

Town of Tiburon

STAFF REPORT



AGENDA ITEM _____

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TO: **PLANNING COMMISSION**

FROM: **LISA NEWMAN, PLANNING CONSULTANT**

SUBJECT: **FILE #10404: REVIEW OF FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) AND CONDITIONAL USE PERMIT FOR A PROPOSED EXPANSION OF AN EXISTING RELIGIOUS FACILITY AND DAY SCHOOL (CONGREGATION KOL SHOFAR); 215 BLACKFIELD DRIVE; ASSESSOR'S PARCEL NO. 038-351-34**

MEETING DATE: **April 24, 2006** REVIEWED BY: SA

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BACKGROUND

The applicant has submitted a conditional use permit application for the expansion of an existing religious facility (Congregation Kol Shofar) and day school. The subject property is a 6.94-acre site located at 215 Blackfield Drive, and borders Blackfield Drive, Via Los Altos and Reedland Woods Way. The site is surrounded by single-family residential neighborhoods.

On August 24, 2005, the Planning Commission held a public hearing at which it directed that a Final Environmental Impact Report (FEIR) be prepared for the Kol Shofar expansion project. A FEIR has been prepared for this project by the firm of Leonard Charles and Associates to respond to public comments made on the draft environmental impact report (DEIR). The FEIR was released on February 24, 2006. Commissioners received copies at that time.

The DEIR provides a detailed description of the expansion project on pages 5-14. The project drawings are provided (to Commissioners only) as **Attachment A** to this report. For summary purposes, the following brief description is provided:

The project proposes a new 9,733-square foot multi-purpose room consisting of a meeting space, lobby, kitchen, restrooms and storage space to be added to the south side of the existing circular building; a 3,662 square foot addition comprised of four new classrooms and a service room; renovation of the existing Kol Shofar building without adding additional space; a new 40-car upper parking lot and turnaround/drop off area to the front entry; as well as new lighting, landscaping and other improvements.

A brief chronology of the processing of this application is as follows:

9/2004: CUP Application is filed for new multi-purpose room, classrooms, remodeling and programs.

10/2004 Application is deemed complete.

12/2004 Planning Commission Scoping Session for an EIR is held.

6/2005 Draft EIR is released and circulated for public comment.

8/2005 Planning Commission hearing on Draft EIR.



Town of Tiburon

STAFF REPORT

8/2005	Planning Commission hearing to recommend preparation of Final EIR.
2/2006	Final EIR is released.
3/2006	Applicant submits new alternative for analysis (Alternative 7).
4/2006	Planning Commission hearing on FEIR and project merits.

ANALYSIS

Purposes of the Planning Commission Hearing

The purposes of this public hearing are for the Planning Commission to: 1) hold a public hearing on the project application; 2) consider certification of the Final EIR (FEIR); and 3) if appropriate, take action on the project application for a conditional use permit (CUP).

Summary of Key FEIR Findings

Significant Unavoidable Impacts

The key findings of the Draft EIR (DEIR) were summarized in the August 10, 2005 Staff report for this project which is included as **Exhibit 7** to this report. The DEIR identified two significant unavoidable ("SU") impacts of the project as proposed that could not be eliminated or reduced to a less-than-significant level through mitigation measures identified in the DEIR: 1) that the project would increase noise levels in the area surrounding the project site by 2-7 decibels; and 2) that the project would frequently create a demand for more parking spaces than can be met by on-site parking lots during certain events, which would result in drivers who park on local streets making unsafe turnarounds in residential neighborhoods when arriving or leaving these events.

After preparation of additional noise and traffic analyses as part of the FEIR, the previous conclusion of the Draft EIR for noise remains unchanged, i.e., that there would be a significant unavoidable ("SU") noise impact caused by the increased weekend nighttime events upon at least five-to-eight residences on Reedland Woods Way nearest the site, one residence on Vista Tiburon Drive, and 11 residences on Blackfield Drive and Corte San Fernando. The FEIR introduces a new traffic safety mitigation measure (Mitigation 3.3-C.3) that would reduce the potential significant unavoidable impact of cars making unsafe turnarounds in private driveways to a less than significant level.

