</td>
<td>Educational and personal development programs</td>
</tr>
</tbody>
</table>

EXHIBIT 16 (6 pages)
The Cordoba Center
Project Description

The Cordoba Center is a project of South Valley Islamic Center to build a multi-purpose facility to serve the religious and social needs of its constituents residing in South Santa Clara County. SVIC is a non-profit religious organization registered under IRS Code 501 (C) (3).

The Cordoba Center is planned on a 16 acre parcel at 14065 Monterey Road in San Martin. The project entails three primary components as follows:

1) A prayer hall (Mosque) for religious services.
2) A multi-purpose hall to be used for community banquets and other social events.
3) A Muslim cemetery to be established on a 2-acre portion of the parcel.

A significant portion of the land will be dedicated to open space in a park-like setting with two covered pavilions (picnic areas), play grounds and walking trails. This open space and associated facilities will be used for community picnics and youth retreat programs.

Details on the anticipated use of these facilities are provided below:

1) Prayer Hall (Mosque)
   a. Weekly prayer services on Friday afternoons (~50 persons max)
   b. Nightly prayer services during the Muslim month of Ramadan (~30 persons max)
   c. Sunday school for children (~30 persons max)

2) Social Community Events
   a. Two annual Muslim Festivals (~150 persons max)
   b. Monthly potluck dinners (~50 persons max)
   c. Weekend dinner events during the month of Ramadan (~70 persons max)
   d. Annual “Open House” community event (~200 persons max)
   e. Other occasional special events

3) Youth Retreat on some weekends and during summer (~150 persons max)
   a. Educational and personal development programs

4) Muslim Cemetery

Existing Structures: None.

Proposed Structures:

1) Religious Prayer Hall (Mosque – 5,000 Sq Ft)
2) Multi-purpose Hall (5,000 Sq Ft)
3) 1-2 covered patios for group picnic and other outdoor social events
4) Bathrooms for the picnic/retreat area

Days of Operation: 7 days a week, year round.

Hours of Operation: 5:00am to 11:00pm daily.

Number of Employees: One at this time (Imam/caretaker). One or two more in future as needs grow.

Number of visitors per day: See proposed uses above.
The Cordoba Center
PROJECT DESCRIPTION

The Cordoba Center is a project of South Valley Islamic Center to build a multi-purpose facility to serve
the religious, educational and social needs of its constituents residing in South Santa Clara County. SVIC
is a non-profit religious organization registered under IRS Code 501 (C) (3).

The Cordoba Center is planned on a 16 acre parcel at 14065 Monterey Road in San Martin. The project
entails three primary components as follows:

1) A prayer hall (Mosque) for religious services.
2) A multi-purpose hall to be used for banquets, recreational activities and other events.
3) A Muslim cemetery to be established on a 2-acre portion of the parcel. Up to 4-acres are
dedicated for future expansion of cemetery and related funeral facilities.

A significant portion of the land will be dedicated to open space in a park like setting with two covered
pavilions (group picnic areas) and playgrounds. This open space and associated facilities will be used for
community picnics, outdoor recreation and youth retreat programs.

Details on the anticipated use of these facilities are provided below. A separate summary chart showing
potential uses, frequency, anticipated attendance and hours of operation is also attached herewith. All
facilities and services are intended primarily for the use of SVIC members and their families.

1) **Prayer Hall (Mosque):** The Mosque (Muslim Prayer Hall) is a “clean & quiet” space dedicated
for a multitude of religious services including but not limited to the following:
   a. Daily individual prayers, five times a day
   b. Weekly mass prayer services on Friday afternoons
   c. Nightly mass prayer services during the Muslim holy month of Ramadan
   d. Two annual Muslim “Eid” festival services
   e. Baptismal Services
   f. Wedding services
   g. Funeral Services
   h. Sunday school for children and adults

Unlike in a Church, all religious services in a Mosque are traditionally offered on floor (no benches)
with the exception of Sunday school where some furniture may be temporarily arranged to facilitate
the event. Congregants sit and pray on carpeted floor and are required to take off their shoes and
perform ablution (washing face, hands and feet) before entering the Mosque. As such, a Mosque
cannot be used for any non-religious services, such as banquets or other social events that may be
noisy or potentially soil the prayer area.

Besides the prayer hall, the Mosque also contains separate restrooms for men and women, a room
for coats and shoe racks and an ablution area (shown as “Powder Room” on the plans) where
congregants can wash themselves before entering the prayer hall. The following pictures provide a
typical layout for the prayer hall and the ablution facility.
2) **Multi-Purpose Hall:** The multi-purpose hall is intended for a variety of uses, other than religious services, including but not limited to the following:
   a. Two annual Muslim Eid festivals banquets
   b. Monthly potluck dinners for members
   c. Weekend dinner events during the month of Ramadan
   d. Annual "Open House" community outreach event
   e. Community wedding and baptismal banquets
   f. Sunday school graduation ceremonies
   g. Other occasional special events
   h. Indoor recreational facilities such as video games, pool tables, table tennis, etc.
   i. Kitchen and pantry area for meals preparation
   j. Board meeting room, also to be used for babysitting during social events
   k. Exercise room with physical training equipment
   l. Administrative and Imam’s (Pastor’s) offices

In most instances the uses of multi-purpose and prayer halls are very inter-related. For instance, the Eid festivals start with prayer services and then people move to the banquet hall for social mingling and refreshments. The weekend events during Ramadan start with breaking the day long fast in the banquet hall, then moving to the prayer hall for evening prayers, then moving back to the banquet hall for dinner/socializing and finally moving back to the prayer hall for the nightly prayer services.

Similarly, during any event at the multi-purpose hall, if the time comes for one of the five daily prayers, Muslim participants will usually retreat to the Mosque (prayer hall) to offer prayers and then rejoin the event in the multi-purpose hall. Thus both facilities are needed at the same time and with adequate separation to mitigate noise while maintaining the ease of movement back and forth between the two structures.

3) **Muslim Cemetery:** A Muslim cemetery is currently planned for 2-acre portion of the parcel, with up to 4-acres dedicated for future expansion to accommodate additional grave sites and funeral related facilities such as body washing and shrouding, room for mechanical equipment, etc. Please also see "Muslim Funeral Procedures" attached herewith.

