



## **BEFORE THE ADA COUNTY PLANNING & ZONING COMMISSION**

In re:

Application of Islamic Community of Bosniaks Boise

Project No. 201400337 CU-MSP

### **FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

#### **FINDINGS OF FACT**

If any of these Findings of Fact are deemed Conclusions of Law, they are incorporated into the Conclusions of Law section.

A. The Commission finds that the record is comprised of:

1. Exhibit 1 to the Staff Report.
2. Exhibit A to the Findings of Fact, Conclusions of Law and Order.
3. All other information contained in Ada County Development Services File for Project No. 201400337 CU-MSP.

B. As to procedural items, the Commission finds the following:

1. In accordance with Section(s) 8-6-3A/8-7-3A2/8-7-4A1 of the Ada County Code, the applicant completed a pre-application conference with the director prior to the submittal of the application on January 21, 2014.
2. In accordance with Section 8-7A-3 of the Ada County Code, the applicant held a neighborhood meeting on February 27, 2014.
3. On March 7, 2014, Development Services accepted Project #201400337 CU-MSP and scheduled it for public hearing before the Ada County Planning and Zoning Commission on May 8, 2014.
4. On March 14, 2014, staff notified other agencies of this application and solicited their comments. Any comments received were incorporated into the staff report and are attached as Exhibit 1.

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5. On April 10, 2014, property owners within 1,000 feet of the site were notified of the hearing by mail. Legal notice of the Commission's hearing was published in The Idaho Statesman on April 22, 2014. Notices of the public hearing were posted on the property prior to April 28, 2014 and a certification sign posting was submitted to the director prior to May 2, 2014.

C. As to the project description, the Commission finds based on the application materials found in the file for Project No. 201400337 CU-MSP the following:

1. PROPOSED USES: Private perpetual care cemetery.
2. PROPOSED STRUCTURES: A 40' X 60' operations building.
3. PROPOSED SITE IMPROVEMENTS: 20 parking spaces including an ADA parking space and a six (6) foot chain link fence.

D. Based on the materials found in the file for Project No. 201400337 CU-MSP, the Commission finds the following concerning the project description:

1. PARCEL NUMBER AND LOCATION: Parcel #S1434234000, S1434314800, and S1434315200 are located at 15000 S. Cloverdale Road.

2. OWNERSHIP: Sifet Alispahic

3. SITE CHARACTERISTICS

Property size: Parcel #S1434234000 contains 3.529 acres, S1434314800 contains 14.229 acres, and S1434315200 contains 18.999 acres.

Existing structures: None.

Existing vegetation: Rangeland.

Slope: The site is relatively flat.

Irrigation: The western portion of the property is with Boise Project Board of Control and Boise-Kuna Irrigation District.

Drainage: Drainage will be retained on site.

Views: Open views in all directions.

Other Opportunities and/or Constraints: The southwest corner is within the unnumbered A Floodplain.

E. Based on the officially adopted Ada County land use maps, the Commission finds the following concerning the current land use and zoning:

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The property is currently zoned Rural Residential (RR) District and is vacant land.

- F. Based on the officially adopted Ada County land use maps, the Commission finds the following concerning the surrounding land use and zoning:

North: The site is single-family residential in the Rural Residential (RR) District.

South The Southwest portion of the site is single-family residential in the Rural Residential (RR) District and the southeast portion of the site is vacant land within the City of Kuna with an “A” zone.

East: The site to the east is vacant land within the City of Kuna with an “A” zone.

West: The site to the west is single-family residential in the Rural Residential (RR) District.

- G. Based on the officially adopted Ada County land use maps and materials found in the file for Project No. 201400337 CU-MSP, the Commission finds the following concerning services:

Access Street and Designation: The property currently has access on S. Cloverdale Road, a minor arterial.

Fire Protection: Kuna Fire District.

Sewage Disposal: Individual Septic System.

Water Service: Individual Well.

Irrigation District: Boise Project Board of Control and Boise-Kuna Irrigation District.

Drainage District: None.

- H. As to the applicable law, the Commission finds the following:

This section details the comp plan goals, objectives and policies; the zoning ordinance regulations; and other applicable standards regarding development of the subject property.

1. The Commission finds that the **Ada County Comprehensive Plan** is applicable because the subject property is not located in any areas of city impact. The Commission finds the application complies with **Ada County Comprehensive Plan**. Regarding the Ada County Comprehensive Plan the Commission finds the following:

Goal 5.6: Development will be allowed in rural areas consistent with this Plan and County zoning ordinances.