Project Alternatives

The DEIR analyzed five alternatives to the project, including the "No Project" alternative. Of these, the DEIR concluded that Alternative 5 "Restricted Use" (which would limit proposed Saturday and Sunday events lasting until 9 PM to every-other weekend and limit maximum attendance at any event, except the High Holy Days, to 275 people) would reduce the significant unavoidable nighttime noise impact upon local neighbors to a less than significant level. If the new traffic safety mitigation measure (parking receipt program or equivalent measure) were included as part of this alternative, then the driveway turnaround-related significant unavoidable impact would also be reduced to a less than significant level. The DEIR states that Alternative 5, as compared with the other alternatives, is the only one that reduces



Town of Tiburon

STAFF REPORT

impacts to a less than significant level and also meets most of the project sponsor's objectives, although limiting the hours for new weekend nighttime events to 9 PM would somewhat restrict use of the multi-purpose room for weddings and b'nai mitzvah celebrations. However, the applicant contends (in a letter found at pp. 158-160 of the FEIR) that Alternative 5 is infeasible for a number of reasons. The FEIR response to this comment disagreed with that contention.

The FEIR evaluates Alternative 6 "Reduced Events", at the applicant's request. This variation on Alternative 5 "Restricted Use" would allow 27 Saturday events lasting until 11:30 PM and 20 Sunday events lasting until 10 PM with a maximum attendance of 275 people. The FEIR concludes that although this alternative would reduce the nighttime noise impact by limiting the number of events, it would not achieve a less than significant level. This noise impact would remain significant and unavoidable.

FEIR Alternative 7 Analysis

Subsequent to release of the FEIR, the applicant submitted proposals (**Exhibit 1**) to modify the parking lot access and to further reduce new activities proposed with the Kol Shofar expansion project. In addition, further analyses of traffic and noise impacts identified in the FEIR were provided by the applicant. Town staff also requested a review of a recommended mitigation change. Leonard Charles Associates, the Town's environmental consultant, prepared a Final EIR Alternative 7 Analysis that responds to these matters and is included as **Exhibit 2** to this report. An FEIR errata sheet is attached as **Exhibit 3**.

The applicant's submittal consists of the following concepts and reports:

- 1) **Reduced Events:** a reduction in newly proposed project activities below the level outlined in the applicant's earlier reduced activities proposal that was analyzed in the FEIR as Alternative 6.
- 2) **Traffic:** an evaluation of the EIR traffic analysis for the Tiburon Boulevard turn lane impacts/mitigation measures, prepared by Robert L. Harrison. The report concludes that the project would not exceed weekend pm peak hour turn lane capacity for a 300-person event;
- 3) **Noise:** an evaluation of the EIR noise impact analysis, prepared by Charles M. Salter. The report concludes that the EIR analysis methodology is inconsistent with the Town's practice of analyzing noise impacts based upon an annualized Ldn as the gauge of overall changes in the noise environment and therefore, the finding of a significant unavoidable nighttime noise impact cannot be supported by the data.
- 4) **Access:** the parking lot entrance at Reedland Woods Way has been eliminated. The driveway at Reedland Woods Way would remain an exit only from the parking lot, as it currently functions.

The applicant has proposed Alternative 7: Reduced Events as an acceptable (to the applicant) alternative to the originally-proposed project.



Town of Tiburon

STAFF REPORT

Reduced Events

The FEIR Alternative 7 Analysis evaluates Kol Shofar's request to further reduce proposed new weekend events as Alternative 7. This new alternative reduces the level and amount of new nighttime events from the level proposed in Alternative 6. Alternative 7 includes a total of 12 new Saturday night events with a range of 150-250 attendees lasting until 11 p.m. and a total of 15 new Sunday events with a range of 100 -250 attendees that would last until 9 p.m. The principal objective of Alternative 7 is to reduce the level and amount of new nighttime noise caused by people arriving at and leaving the site to attend these events. In summary, the FEIR Alternative 7 Analysis concludes that by reducing the number of new events and the maximum number of people that would attend the new events, Alternative 7 reduces noise, parking and traffic impacts to a less than significant level.

The FEIR Alternative 7 Analysis includes an updated version of the DEIR Table 13 that provides a ranked comparison of the proposed project and the seven alternatives discussed. Of the seven alternatives ranked, only three (Alternatives 5, 6 and 7) meet most or all of the applicant's basic objectives. Of these three, only Alternatives 5 and 7 would reduce environmental impacts to a less than significant level and these two Alternatives have nearly equivalent scores: 114 and 116, respectively.