4) **Youth Retreat:** The primary use of youth retreat is during off school summer months (June–August). During that period the anticipated frequency is 1-2 events per month but may grow over time to as many as one event per week as we develop more programs for the children.

   The participants will be primarily from the local Muslim community but from time to time we may also invite children from other Muslim congregations in the Bay Area.

   Activities will focus on both educational and social aspects of youth development, consisting of lectures, group projects, physical training and leisurely games, both outdoor and indoor. We anticipate a staff to children ratio of 10:1 or better.

5) **A word about Ramadan:** Please detailed info please see: [http://en.wikipedia.org/wiki/Ramadan](http://en.wikipedia.org/wiki/Ramadan) Muslim traditions, like many other eastern cultures, follow the Lunar calendar consisting of either 29 or 30 days. As such a Lunar year always falls short of the Gregorian year by 10-11 days. Hence the Muslim months shift by 10-11 days each year relative to the months in the Gregorian
calendar. For example in the year 2011 the Muslim month of Ramadan started on August 1st and ended on August 30th. The following year in 2012, Ramadan will fall somewhere between July 20th and August 20th and so on.

OTHER INFORMATION

Existing Structures on Site: None.

Proposed Structures:

1) Prayer Hall (Mosque - 5,000 Sq Ft)
2) Multi-purpose Hall (2,500-2,800 Sq Ft)
3) 1-2 covered patios for group picnic and other outdoor social events
4) 1-2 Bathrooms for the picnic/retreat area

Days of Operation: 7 days a week, year round.

Hours of Operation: 6:00am to 11:00pm daily.

Number of Employees: One at this time (Imam/caretaker). One or two more in future as needs grow.

Number of visitors per day: See attached summary use chart.

Music or Amplified Noise: None.

Food Preparation: On site and/or catered as needed for various social event as listed above. Also BBQ in the outdoor picnic area.

Number of proposed bathrooms: Separate Men & Women bathrooms (multiple stalls) in each structure listed above and near the picnic/playground area.

Peak Waste Water Discharge: Maximum 10 gallons per person per day under peak usage. This includes both bathroom usage and ablution for prayer services. There is a future facility envisioned in the cemetery expansion plans where the body of the deceased would be ritually washed and shrouded for burial. Waste water from washing a body is expected to be less than 10 gallons and there are very few burials expected in any given year. Thus water discharge from such event is negligible relative to the overall capacity of the proposed septic system.

(Updated: 10-6-2011)
The Cordoba Center – Muslim Funeral Procedures

1. The body of the deceased is transported to the morgue for washing and shrouding in white cloth for burial. (This facility is currently not proposed at the Cordoba Center but may be a part of the future expansion in accordance with the local Muslim community needs and building ordinance.)

2. The body is then placed in a coffin and transported via hearse to the Mosque for the funeral service. According to the current plans, this is where Cordoba Center will receive the body at the Mosque (prayer hall) for a short (20-30 min) prayer service. This is where the family and guests join the funeral – at the prayer service. Personal eulogies, if any, are delivered before the liturgical prayers. The number of participants in a funeral depends on the family invitation but are rarely more than 60-70 persons.

3. After the prayer service, the coffin may be:
   a. Hand carried to the cemetery from the Mosque in a procession, or
   b. Placed in the hearse and driven close to the cemetery with people following on foot.

4. Once at the cemetery the coffin is hand carried and placed next to the grave site which will have already been prepared prior to the arrival of the funeral procession. The participants stand around the grave site in multiple rows with the immediate family members generally seated in the front row. The Imam (Pastor) then recites a few verses from the Holy Quran and says final prayers.

5. The body is then removed from the coffin and placed directly in the grave while shrouded in cloth. In some cases, the entire coffin (biodegradable wood or cardboard) is placed in the grave. Both traditions are followed in various Islamic cultures and are deemed acceptable. A concrete slab is then placed over the grave and finally covered with dirt to grade level. A tombstone is placed at the head of the grave either standing vertically or laid horizontally.

6. Once the grave is closed, congregants traditionally walk up to the grave and throw a fist full of dirt, symbolically, on top of the grave and then leave the area.

7. Muslim graves are typically 6 feet long, 2 feet wide and 5-6 feet deep. Adequate space is provided around each grave site for human and mechanical equipment circulation.

8. Muslim funerals are traditionally held in the afternoon and generally between the hours of 1:00pm and 4:00pm, although some occasional exceptions may be taken to that norm in order to accommodate special situations. The complete funeral service, from the arrival of the body from the morgue to the end of burial, lasts between 90-120 minutes.

(Updated: 10-6-2011)
Central Coast Regional Water Quality Control Board

May 16, 2012

Mr. Sal Akhter
Cordoba Center Project Coordinator
South Valley Islamic Center
P.O. Box 1777
Morgan Hill, CA 95038-1777
Email: sakhter@induswest.com

Dear Mr. Akhter:

LAND DISPOSAL PROGRAM: CORDOBA CENTER PROJECT, 14065 MONTEREY ROAD, SAN MARTIN, SANTA CLARA COUNTY – SUMMARY OF WATER QUALITY EVALUATION

Central Coast Regional Water Quality Control Board (Central Coast Water Board) staff reviewed all of the available information to determine whether the proposed Cordoba Center project is subject to Central Coast Water Board waste discharge requirements. Based on the information submitted to date, Central Coast Water Board staff has determined that the proposed cemetery and wastewater disposal system for the Cordoba Center project does not pose a threat to water quality if properly installed and operated. Therefore, no Central Coast Water Board waste discharge requirements or associated application fees are required for the proposed Cordoba Center project. However, the Cordoba Center project is still required to obtain all other appropriate local agency permits that are applicable for the project (e.g., County of Santa Clara Planning Office, County of Santa Clara Department of Environmental Health, etc.). Additionally, if construction of your project disturbs one or more acres of soil or if your project disturbs less than one acre but is part of a larger common plan of development that in total disturbs one or more acres, you are required to enroll in the State Water Resources Control Board’s “General Permit for Discharges of Storm Water Associated with Construction Activity”.