Policy 5.6-5: Rural residential development that would result in an excessive expansion of public services should not be allowed.

Policy 5.6-8: Rural residential development should minimize adverse impacts on the natural environment and agricultural land uses.

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*The Commission finds that the cemetery is consistent with the Ada County Zoning Ordinances and the Ada County Comprehensive Plan. The development will not require expansion of public services. The cemetery will be regulated by the State and will minimize any adverse impacts on the natural environment. The proposed location for the cemetery does not have irrigation to the property and will not be located on agricultural land.*

2. The Commission finds **Section 8-4E-5 of the Ada County Code** is applicable because the applicant has applied for a master site plan for a cemetery. The Commission finds that the application complies with **Section 8-4E-5 of the Ada County Code**. Regarding Section 8-4E-5 the Commission finds the following:

- A. *The master site plan complies with this title and the applicable comprehensive plan;*

The Commission finds that the master site plan is for a cemetery and it complies with Title 8 of the Ada County Code because it meets the applicable required findings of fact as outlined herein. As evidenced in Finding H1 the master site plan for the cemetery complies with the Ada County Comprehensive Plan as adopted by Ada County.

- B. *The applicant has submitted a natural features analysis (subsection 8-4E-4D of this article) identifying constraints presented by such natural features, and the proposed development sufficiently addresses such features;*

The Commission finds that the applicant has submitted a natural features analysis (Exhibits #19 and #37) for the property that identifies constraints presented by such natural features and shows how the development sufficiently addresses such features. The natural features analysis provides a detailed narrative regarding the soil types found on the property, vegetation, sensitive plants and wildlife species, historic resources, hazardous areas, and impact on natural features. The applicant also provided a letter from the Idaho Department of Fish and Game (Exhibit #10).

- C. *The proposed landscaping meets the requirements of article F of this chapter;*

The Commission finds that the applicant is requesting a waiver from the landscaping and screening requirements.

The Commission finds that the request for the waiver from landscaping and screening requirements is justified because the rear portion of the property where the cemetery is located is not within an irrigation district and thus there is a limited water supply available for irrigation.

- D. *The proposed parking and loading spaces meet the requirements of article G of this chapter;*

The Commission finds that the parking and loading spaces meet the requirements of Article G of Chapter 4. The required number of parking spaces for a cemetery is one (1) per two (2) employees. The applicant has stated in the detailed letter (Exhibit #14) that there will be a total of 1-2 employees, which will work out of the operation building. Therefore, the number of required parking spaces is just one (1). The project exceeds this requirement by having a total of 22 parking spaces with two (2) of the spaces being ADA designated parking spaces. For the 90 degree angle parking

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spaces the master site plan (Exhibit #18) depicts a stall width of 9'0" and a stall depth of 20'0" with a 25'0" two-way driving aisle, which meets the standards for 90 degree angle parking. As conditioned, the off-street parking areas shall be improved with a compacted gravel base, not less than four inches (4") thick, surfaced with asphaltic concrete or some comparable all weather dustless material. If the off-street parking area is not surfaced with asphaltic concrete then the County Engineer must approve some comparable all weather dustless material.

The Commission also finds that the number of ADA accessible parking spaces provided complies with the number required under the International Building Code. The master site plan (Exhibit #18) shows that there will be two (2) ADA accessible parking spaces, which is greater than the one (1) ADA accessible parking space that is required.

E. *The proposed lighting plan meets the requirements of article H of this chapter;*

The Commission finds that the applicant is not proposing any new outdoor lighting. If there is any outdoor lighting installed on the property then a lighting plan will be required to comply with Article 8-4H.

F. *The proposed master site plan complies with the applicable base district standards, overlay district standards, and specific use standards of this title;*

The Commission finds that the master site plan complies with the applicable design and dimensional standards in chapters 2 and 3 of this title. The property is located in the Rural Residential (RR) District and a small portion of the property is located in the Flood Hazard Overlay District. The operations building associated with the cemetery is greater than 50 feet from the property line abutting an arterial street and greater than 25 from a property line not fronting a roadway. The operation building does not exceed the maximum five (5) percent coverage for the property. Access to the cemetery will cross the floodplain; therefore, as conditioned the applicant will need to apply and receive approval of a floodplain permit.