Traffic

The FEIR discusses the need to extend the queue length of Tiburon Boulevard's eastbound turn lane at Blackfield Drive on pages 28-30. Traffic counts taken at the October 25, 2005 Kol Shofar event support the conclusion of the DEIR that there would be inadequate queue capacity for a peak hour weekend event with 300 people attending, based upon the CalTrans design criteria and the earlier Harrison traffic study. Even with a reduction in attendees to 275, the FEIR concludes that additional queue length could be required. The proposed Mitigation Measure 3.3-A.4 provides an alternative approach, which is to adjust the signal length and/or signal phasing to allow sufficient time for left turns to clear the intersection during the one-hour weekend peak period from 6:30 pm to 7:40 pm. Either option would require further traffic analysis and final approval by CalTrans. Essentially, this mitigation measure is beyond the Town's authority to implement, as that section of Tiburon Boulevard is a State highway, located in unincorporated Marin County. Responsibility for determining and approving the final mitigation for this intersection lies with CalTrans.

The FEIR Alternative 7 Analysis responds to Robert L. Harrison's April 17, 2006 memorandum, which analyzes peak hour traffic impacts at the Tiburon Boulevard/Blackfield Drive intersection using TRAFFIX software. This analysis concludes the existing eastbound turn lane has adequate capacity to serve project-generated traffic. The EIR consultants, who used a different software program in their EIR traffic analysis, HCS Software, reviewed this Memorandum and conclude that the two software programs produce different results. Their finding, that the lane capacity would not be sufficient for the peak hour condition, remains unchanged. The FEIR Alternative 7 Analysis concludes that both sets of data should be supplied to CalTrans for their review. CalTrans would then determine the feasibility and need for left-turn lane lengthening and/or changing signal phasing which are identified as mitigation measures in the FEIR. Alternatively, the FEIR Alternative 7 Analysis suggests the Town could coordinate with CalTrans to monitor the impact of new project weekend peak traffic at this intersection in order to determine the actual traffic impact.



Town of Tiburon

STAFF REPORT

Noise

As stated above, the EIR noise consultants reviewed the applicant's proposed Alternative 7 and concluded that by reducing the number of new events and the maximum number of people that would attend the new events, Alternative 7 reduces noise, parking and traffic impacts to a less than significant level. In addition, the FEIR Alternative 7 Analysis responds to a critique of the noise impact analysis presented by the applicant's noise consultant, Charles M. Salter Associates, Inc. The EIR noise consultant, Illingworth & Rodkin, Inc., responds and provides support for the conclusions in the FEIR about project noise impacts.

Access

The applicant has submitted a revised parking lot access plan that eliminates access from Reedland Woods Way and continues the existing access point from Via Los Altos. The FEIR Alternative 7 Analysis analyzes whether this change would cause circulation or traffic impacts and concludes that this proposal would operate safely and without impacts. Staff views this as a major improvement to the project that would eliminate a neighborhood concern about traffic safety.

Modification to Parking Receipt Mitigation

In order to reduce the significant unavoidable traffic safety hazard from Kol Shofar attendees' cars parked on neighborhood streets making unsafe turnarounds in private driveways, FEIR Mitigation 3.3-C.3 would require people attending newly proposed events on weekend afternoons/evenings and Monday through Thursday "special events" to produce a receipt that they have parked on-site or in an approved off-site parking lot. Kol Shofar staff would be required to provide such receipts at these locations and collect them from attendees at the entrance to the facility, subject to unannounced monitoring by the Town.

In staff's opinion, the parking receipt mitigation measure (Mitigation 3.3-C.3) would be difficult for the applicant to implement successfully, and would present a complex monitoring challenge for the Town, in order to determine that receipts are being properly handed out in various locations (the project site as well as remote parking lots) and also collected from each attendee at the door. Staff believes that this monitoring burden could outweigh the benefit of the mitigation's intended purpose. Staff suggested to the EIR consultant that it would be preferable to find a simpler solution to the problem of cars parking in the immediate neighborhood and occasionally turning around in private driveways, thereby causing a traffic safety hazard.