The Cordoba Center project plans include a cemetery and an individual domestic wastewater disposal system (septic system) for a proposed community and events center. Central Coast Water Board staff requested and reviewed detailed technical information for the proposed cemetery and septic system to evaluate if there are potential water quality impacts from these discharges. We appreciate your responsiveness in supplying the necessary information. Below is the list of reasons for Central Coast Water Board staffs’ determination that the proposed Cordoba Center project will not pose a threat to water quality:

- The requirements of the Central Coast Region Basin Plan for the proposed septic system are met by Santa Clara County’s on-site disposal systems ordinance for long-term water quality protection (Attachments 1 and 2). Therefore, a permit from the County of Santa


JEFFREY B. YOUNG, CHAIR • ROGER W. BRIDGES, EXECUTIVE OFFICER
885 Aerovista Place, Suite 101 San Luis Obispo, CA 93401 • www.waterboards.ca.gov/centralcoast

ATTACHMENT 1
Clara Department of Environmental Health for the septic system will meet the Central Coast Water Board requirements.

- There are no chemicals or additives involved in the process of preparing and placing deceased human bodies in the cemetery (Attachment 2). Therefore, chemical leaching and potential pollution of those chemicals from the bodies in underlying groundwater is eliminated.
- The required minimum five-foot separation will be maintained between highest anticipated groundwater and 1) the bottom of the grave sites and 2) the bottom of the septic system leach field trenches containing the discharge piping (Attachments 3, 4a, 4b, 4c, and 5). Central Coast Water Board staff corroborated your groundwater elevation data using the long term monitoring data from a) monitoring wells associated with the nearby Olin cleanup project\(^2\), b) available Santa Clara Valley District groundwater elevation information, and c) the April 2012 data from your on-site well that is currently inactive and planned for abandonment (Attachments 4a, 4b, and 4c).
- The proposed setback distance between the septic system leach-field discharge and cemetery plots is such that the two systems will not interact to adversely affect water quality given the proposed design flow rate to the leach-fields.
- Central Coast Water Board staff have determined from your site-specific soil studies and hydrogeological information that the soil column underneath the burial sites will have absorptive capacity and biological decomposition characteristics similar to those processes of the septic system, and thus staff have determined that the discharge to the cemetery does not pose a threat to groundwater quality. Site-specific information further supporting staffs’ determination on water quality is the slow percolation characteristics demonstrated for soil beneath the property (i.e., slower percolation rates allow more time for natural decomposition processes to occur, and increases the travel time of water and liquids moving downward and outward through the underlying soil column) (Attachment 3).
- Groundwater mounding from the proposed discharge to the septic system is minimal underneath the septic system leach fields. To derive this conclusion, Central Coast Water Board staff performed hydraulic numeric modeling of the proposed discharge utilizing a flow rate to the septic system far exceeding the actual design flow (i.e., a "worst case scenario"). Staff used high and low percolation rates (i.e., averages of the anticipated stabilized and adjusted flow rates) obtained from your site-specific testing to approximate potential upper and lower bound effects of the discharge on groundwater elevation (Attachment 3). The results of our model indicated a potential rise in groundwater elevation of only one third of a foot over one year when utilizing a constant flow rate of 2,500 gallons per day\(^3\); again, this flow rate far exceeds the reported peak design flow rate of 900 gallons per day—a flow rate associated with an anticipated two or three large events per year, with a lower average design flow rate during the rest of the year. Project information also indicates portable toilet facilities will be utilized during the larger events to ensure that the peak design flow rate of 900 gallons per day will not be exceeded. As such, the modeling results demonstrate that the potential effect on groundwater elevation rise due to discharges to the leach field is negligible.

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\(^2\) Click the "Site Maps / Documents" tab and scroll down to "Monitoring Reports" at: http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=SL0608756247

\(^3\) The Central Coast Water Board serves as the lead agency for wastewater permitting on proposed sewage disposal projects if the maximum expected wastewater flow exceeds 2,500 gallons per day.
Supplemental water is available to the project from the West San Martin Water Works, Inc. water purveyor, and we understand that you are planning to properly abandon the existing unused well on the property as part of the proposed project development (Attachment 5).

The distance to the nearest operational well from the project area is greater than 200 feet, which is more than twice the required setback distance in the Central Coast Region Basin Plan for septic systems and protection of groundwater supply wells. Furthermore, the nearest operational well is sealed from the ground surface to 50 feet below ground surface, providing a protective barrier (i.e., sanitary seal) for groundwater.

The proposed septic system and cemetery are located well outside the flood zone, which is a strip of land limited to a narrow area along the northern property boundary (Attachment 7 [letter] and Attachment 3 [map]).

The proposed waste discharges are underground and located approximately 150 feet away from Llagas Creek, which is greater than the Central Coast Water Board Basin Plan required setback of 100 feet. Additionally, a majority of stormwater or surface flow across the property is to the south-southeast, away from the northern property boundary and Llagas Creek (Attachment 3). More specifically, the proposed septic system and cemetery are in an area where stormwater flow is separated from Llagas Creek by a ridge (area of topographically higher elevation) along the northern property boundary (i.e., the ridge separates the septic system and cemetery area from Llagas Creek). Given that the discharges are underground, and in the event runoff or surfacing of water occurs near the septic system and cemetery, the site topography will cause the water to runoff away from Llagas Creek. Central Coast Water Board staff has determined that there is no threat from the septic system and cemetery to surface water from flooding or stormwater runoff flows.

Therefore, based on our evaluation, the Cordoba Center project is not required to obtain waste discharge requirements because the project does not pose a threat to water quality and other local agencies are permitting the septic system in accordance with our requirements. If you have any questions, please contact Dan Niles by telephone at (805) 549-3355 or email at dniles@waterboards.ca.gov, or his supervisor Thea Tryon at (805) 542-4776.

Sincerely,

[Signature]

for Roger W. Briggs
Executive Officer

S:\Land Disposal\Land Disposal Facilities\NONPERMITTED SITES\Cordoba Project\Cordoba Project Review Determination 06-2012.doc

Enclosures
Attachment 1 - Central Coast Water Board Letter 03-20-2012
Attachment 2 - Cordoba Center Letter 03-20-2012

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5 Central Coast Water Board staff analysis of confidential domestic well information provided by the Santa Clara Valley Water District upon staffs' written request dated March 20, 2012 (Attachment 8).