Staff suggested to the EIR consultant that equivalent mitigation measures could be found, such as expanding the existing Kol Shofar practice of placing "resident parking only" and "no parking signs" on select portions of adjacent streets during the High Holy Days, in concert with other measures included within the existing CUP "High Holy Days Traffic Control Measures".

The FEIR Alternative 7 Analysis evaluates staff's suggestion and concludes that for the project proposal, equivalent mitigation measures such as signage placed along Kol Shofar's frontages on Via Los Altos, Blackfield Drive and Via Los Altos combined with other measures included in the existing CUP (e.g., to notify Kol Shofar members about parking restrictions) would be acceptable in lieu of the parking receipt mitigation measure. With regard to Alternative 7, the FEIR Alternative 7 Analysis notes that the site will contain sufficient on-site parking for proposed



Town of Tiburon

STAFF REPORT

new events since attendance would be limited to 250 people only 7 times per year. The Town could monitor the effectiveness of this mitigation over time. If this mitigation proves to be ineffective in limiting traffic safety hazards, then the Town would substitute a more stringent measure, similar to the parking receipt mitigation measure, as part of the annual review of the CUP.

To further support the mitigation effort to reduce traffic safety hazards on adjacent streets, staff recommends the Planning Commission consider adopting a modified mitigation measure requiring that the onsite parking lot capacity be increased. Presently, the FEIR includes a mitigation measure (Mitigation 3.3-B.4) to add seven parking spaces to the primary parking lot by excavating the toe of the slope along a portion of the north side and constructing a low retaining wall. Staff believes that additional parking spaces could be provided based upon a more careful study of parking layout. Mitigation 3.3-B.4 could be reworded to require that on site parking be increased as much as possible in addition to the seven newly required parking spaces and that the layout and circulation pattern of the primary parking lot be optimized.

Problematic Impacts and Mitigation Measures

Noise Impact

The FEIR finding of a SU noise impact means that the Planning Commission has three options: 1) if the project is to be approved as proposed, a Statement of Overriding Considerations with regard to this SU noise impact must be adopted as part of the CEQA findings and all alternatives set forth in the EIR that could reduce impacts would need to be rejected; or 2) the Planning Commission can approve modifications to the project - a project alternative or combination of alternatives - that reduces the SU noise impact to a less than significant level while at the same time keeping all other impacts at less than significant levels; or 3) the Commission could choose to disagree with the SU conclusion of the EIR but would need to rely on evidence in the record to support such a position (essentially agree with the Charles Salter & Associates position rather than the EIR noise consultant's opinion and analysis).

The rationale behind the finding that Alternative 5: Restricted Use would have a less than significant noise impact has to do both with the restrictions on lateness and frequency of newly proposed nighttime events. All functions would end by 9 PM, except existing Friday night services that end at 10 PM, and Saturday and Sunday events lasting past 5 PM would be allowed at a maximum rate of every other weekend. Finally, all newly proposed events would be limited to 275 people. By ending newly proposed events at 9 PM, neighbors can expect that conditions would be quiet by 9:30 or 10 PM and having every other weekend free of nighttime events would create a clear pattern for Kol Shofar's new activities, allowing neighbors quiet weekends every-other week and the opportunity to plan any large social event accordingly.

Similarly, the FEIR Alternative 7 Analysis finds that the restrictions it would place on the number of new nighttime events (12 Saturday events and 15 Sunday events during the course of a year) and the reduced number of attendees (a maximum of 250 people at 7 events and less on all others) would result in a less than significant noise impact.

Tiburon has approved CUPs in recent years for religious/social institutions located within or adjacent to residential neighborhoods that place limitations on evening events. Three recent



Town of Tiburon

STAFF REPORT

examples include: St. Hilary's new gymnasium, the Tiburon Peninsula Club renovation, and the Belvedere Tennis Club reconstruction. Event restrictions were tailored to each situation. At St. Hilary's Church, the CUP limits CYO use of the gymnasium from 6:30-7:30pm on alternating weeknights and 3 PM on Saturdays with no uses permitted on Sundays. The Tiburon Peninsula Club CUP limits indoor social events to 9 PM on any day. Outdoor social events are limited to 8 PM on any day and amplified music can only be used between 8 AM and 6 PM on weekdays and 9 AM and 8 PM on weekends. The Belvedere Tennis Club CUP limits use of the spa to 9 PM and social events to 12 midnight. Staff emphasizes that each of these sites and settings as well as operations are different, and attempting to make direct comparisons of impact is difficult. Unquestionably, the number of new traffic trips that would be generated by the proposed Kol Shofar expansion is much larger than the other projects.