6 Water Quality Control Plan for the Central Coast Region, Chapter 4. Implementation Plan, Section VIII.D.3.I.10.
ATTACHMENT II
DATE: July 5, 2012
TO: Colleen Oda, Planner III
FROM: People's Coalition For Government Accountability (PCGA)
SUBJECT: PCGA'S COMMENTS REGARDING INITIAL STUDY DATED JUNE 07, 2012; & NEGATIVE DECLARATION/FILE #2145.

RE: A notice, pursuant to CEQA Act of 1970, as amended (Public Resources Code 21,000, et sec.) that the following will not have a significant effect on the environment; and County of Santa Clara Planning Staff reviewed project based on substantial evidence.

I. SPECIAL EVENTS

Staff cannot produce competent evidence to support a septic system capacity for 80 persons.

II. CEMETERY GROUNDS

Ann Peden (DEH) stated that because of high groundwater the cemetery had to be moved to another location.

III. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

County staff failed to check 1) Land Use 2) Geology/Soils and 3) Hydrology/Water Quality. Aesthetics & Transportation/Traffic were checked and mitigated.

IV. HYDROLOGY AND WATER QUALITY

a) The percolation results that appear on the Site & Septic Plan for LOT 2 failed in 2006 which was verified by Ann Peden (DEH).

c) Flooding has been a historical problem for the past 50+ years and will be exasberated if this project is approved.

d) Ann Peden (DEH said it would degrade water quality.

DISCUSSION:

As discussed in the biological resources section, Llagas Creek is located on an adjacent parcel north of the site located in City of Morgan Hill. The city limits of Morgan Hill ends 1 mile north of the project site at the corner of Watsonville Road and Monterey Hwy.

NOTE: The staff member who changed the ownership of APN 779-06-001 which is contiguous to the site committed a deliberate fraudulent act.
The negative declaration is inappropriate because the agency failed to provide an accurate project description and to gather information and undertake an adequate environmental analysis. An accurate and complete project description is necessary for an intelligent evaluation of the potential environmental impacts of the agency's action.

The foregoing documentation taken from the administrative record contains substantial evidence supporting a fair argument that the environmental assessment (EA) reviewed by the County of Santa Clara Planning Staff for the proposed project will have a significant effect on the environment.

In the initial study, although the County checked either the "no impact" or "less than significant impact" options, the County failed to cite any evidence in support of its findings, to wit:

1. The "VICINITY MAP" was manipulated by eliminating Llagas Creek as the northern boundary. APN 779-06-001 consists of 60.97 acres and is owned by the County of Santa Clara - Llagas Creek Park - and is contiguous to 779-06-002, the Cordoba parcel. It is not owned by the City of Morgan Hill.

MAP NOTATION READS: This map created by the Santa Clara County Planning Office. The GIS data was compiled from various sources. While deemed reliable, the Planning Office assumes no liability. 2-17-2011-Y Staff Reports Generic Vicinity_map 8½x11 mxd.

2. The Site & Septic Plan used to approve this project located in the upper left hand corner of the Site Plan shows the results of a percolation test that was conducted for LOT 2 failed because holes were not excavated to the required depth of 15 feet; and DEH verified that tests in 2006 failed.

Applicants have never produced results of a successful percolation test that can support 200 persons; plus 150 children on weekend retreats (or for that matter, even 80 people).

3. The consulting geologist filed a geology report in 2007 with the County depicting the scope of the project to be approximately 50 acres; instead of 15+ acres.

The neighbors whose properties were encroached upon asked that the 2007 Geology Report be amended to reflect its true size and to indicate what portion of the 50 acres was studied for suitable soil to build 2/5000 s.f. commercial buildings; but
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the County geologist refused stating that two errors did not diminsh the validity of the report. *(See Exhibits 1 & 2)*

4. Nor will the regional board or DEH release the manner in which a final decision was calculated, i.e., "that this project will not discharge more than 2500 gallons per day of wastewater flows".

5. DEH required applicants to conduct new percolation tests for a minimum of 150 persons (instead of 80 persons). But Carneres and Ann Peden (DEH) decided that in lieu of expanding the leachfield, they would use portable toilets.

When PCGA asked for evidence which allows a commercial development to use portable toilets, PCGA received copies of California Health & Safety Code Sections 114336 through 114363. These codes deal with employees and food handling only.

**ARTICLE 2, ON-SITE DISPOSAL SYSTEMS provides, "Every place of business, or place where persons congregate and which cannot be connected to a sanitary sewer, must be provided with a water flush toilet sewage disposal system.**

**SEC. B11-80. Subsurface leaching systems requirements.**
*(g) Commercial sewage disposal systems must be sized based on peak flows.*

6. South County Joint Plan Policies provide that San Martin residents and property owners must be included in the decisions regarding development in our community. To date, not one meeting was scheduled in 6½ years; yet a negative declaration has been adopted and the project is ready for a hearing before the Santa Clara County Planning Commission.

Barron's Law Dictionary defines "Fraud" as intentional deception resulting in injury to another. Elements of fraud are: a false and material misrepresentation made by one who either knows it is falsity or is ignorant of its truth; the maker's intent that the representation be relied on by the person and in a manner reasonably contemplated; the person's ignorance of the falsity of the representation; the person's rightful or justified reliance; and proximate injury to the person.

It "usually consists of misrepresentation, concealment, or nondisclosure of a material fact, or at least misleading conduct, devices or contrivance"

The proposed project cannot pass an environmental study
(EA) or an EIR for our small, rural unincorporated community of San Martin even if it was located in the COMMERCIAL/USE PERMIT AREA because it cannot provide written justification that demonstrates how the project meets requirements of R-LU 57 and Zoning Sec. 2.20.

The majority of people living in San Martin are not Muslim. **Non-Muslims cannot use the Cordoba facility.** As a result, this project should have been denied in 2006.

(See Planning Office Letter dated September 9, 2011, P. 2, #1), Per Colleen Oda, Lead Agent for the environmental assessment, "The fact remains that the geographic area from which members and visitors are anticipated is truly regional in scope, spanning multiple counties. This fact lends weight to the applicability of policy considerations referenced in South County policy SC 17.6, regarding uses that may more appropriately be located within one of the cities of the South County (Morgan Hill or Gilroy) where urban uses are intended to be located, or uses which have need of urban services and may not be appropriate for a rural unincorporated community such as San Martin."

"This matter of General Plan and Zoning conformance was also raised previously in connection with policy R-LU 57, as noted on previous page. Findings regarding compliance are required to be deliberated and made.