Recommended EIR Alternative

If the Planning Commission finds the scale of proposed project additions and new events appropriate, then of the two project alternatives (Alternatives 5 and 7) analyzed in the EIR that meet most project objectives while achieving a mitigated project from a CEQA standpoint, Staff believes that Alternative 7 is preferable. Staff's opinion is that the fewer in number and smaller in size of the new events, so will the impacts be correspondingly smaller. It is likely that several of the 27 new weekend evening events allowed under Alternative 7 would occur when neighbors are indoors and parking lot noise would not be noticeable. If the Planning Commission concludes that the proposed scale of improvements or number of events needs to be reduced, then project options within the range of alternatives considered in the EIR should be considered and the draft resolutions adjusted accordingly.

Mitigation Monitoring and Reporting Program

The MMRP table sets out the complete list of mitigation measures identified in the Draft and Final EIR and provides the timeframe for implementation of each measure and the party responsible for implementation. Some modification to this document will likely be necessary depending on specific Commission decisions on various aspects of the project, such as traffic and parking mitigations.

The FEIR Alternative 7 Analysis updates the MMRP to include revisions to mitigation measures discussed above. CalTrans has submitted a letter requesting minor changes to the MMRP for mitigation measures 3.3-A.1 and 2 and requested the Town include a requirement to have an agreement in place with the project applicant responsible for sharing the cost of the additional 75 feet of the 150-foot lane extension for the cumulative condition.

CEQA Findings

Section 15091 of the CEQA Guidelines states that, "No public agency shall approve or carry out a project for which and EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding". The possible findings are:



Town of Tiburon

STAFF REPORT

- 1) Changes or alterations have been required or incorporated into the project which avoid or substantially lessen the significant adverse impact identified in the FEIR;
- 2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding;
- 3) Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the FEIR.

A draft Resolution providing the CEQA findings has been prepared and is attached as **Exhibit 5**. As discussed above, the FEIR finds that the proposed project would result in a SU noise impact. Thus, a Statement of Overriding Considerations, item 3) above, would need to be adopted with the CEQA findings prior to approval of the project. Commission approval of Alternative 5: Restricted Use, or of Alternative 7: Reduced Events, would avoid the need to adopt a Statement of Overriding Considerations as all impacts would be reduced to less than significant levels; i.e., a mitigated project would be achieved according to the FEIR.

General Plan Consistency

The FEIR provides an analysis of project consistency with General Plan policies. The project is found to be generally consistent with the General Plan Land Use Element, Open Space Element, Circulation Element, and Safety Element Goals and Policies. However, the FEIR concludes that the project would be inconsistent with two Noise Element Goals: N-B, *to eliminate or reduce unnecessary, excessive and offensive noises from all sources*; and N-C, *to minimize the exposure of community residents to noise through the careful placement of land uses that may cause noise impacts*. This conclusion is based upon the significant unavoidable nighttime noise impact upon nearby residences associated with the project's proposed events that would last until 10 or 11:30pm. As discussed above, DEIR Alternative 5 Restricted Use would limit weekend nighttime events to 9:00 pm and events would be much less frequent than proposed by the project. The FEIR concludes that Alternative 5 would not have a significant noise impact and would be consistent with General Plan Noise Element Goals N-B and N-C. Alternative 7: Reduced Events, analyzed in the FEIR Alternative 7 Analysis, would also reduce the significant unavoidable nighttime noise impact to a less than significant level and would be consistent with the General Plan Noise Element Goals N-B and N-C.

Zoning Consistency

The Residential Open Zone (RO-1) District permits churches and parochial elementary or secondary schools with a Conditional Use Permit. As discussed above, Kol Shofar has operated at this former public school site under a CUP for over 20 years. Traditionally, churches and schools are located in residential areas and form part of the fabric of suburban American society.