**AREA PLANS AND SPECIAL AREA POLICIES: (the Proposed Project is located in a "Special Policy Area)***

The General Plan contains two "area plans" or community plans; the 2000 Stanford Community Plan, and the 1989 South County Joint Area Plan which was mutually adopted also by south valley cities of Morgan Hill and Gilroy.

In addition, the Land-Use element contains several sets of special area policies for certain geographic areas of a more limited nature than area plans. A prominent example is the San Martin Plan Area, an unincorporated rural community located between Gilroy and Morgan Hill.

Per SC 10.1, The two regional Water Quality Control Boards that have jurisdiction in South County should reach agreement upon compatible water quality standards for South County and consistent with the State Board's Non-degradation Policy."
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Per SC 18.10, For the current period San Martin should remain an unincorporated, predominantly rural residential community. Issue of its future level of development should be resolved by community residents.

Per R-LU 116, The County endorses the concept of community participation by residents and property owners in decisions affecting San Martin.

The regional board did not implement and enforce the aforementioned "SC" Codes, and, therefore, failed to properly evaluate the project. The regional board arbitrarily came to its decision in absence of compliance with water quality standards for San Martin.

PCGA sent volumes of documentation (which is part of the administrative record) to both the regional board and to Bill Shoe, Planner who agendizes projects for review with both SCJPAC and San Martin Planning Advisory Committee (SMPAC)

The regional board never responded; except to e-mail stating that they received our facsimile.

After being told by Bill Shoe (Planner who oversees projects for San Martin) that the project was still in the pre-application stage; that the SCJPAC Codes are advisory only and we would not be meeting for a very long time, PCGA sent a 4 page letter with 18 pages of documented evidence to Bill Shoe on May 14, 2012. PCGA informed him that the County violated the Brown Act; as well as County Codes specifically stating that San Martin residents and property owners must be involved with the decisions made regarding development in San Martin.

(See e-mail sent to PCGA from Bill Shoe dated 06-12-12); whereby Mr. Shoe stated that the Planning Commission hearing will be held on Sept. 6 at the earliest and the SMPAC meeting will be held before the County Planning Commission meets.

"One caveat with scheduling the SCJPAC meeting is that is may be held any time prior to the Board's final hearing and decision, given that the board and not the Planning Commission is the final granting authority for this bundled Use Permit and Cemetery permit. If things work out, meeting can be held on October 11, without having to schedule a special meeting; then the cities and County will likely favor that approach".

The "regional board", failed to implement and enforce the following water quality policies adopted for San Martin.
The San Martin Planning Advisory Committee was adopted in 1981 to act as the citizen planning committee for the development of the "San Martin Plan" as recommended in the General Plan. The committee is the official policy recommending body of the Board of Supervisors with regard to the San Martin water quality study established in the General Plan for San Martin, and the need for the scope of detailed planning for the San Martin area.

SOUTH COUNTY JOINT PLANNING ADVISORY COMMITTEE (SCJPAC) which was created in 1984 was formed to provide a framework for review of County policy, concurrent with Morgan Hill and Gilroy policies. Specifically, Phase II of the committee was charged with developing criteria for rural/urban land use policies.

Numerous SCJP Codes were adopted specifically for monitoring water quality in San Martin as it relates to development; especially SC 8.0, 8.1, 8.3, 8.4, 8.11, 8.13, 10.0, 10.1, 10.2, 12.0, 13.0, 15.1, 16.15, 17.1, 17.5, 17.6, 17.10, 17.11, 18.1, 18.4, 18.10, 18.13, 18.14; as well as R-LU 57, 114, 116, 119, 124, 127, 129 and 144.

The aforementioned policies were sent by facsimile to Bill Shoe & people who sit on SCJPAC on May 14, 2012.

See "Department of Planning & Development; Cordoba 15+ Acres". The Cordoba project is inconsistent with the South County Joint Plan Area.

Special Area Policies for San Martin:
1. San Martin Industrial Use Permit Area
   (Not Commercial/Use Permit Area)
2. Habitat Conservation Area
3. Geohazard: County Landslide Hazard Zone
4. FEEMAP Flood Zone: D (99.7%)

General Plan & Zoning policies preclude this project from locating in the rural unincorporated community of San Martin.

5. Per R-LU 127, "New commercial land uses that are not near freeway interchanges should be those which provide support services for agriculture or satisfy the local day-to-day commercial needs of the residents of San Martin and do not result in significant additional traffic from outside the community."

6. Per R-LU 124, "Commercial land uses should be granted within the boundary of the San Martin Commercial Use Permit Area".
6. The cemetery is located in an area of high seasonal groundwater. Provide an alternative to the currently proposed location to an area where groundwater issues do not pose a hazard to public health and safety.

7. Per R-LU 129, "No new septic system shall be developed in the highly permeable soils near Llagas Creek."

8. The project has never passed a percolation test; even for 80 persons.

PCGA's argument is that in the initial study, County checked "no impact" or "less than significant impact"; however, County failed to cite any evidence in support of its findings, i.e.,

1) County failed to comply with CEQA because it failed to adequately consider reasonable anticipated future development;

2) County failed to enforce their own staff requirements cited in Planning Office letters dated 07-05-06, 08-20-07, 02-11-11, 05-25-11 & 09-19-11;

3) This project is not consistent with the County General Plan or the South County Joint Plan;

4) the County's initial study failed to consider significant "cumulative impacts"; and

5) Serious public controversy is present regarding this project. A petition was circulated in opposition and a poll was taken by going to each household asking if they were in favor, neutral or in opposition to this project - based on: 1) project is not zoned commercial 2) Ann Peden & staff said all 3 lots failed the percolation test; but consultant said all 9 holes passed; and 3) project failed to pass R-LU 57 and Zoning Sec. 2.20 regarding religious institutions and cemeteries located in small, rural unincorporated communities. Opposition has never been about muslim people or the islamic religion.

The results of the polling on the Westside of San Martin was 94% Opposed; 5.9% Neutral; and .1% In Favor.

Opposition is solely about serious violations, i.e.,

The administrative record contains a complaint by several neighbors whose properties were encroached upon; which shows the scope of the project to be approx. 50 acres; instead of 15+. Jim Baker, County Geologist refused to ask the consulting geologist to amend this 2007 geology report.
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The most egregious and falsely misrepresented data that was relied on in order to arrive at a decision that "this project will not have any significant effect on the environment" is that there has never been a percolation test conducted for this project; whereby all the holes were excavated the required fifteen (15) feet.

QUESTION: IS THERE ANY EVIDENCE IN THE ADMINISTRATIVE RECORD WHEREBY THE 11-08-06 PERCOLATION TEST WAS APPROVED FOR THIS PROJECT?

THE 6 HOLES THAT WERE EXCAVATED FOR THE 11-08-06 PERCOLATION TEST (THAT APPEARS ON THE SITE AND SEPTIC PLAN) WERE EXCAVATED TO 4', 5', 5', 7', 7' & 7'. APPLICANTS CLAIM THAT THIS TEST WAS APPROVED FOR MAXIMUM OCCUPANCY OF 80 PEOPLE.

A. HISTORY:

1. The County has refused every inquiry to develop subject property for the past 50 plus years;

2. A "For Sale" sign has been a perennial sight on that property for over 50 years.

3. When a Baptist Pastor scheduled a pre-application meeting, he was not given the opportunity to file a formal application. Staff told him 1) that soil would never pass a percolation test and 2) groundwater was too high.

4. The following article appeared in the Morgan Hill Times on May 18, 2007 - "Mosque Plan Forges Ahead".

"Located west of Monterey Highway just north of California Avenue, the land is zoned for residential uses with a commercial overlay. The property's zoning, therefore, does not preclude such a project. Additionally, the organizaton has addressed the obvious questions of providing water and sewer in the rural neighborhood. West San Martin Water Company has pledged to provide service and tests show the land is high enough above the water table to allow a septic system, according to preliminary plans".

"In addition, .....SVIC envisions a school and convalescent home....the SVIC group now includes 75 South County families up from 4 in 1999 when the Islamic organization was founded".

NOTE: The aforementioned statements made by applicants regarding commercial zoning and water table are false.
ZONING:

1. The property is zoned residential uses with a INDUSTRIAL/USE PERMIT OVERLAY MAP. Therefore, this commercial project is precluded from developing on that parcel.

(See R-LU 124, "Commercial land uses should be granted where use permits are limited in the vicinity where use permits have been previously granted on property within the boundary of the San Martin Commercial Use Permit Area.

2. (See West San Martin Water Company letter dated 05-02-07), whereby the water company agreed to provide water for a "commercial lot".

SEPTIC SYSTEM:

3. (See 07-05-06 Planning Office Letter sent to applicants), P. 3, DEH, 1(b) "This parcel as a whole is in an area of potential high groundwater, as it appears to be in a low-lying area adjacent to Llagas Creek. High groundwater, usually located at less than 15 feet below the natural grade is generally a barrier to installation of a septic system. Areas that are adjacent to creeks are often found to have very rapid percolation rates, which can further restrict the location of a septic system".

P. 4, 1 (i) "Groundwater was found between 4 & 15 feet.

AUDACIOUS CONVOLUTED EVIDENCE:

4. (See 08-20-07 Planning Office Letter sent to applicants), P. 5 (b) There is a discrepancy relating to the percolation test results as observed in the field by Ann Peden, REHS, DEH staff, and the testing results submitted by Batz Environmental Consulting. All three lots were observed in the field by DEH staff to be failing the percolation test (absorption rate was too slow), however the percolation test results submitted by the consultant show all lots passing the percolation test.

P. 6, (i) For Lots 1 and 2, all the percolation test holes (6 holes) were figured into the the percolation rate calculation, however, on Lot 3 the consultant performed percolation tests on 9 holes but chose to discard 5 of the 9 because the holes either failed to drain at all, or exceeded the maximum of 120 minutes/inch.
Lot 3 did not have a sufficient number of passing test results to call this lot's test acceptable, and the acceptable test holes were not contiguous to each other. (COULD THE AFOREMENTIONED CONVOLUTED SENTENCES PASS CEQA?)

P. 6, (iii), A 100% expansion area for the proposed leachfield on Lot 2 is required due to slow percolation rate of the soil, 109 minute/inch. Additional percolation tests will be required to establish the expansion area. Contact Ann Peden to schedule the additional soil profile and percolation tests.

NOTE: The requirement to conduct additional percolation tests to establish the expansion area was made on 08-20-07; but Michael Batz conducted this test on 11-08-06.

P. 6, 1(ii) "soil profiles....were not all excavated to the required depth of 15 feet.

REMARK: Why would Gwen Sax on 08-20-07 request an additional percolation test when a test for 100% expansion was conducted on 11-08-06; 9 months prior to this request made on 08-20-07.

Nothing is included in any of the Planning Office letters about the 11-08-06 percolation test. THE TEST RESULTS, HOWEVER, APPEAR ON THE SITE & SEPTIC PLAN THAT HAS BEEN APPROVED BY DEH TO SERVE 80 PEOPLE. The problem with the 11-08-06 percolation tests is that all 6 holes were only excavated to a depth of 4', 5', 5', 7', 7' and 7'. THE REQUIRED DEPTH IS 15 FEET.

P. 6, (iv), All three lots will be required to have a wet weather groundwater soil profile test due to the presence of high groundwater on three parcels. (THERE ARE ONLY 3 PARCELS)

QUESTION: If DEH reported that all 3 lots failed, how could test results be acceptable for Lot 2 providing an area for 100% expansion is added to the leachfield?

If consultant reported that all 3 Lots (9 holes) passed the percolation tests, why discard 5 of 9 holes?

And, if Lot 3 failed; so did LOT 2, because each lot has identical soils type. (See Exhibit 1)

EVIDENCE: Dan Keith who was hired by the consultant to perform the percolation tests said Michael Batz told him that all holes failed. (See Exhibit 2)
5. (See 02-11-11 Planning Office Letter sent to applicants),
Ann Peden stated on P. 7, Environmental Health, "Percolation
tests, soil profiles, wet weather testing was all done in
2006 for a 3-lot subdivision. These results are still valid
for this project and no further soil testing is necessary."

Also on P. 7, under Cemetery: Ann Peden wrote: "The cemetery
is located in an area of high seasonal groundwater.

Burials in this location could potentially affect ground
water adversely. Provide an alternative to the currently
proposed location of the cemetery in an area where ground-
water issues do not pose a hazard to public health & safety."