The proposed new multi-purpose room and classrooms conform to the District standards for building height and coverage as indicated in the table below:



Town of Tiburon

STAFF REPORT

Summary of Project Zoning Consistency							
Zoning	Min. Lot Area	Min. Front Yard	Min. Side Yard	Min. Rear Yard	Max. Lot Coverage	Building Height	Min. Lot Width
R0-1	40,000 sq.ft.	30'	20'	20% to 25'	15%	30'	70'
Project	302,306 sq.ft.	190'	130'	35'	13.7%	23'	650'
Consistency	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Zoning Ordinance standards related to parking (Section 5.08.04) are analyzed in the DEIR. Table 5 and pages 64-68 of the DEIR analyze the consistency of the proposed project, including the new parking lot, and find that it would not meet the requirement of one space for each 4 seats of maximum seating capacity or one space for each 40 square feet of assembly area, whichever is more. 139 total parking spaces are proposed for the project and the existing and proposed uses on the site (sanctuary, chapel, multipurpose room, and classrooms) would have a combined total parking requirement of 363 spaces.

Section 5.08.10 allows for a reduction in the number of parking spaces if there are multiple (overlapping) uses on the property. This section allows for a lesser number of spaces if the Planning Commission makes the following findings:

- 1) That the uses or times for which overlapping parking is being requested do not have overlapping hours of operations sufficient to result in a deficiency of parking spaces.
- 2) That the parking lot in question is within a reasonable distance from the uses for which parking requirements are to be considered as being overlapping.

While some overlapping parking would result from the Kol Shofar expansion plan, allowing for a reduction in the required number of parking spaces below 363, the DEIR includes Mitigation Measure 3.3-C which proposes a limit of 275 attendees (based on 2 persons per car, this yields a parking demand of 139 spaces). Commission adoption of Alternative 5 would establish a maximum attendance limit of 275 for all new events, thus onsite parking could accommodate all attendees and the findings in Section 5.08.10 would not need to be made. The 275-person limit would not apply to the High Holy Days and existing Saturday and Sunday morning services, all of which can exceed 275 people. Similarly, Alternative 7 limits maximum attendance to 250 people and would further reduce parking demand.

Section 4.04.02 of the Tiburon Zoning Ordinance provides required findings for conditional use permit applications. Staff has prepared findings for approval based upon the assumption that the Planning Commission would impose recommended FEIR mitigation measures and restrictions upon the newly proposed Kol Shofar uses similar to Alternative 5 or Alternative 7. The findings are provided below:

- (a) Determine whether the location proposed for the Conditional Use applied for is properly related to the development of the neighborhood as a whole;



Town of Tiburon

STAFF REPORT

Kol Shofar has operated its congregation and day school at this site for over 20 years. Much of the surrounding residential neighborhood has developed after Kol Shofar purchased the former school property. The location of the proposed Kol Shofar expansion, including a multi-purpose room and new classrooms, adjacent to existing buildings on the 6.94-acre site is properly related to the development of the neighborhood as a whole because recommended conditions of approval and mitigation measures would limit traffic, noise, aesthetic and other impacts of the proposed improvements upon surrounding residential neighbors.

- (b) Determine whether the location proposed for the particular Conditional Use applied for would be reasonably compatible with the types of uses normally permitted in the surrounding area;

The proposed Conditional Use Permit would regulate the continued and expanded activities of Kol Shofar and the use would, given the recommended mitigation measures and conditions of approval, be reasonably compatible with the residential uses permitted in the surrounding area.

- (c) Evaluate whether or not adequate facilities and services required for such use exist or can be provided;

The FEIR concludes that adequate public services exist for the proposed expansion project. The proposed onsite parking improvements with recommended mitigation measures and conditions of approval to expand the number of spaces, redesign the lower parking lot to optimize flow, and to improve traffic safety would allow onsite parking facilities to function for all newly proposed events at Kol Shofar.

- (d) Stipulate such conditions and requirements as would reasonably assure that the basic purposes of this Chapter and objectives of the General Plan would be served; and

Mitigation Measures in the FEIR would reduce potential significant impacts in the areas of noise, traffic and circulation, light intrusion, and other topics to a less than significant level. Imposition of conditions of approval to limit maximum attendance, frequency and duration of newly proposed events, consistent with Alternative 7: "Reduced Events" among other conditions, would also assure that the basic purposes of the Zoning Ordinance and General Plan would be served.

- (e) Determine whether the Town is adequately served by similar uses presently existing or recently approved by the Town.