6. (See 05-25-11 Planning Office Letter sent to applicants),
Ann Peden stated, on P. 5, item 22, "The World Health
Organization (WHO) proposes that human and animal remains
must not be buried within 820 feet of any well...... THE
PROPOSED CEMETERY DOES NOT MEET ANY OF THESE SETBACKS. REVISE
LOCATION OF CEMETERY TO MEET THE ABOVE REQUIREMENTS.

7. (See 09-19-11 Planning Office Letter sent to applicants),
Ann Peden stated, on P. 2, #5, The Cordoba Center - Summary
Use Chart states there will be events.....where expected number
of people are 150 persons maximum. "The septic system leach-
fields have been designed at a maximum wastewater flow of 80
persons maximum including employees). Under the Santa Clara
County Sewage Disposal Ordinance, commercial facilities are
designed to meet peak wastewater flows of 150 persons maximum.
The leachfields need to be resized and designed to meet peak
wastewater flows.

P. 2, #6, "The wastewater flows from the Ablution Area
were not provided in the original wastewater calculations.
Please provide the peak wastewater flows per person for this
area.

P. 2, #7, "The Carnes letter, page 2 of 4, #1(d), states
the total number of persons present at one time will rarely
approach the maximum capacity of 200."

NOTE: THE USE CHART STATES THAT 200 (ADULTS) IS MAXIMUM;
150 CHILDREN FOR WEEKEND RETREATS EQUALS 350 MAXIMUM.

8. (See 09-02-11 E-mail from Colleen Oda to Rick Spohn),
"I have confirmed with Ann (Peden) that percolation
tests concluded in 2006 failed. For the current applica-
tion, new percolation tests were conducted and are
currently under review".
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9. (See 04-09-12 E-mail from PCGA to Ann Peden), "Could you please e-mail the percolation test results for the current application".

(See 04-13-12 E-mail from Ann Peden to PCGA), "Attached please find soil profile and percolation test data for the Cordoba Center septic system. (ANN PEDEN SENT COPIES OF TWO PERCOLATION TESTS CONDUCTED ON 06-14-06 & 11-08-06; NOT THE NEW TESTS CONDUCTED IN 2011 FOR THE CURRENT APPLICATION)

NOTE: On May 2, 2012, PCGA sent a second e-mail asking for tests results of the current application conducted in 2011. Once again, Ann Peden e-mailed the results of two tests performed in 2006.

10. (See 10-18-11 E-mail from Ann Peden to PCGA), Question from PCGA, "Why was WHO requirement of 820' setback waived by DEH? Response: "The hydrologist report is no longer needed because a wet weather test was done on the parcel to determine high seasonal groundwater levels.

NOTE: Ann Peden has never produced results of a wet weather test conducted for seasonal groundwater in 2006.

FUTURE GROWTH: (Morgan Hill Times Article)

1. 75 families in 2007 grew from 4 families in 1999. Average family is considered to be 4 people; which equates to 300 people in 2007. (HOW CAN IT BE 80 PEOPLE MAXIMUN IN 2012?)

PRAYER HALL AND MULTIPURPOSE HALL:

(See 05-25-11 Planning Office Letter, Colleen Oda stated on P. 2, item 3, " Per California Building Code occupant load standards, it appears that the buildings are oversized. A rough estimate of the 5,000 sq. ft. prayer hall indicates accommodation for 471 to 671 people, and the rough estimate of the 5,000 sq. ft. multipurpose hall indicates accommodation for 245 people. (COLLEEN FAILED TO MENTION THE 150 CHILDREN AS GUESTS FOR WEEKEND RETREATS) (MAXIMUM TOTALS 1066).

NOTE: The multi-purpose hall was reduced in size to 2800 sq. ft. (MAXIMUM OCCUPANCY REDUCED TO 808 PERSONS). (However, 2,200 sq. ft. could be added for future growth.)

LAND USE AND ZONING CODES:

(See 09-19-11 Planning Office Letter, P. 1, pp. 7, Colleen Oda
stated, "...The Cordoba Center Project description notes that proposed users of the facility to include families located in a widespread geographic area outside the unincorporated County jurisdiction. This statement in combination with a proposed building site which could accommodate more people than the proposed occupancy conflicts with the below General Plan policy and South County Joint Area Plan policy."

Per General Plan Policy R-LU 57, institutional uses in rural residential areas (Rural Residential General Plan designation) shall be local serving, and may be established only where they serve the needs of the resident population and result in a net overall reduction of travel demand.

Per Section 2.20 of the Zoning Ordinance, religious institutions shall be limited in scale, and local serving to the communities in which they are located. (COLLEEN ODA (lead agent for this project) TOOK IT UPON HERSELF TO CHANGE THE CODE BY ADDING: "AND SURROUNDING AREA". (The Board of Supervisors can change the language of a county policy; but not Colleen Oda)

NOTE: The majority of people residing in San Martin are not muslim. Non-muslims cannot use the Cordoba facility; therefore, this project cannot be approved.

A MUSLIM CEMETERY CANNOT BE APPROVED UNDER R-LU 57 AND ZONING SEC. 2.20 BECAUSE SAN MARTIN RESIDENTS CANNOT USE THE MUSLIM CEMETERY regardless of what Jeremy Wire of GeoConsultants test showed on April 10, 2012 (the rainfall for 2011/2012 rain season was 58% of normal).

The well located 200 feet from the cemetery has water standing around the entire well and pumping system when we have a normal rainy season. And the owner can put a shovel in the ground and find water.

(See 05-25-11 Gary Carnes letter, P. 2, #5. "SVIC's congregation represents Muslims from all these communities and San Martin offers a relatively central location for the congregants coming from these communities." Colleen Oda stated, "Please demonstrate how this project qualifies under R-LU 57 and Zoning Sec. 2.20"; (nor does it qualify per Colleen Oda under SC 17.6). Gary Carnes gave a non-responsive answer. And, Colleen Oda did not enforce any of the "planning" policies required for this project.

09-19-11 Planning Office letter continued, P. #1, "Although the proposal appears to have striven to reduce the occupancy of the facility, the fact remaina that the
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game area from which members and visitors are anticipated is truly regional in scope, spanning multiple counties.

This fact lends weight to the applicability of policy considerations referenced in South County policy SC 17.6, regarding uses that may more appropriately be located within on of the cities of the South County (Morgan Hill or Gilroy) where urban uses are intended to be located. . . . . . . . . . . This matter of General Plan and Zoning conformance was also raised in connection with R-LU 57 as noted on previous page. Findings regarding compliance are required to be deliberated and made.

(GARY CARNES EITHER DID NOT RESPOND INTELLIGENTLY TO REQUIREMENTS COLLEEN ODA INCLUDED IN THE PLANNING OFFICE LETTERS; OR FAILED TO RESPOND AT ALL: YET COLLEEN ODA, LEAD AGENT DEEMED THIS PROJECT COMPLETE ON 01-03-12 AND ALLOWED COUNTY STAFF TO CONDUCT AN ENVIRONMENTAL ASSESSMENT.

Colleen Oda also sanctioned allowing applicants to use a Entertainment Event/Circus License in order to use portable toilets for their over-flow crowds that exceed 80 people. She, herself, said that these guests would come from a widespread geographic area which was not in keeping with the South County Joint Plan. (THEY CANNOT BRING IN PEOPLE FROM OUTSIDE OF SAN MARTIN)

When PCGA asked for evidence sanctioning the use of portable toilets for a commercial project, Colleen Oda e-mailed policies that had nothing to do with with project.

NOTE: Bill Shoe, Planning, refuses to implement and comply with any of the South County Joint Planning Advisory (SCJPAC) "SC" Codes. When PCGA questioned him about agendaizing this matter for both the SMPAC and SCJPAC meetings, he said that SCJPAC was advisory only!

(Per R-LU 116, The County endorses the concept of community participation by residents and property owners in the decisions affecting San Martin. (HOW WAS THIS POLICY IMPLEMENTED. BILL SHOE NEVER PLACED THE CORDOBA PROJECT ON THE SCJPAC OR SMPAC AGENDA. FINAL DECISIONS HAVE ALREADY BEEN CONCLUDED BY CCRWQCB, DEH AND PLANNING) (CEQA guidelines encourages community participation even when there is no controversy.)

FLOODING:

(See 05-25-11 Planning Office Letter, P. 6, #18), Shelly Theis
stated, "This proposed development is considered a Category 2 project within the Pajaro River/Monterey Bay Watershed."

(See 02-11-11 Planning Office Letter, P. 5, (b) The development of this site will not cause problems to nearby properties.

A PCGA member collected 75 signatures on a petition that reads: "We, the undersigned, do hereby declare that we are residents or property owners in West San Martin and can attest to the fact that flooding has been a serious problem for adjoining properties; as well as properties located south and southwest of the Cordoba parcel. (RWQCB claims water runs southeasterly).

The signatures were taken from people who reside on California, Colony, Harding, Santa Teresa, Roosevelt, Palamino, Appaloosa and W. San Martin Avenues. Total signatures collected to date is 75. The petition will be circulated south of W. San Martin Avenue after the July 4th holiday. A copy of the petitions will be made available for the Planning Office.

FINALLY, IF DEH CANNOT PRODUCE PERCOLATION TEST RESULTS OTHER THAN THE TESTS CONDUCTED ON 06-14-06; AND THE RESULTS THAT APPEAR ON THE SITE & SEPTIC PLAN CONDUCTED ON 11-08-06, THIS MITIGATED NEGATIVE DECLARATION CANNOT BE FINALIZED.

Colleen Oda has a problem re: asking for written justification that demonstrates how this project meets R-LU 57 & Zoning Sec. 2.20; together with stating that the project does not meet SC 17.6, a South County Joint Area Plan policy.

The aforementioned General Plan policies, DEH requirements, Zoning Codes and South County Joint Plan Codes; together with the administrative record all contain substantial evidence supporting a fair argument that the environmental assessment (EA) review by the County of Santa Clara Planning Staff for the proposed project will have a significant effect on the environment.

The Court awarded the case of San Jose Christian College v. the city of Morgan Hill to Morgan Hill because "College" accounted for only 400 students for the CEQA Study; instead of 1200. Colleen Oda calculated maximum occupancy to be 671/137 (150 children as weekend guests) totaling 958; but she as the lead agent only reported 80 people for the environmental study. College lost their lawsuit with a ratio of 400/1200; Ratio County Planning used was 80/958. College's case sets a precedence which is recognized as authority for the disposition of future cases; which San Martin can use should litigation be forthcoming.
DATE: JULY 6, 2012
TO: Colleen Oda, Planner III
FROM: People's Coalition For Government Accountability
SUBJECT: PCGA'S COMMENTS REGARDING INITIAL STUDY/MITIGATED DECLARATION/FILE #2145
RE: ERRATA SHEET AND ADDENDUM FOR FACSIMILE SENT ON JULY 5, 2012

ERRATA SHEET

P. 10., paragraph. 10. Exhibit 1 should read Exhibit 3.
P. 10., paragraph. 11. Exhibit 2 should read Exhibit 4.
P. 1., I. SPECIAL EVENTS. Please attach Exhibit 7.

ADDENDUM

Please attach the following comments to the "comments" included in the facsimile sent yesterday, July 5, 2012 by PCGA.

1. An explanation regarding the manner in which the six (6) bathrooms with multiple stalls will be monitored was not included in the initial study.

How will the 200 guests know when the 80th person has flushed a toilet; how many times during the day can the same person flush a toilet from 6:00 a.m. to 11:00 p.m.?

Will someone be standing at the doors of the six bathrooms such as a "potty cop"? Does Planning staff really believe that if a person has the choice of using one of the bathrooms; instead of a portable toilet, that they will choose a portable toilet?

ARTICLE 2. ON-SITE DISPOSAL SYSTEMS provides. "Every place of business, or place where persons congregate and which cannot be connected to a sanitary sewer, must be provided with a water flush toilet sewage disposal system.

2. Exhibit 3 attached shows lots @ & 3 consisting of Soil Types Ke2 & KeA. DEH has confirmed that LOTS 1 & 3 failed the percolation test on 06-14-06; therefore, if LOT 3 failed, so did LOT 2.

3. Regarding Exhibit 4. Dan Keith, contractor confirms what Ann Peden and DEH staff who were on site during the percolation testing, reported in the 08-20-07. "ALL THREE LOTS FAILED THE PERCOLATION TEST."