There are no other synagogues located within the Town thus the Town is not served by other similar uses within its jurisdiction.

Conditional Use Permit

The proposed project involves the securing of all zoning and building entitlements for the expansion/remodel of the Kol Shofar religious facility and day school. A conditional use permit



Town of Tiburon

STAFF REPORT

(CUP) (File #10404) is the first application proposed as part of this project. In addition to the CUP, the applicant would need to receive Site Plan and Architectural Review (SPAR) approval from the Design Review Board and building permits. Since the original 1985 CUP, the Town has approved amendments to the Kol Shofar CUP in 1997, 2001 and 2004. Conditions of approval were updated with each CUP revision.

The following sections raise site and design issues that have not been addressed in the FEIR that the Commission will want to closely consider.

Multi-purpose Room

The proposed 9,733-square foot Multi-purpose room is a large space that, according to the application, is intended for lifecycle celebrations and to accommodate the entire congregation during High Holy Days services. The space includes a 5,022 square foot banquet room, 1,838 square foot lobby, 1,070 square foot kitchen, and bathrooms, hallway and storage areas totaling 1,767 square feet. Although the space is sized to hold very large gatherings, the staff recommendation to limit the maximum number of attendees at all newly proposed events to 275 means that the facility would be “fully” utilized only on the High Holy Days, three days per year when the proposed combined services would allow up to 1,500 people in attendance. The next largest gatherings, after the High Holy Days, are the existing services on weekend mornings that are currently attended by up to 400 people. Staff has not made a recommendation about the appropriateness of the proposed Multi-purpose room size but has focused instead on use restrictions such as the number of attendees at new events and frequency of such events, which are linked to providing adequate parking onsite and minimizing noise impacts upon adjacent neighbors. If the Planning Commission concludes that the sheer size of the Multi-purpose Room is not in character or harmony with surrounding development, or is otherwise inappropriate for the residential setting, it can choose to reduce the size on those policy grounds.

A draft Resolution (**Exhibit 6**) has been prepared for approval of the CUP application that incorporates many of the prior CUP conditions of approval. New and modified conditions are proposed based upon the FEIR analysis, FEIR Alternative 7 Analysis, and staff recommendations, including: 1) mitigation measures that apply to the ongoing use of the facility (e.g., the parking receipt program or equivalent measures that would be easier to implement and monitor, keeping the multi-purpose room doors and windows closed during large events); 2) new limitations on the uses proposed (e.g., imposing the restrictions set out in Alternative 7; and 3) changes to prior conditions of approval that reflect the new proposed uses and facilities (e.g., increasing the day school student enrollment maximum; allowing a unified service for the High Holy Days)

If approved by the Planning Commission, this project would be reviewed by the Design Review Board as part of a subsequent Site Plan and Architectural Review application. The Design Review Board would evaluate the proposed architectural design, the landscape plan, including mitigation measures that require berms, plant materials and/or fencing to limit headlight intrusion into adjacent residences, a revised parking lot plan that increases proposed parking, and a detailed lighting plan.



Town of Tiburon

STAFF REPORT

Public Comments

A number of letters from the public, as well as from agencies, have been received to-date and are included as **Exhibit 8**. The letters generally focus on traffic, traffic safety, noise, parking and lighting issues and several manifest a deep concern and distrust over the long-term intentions for future growth and activity levels at the synagogue.

Conclusion

Staff has evaluated the proposed expansion project and its impacts upon the neighborhood and concludes that the most effective balancing of the applicant's goals and the neighbors' concerns regarding noise, traffic and other impacts should be found in regulating the use (i.e., the number of attendees, frequency and duration of events) rather than the scale of the facilities. This approach was successfully demonstrated with construction of the St. Hilary Gymnasium, a thirty-foot tall, 8,300 square-foot building that has caused little or no neighborhood disruption due to the use limitations placed upon it through the CUP conditions of approval.

The General Plan policy analysis in the EIR notes that churches and schools are traditionally integrated into residential neighborhoods in Tiburon and all Marin communities. The key to finding that such uses are "harmonious" with the predominant residential use lies in the intensity of the proposed use. The Town has reviewed the CUP for Kol Shofar annually and made adjustments to conditions of approval as necessary over the years, in 1997, 2001 and 2004. The proposed conditions of approval for the new CUP bring forward many of the prior conditions and include several new ones to address the impacts of the proposed expansion. Staff is also mindful of the legal difficulties associated with attempting to "cap" membership of a religious institution. The extent to which a larger building will directly result in a larger congregation and more activity is somewhat speculative, although it clearly removes one obstacle to such growth.

The expansion project, as proposed, meets the Town's RO-1 zoning standards except for on-site parking capacity. The draft Resolution, consistent with FEIR Alternative 7: "Reduced Events", limits attendance at new events to 250, a level where onsite parking is easily sufficient to meet the demand, and limits the frequency of new weekend nighttime events to a maximum of 27 during the course of a year, which was found to have less than significant environmental impacts. Annual review of the use permit by the Commission would be required for as long as the Commission deems appropriate.

Possible Action Items

Following the public hearing, the Commission will need to consider whether it is prepared to take three actions: 1) to certify that the FEIR has been completed in compliance with the California Environmental Quality Act (CEQA); 2) make findings of overriding economic, legal, social or other circumstances that justify the significant unavoidable noise impact associated with the proposed project OR select a project alternative or a combination of alternatives that avoids all significant unavoidable impacts, and 3) to approve, approve with conditions, or deny the Conditional Use Permit application. Staff strongly recommends that if the Commission, after closing the public hearing, decides to make a conditional approval, that it perform all three actions at the same hearing and not at separate hearings. The three actions necessary to



Town of Tiburon

STAFF REPORT

approve a project are: 1) to certify the FEIR (**Exhibit 4**), 2) Adopt a CEQA Findings Resolution, and 3) Adopt a CUP resolution with conditions and with a finalized MMRP.

ITEMS PREVIOUSLY DISTRIBUTED

Draft and Final EIR Volumes
Correspondence Letters from Exhibit 8(a) through 8(t) listed below

ATTACHMENTS

A. Project Drawings (Planning Commission only)

EXHIBITS

1. Kol Shofar Submittal of New Traffic & Noise Analyses and Reduced Project Activities
2. FEIR Alternative 7 Analysis, April 18, 2006
3. FEIR Errata Sheet
4. Draft Resolution Certifying the FEIR
5. Draft CEQA Findings Resolution
6. Draft Resolution Conditionally Approving the CUP
7. August 10, 2005 Planning Commission Staff Report
8. Correspondence:
 - a. Department of Transportation, March 10, 2006
 - b. Christianna Seidel, March 6, 2006
 - c. Dean L. Rider, MD, March 13, 2006
 - d. Dennis N. and Sara P. Sakai, March 13, 2006
 - e. Jean Ford, March 14, 2006
 - f. Jerry Thayer, March 14, 2006
 - g. Doris Symonds, March 14, 2006
 - h. Neighborhood flyer, no date
 - i. Jane Sondeen, March 16, 2006
 - j. Marin Municipal Water District, March 16, 2006
 - k. John and Karen Nygren, March 20, 2006
 - l. Mr. And Mrs. Fred Conte, March 20, 2006
 - m. Lee Kranefuss and Nina Frank, March 20, 2006
 - n. Susan Goldwasser, M.D., March 21, 2006
 - o. Richard Goldwasser, M.D., March 21, 2006
 - p. Samantha and James Winter, March 21, 2006
 - q. Edward Baker, March 23, 2006
 - r. Timothy Metz and Jennifer Jorgensen, March 23, 2006
 - s. Richard A. Holway, March 24, 2006
 - t. Robin Gonci & Satoshi Tanaka, undated

(Letters a through t were previously distributed to the Planning Commission and are not reprinted here)

Town of Tiburon

STAFF REPORT



- u. Resident, 40 Pamela Court, April 13, 2006
- v. Mr. & Mrs. R. F. Uttermohlen, April 14, 2006
- w. Rufus Thayer, April 14, 2006
- x. Christianna Seidel, April 14, 2006
- y. Richard Goldwasser, April 17, 2006
- z. Christianna Seidel & Peter Stock, April 17, 2006
- aa. Timothy Metz and Jennifer Jorgensen, April 17, 2006
- bb. John & Karen Nygren, April 17, 2006
- cc. Lawrence J. Duke, April 18, 2006
- dd. Paul and Kellie Yenofsky, April 19, 2006