G. *The proposed master site plan is consistent with the APA ridge-to-rivers pathways plan; and*

The Commission finds that the master site plan is consistent with the APA ridge-to-rivers pathways plan as there are no pathways proposed on the property.

H. *Adequate utilities and public services are available or provided for the proposed development, and the development would not be premature by reason of lack of utilities, transportation, schools, fire protection, or other essential services.*

The Commission finds that adequate utilities and public services are available or provided for the cemetery and that the development is not premature by reason of lack of utilities, transportation, schools, fire protection, or other essential services. The application was transmitted to applicable agencies and political subdivisions on March 14, 2014. The Ada County Building Division replied in Exhibit #27 that they have no objection to the proposed development; however, the applicant should be aware that the proposed 30' x 40' building will require a building permit prior to

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construction. The Central District Health Department stated in Exhibit #28 that a septic application is required for both residential homes/lots and the operation's building. The Ada County Highway District (ACHD) provided a response to the application (Exhibit #34) with some listed findings for consideration that ACHD may identify when it reviews a future development application. ACHD noted that a new collector street is shown on the Master Street Map (MSM) to be located along the northern boundary of the site and that the applicant has shown a preservation of 35 feet for future right-of-way. The Boise Project Board of Control responded in Exhibit #35 that they have no objection as there are no Project facilities located on the property and that this portion of the property has no surface irrigation water rights. The City of Kuna recommended for Ada County to adopt the following conditions in Exhibit #29

1. Soil testing and test holes prior to development due to the historical soil content in this area.
  2. Provide depth to highest known ground water for the site since Kuna has high ground water and a large irrigation canal to the west of the site which could influence ground water in the area during irrigation season. Then obtain approval from Idaho Department of Water Resources that the natural burial will not affect ground water adversely.
  3. All bodies shall be in a concrete vault to protect the bodies from animals.
3. The Commission finds **Section 8-5-3-24 of the Ada County Code** is applicable because the applicant has applied for a cemetery. The Commission finds that the application complies with **Section 8-5-3-24 of the Ada County Code**. Regarding Section 8-5-3-24 of the Ada County Code the Commission finds the following:
- A. For the purposes of this subsection, the term "structures" shall include, but not be limited to, mausolea, columbaria, and crypts. No structure, exclusive of fences or walls, shall be located within one hundred feet (100') from any existing dwelling other than the dwelling of the owner or caretaker. Structures shall conform to the height limitation and required yards for the applicable base district.  
*The Commission finds that the operation building exceeds the one hundred feet (100') setback from all property lines.*
  - B. Graves and monuments shall not be located within fifteen feet (15') from any property line.  
*The Commission finds as shown on the master site plan, received March 7, 2014, that the graves are not located within fifteen feet (15') from any property line.*
  - C. All cemeteries shall be platted according to the regulations of chapter 6 of this title.  
*The Commission finds as conditioned that the cemetery will be platted according to ACC 8-6. The applicant submitted a letter indicating that they understand that a preliminary plat and final plat for the cemetery is required (Exhibit #22)*

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D. If the cemetery is privately owned, the cemetery shall be established as a perpetual care cemetery in accord with Idaho Code section 27-401.

*The Commission finds as conditioned that the cemetery will be established as a perpetual care cemetery in accord with Idaho Code section 27-401.*

4. The Commission finds **Section 8-5B-5 of the Ada County Code** is applicable because the applicant has applied for a conditional use for a cemetery. The Commission finds that the application complies with **Section 8-5B-5 of the Ada County Code**. Regarding Section 8-5B-5 of the Ada County Code the Commission finds the following:

A. *The proposed use is not detrimental to the public health, safety, or welfare;*

The Commission finds as conditioned that the cemetery is not detrimental to the public health and welfare. As conditioned, the applicant and/or owner will need to obtain a septic permit from the Central District Health Department. The cemetery is also in conformance with the Ada County Comprehensive Plan and the specific use standards for a cemetery.

B. *The proposed use shall not create undue adverse impact on surrounding properties;*

The Commission finds as conditioned that the cemetery does not create undue adverse impacts on surrounding properties. The cemetery is compatible and will not conflict with adjacent agricultural and rural residential uses.

C. *The proposed use is consistent with the applicable comprehensive plan;*

The Commission finds as evidenced in Finding #H1 that the cemetery is consistent with the Ada County Comprehensive Plan.

D. *The proposed use complies with the purpose statement of the applicable base district and with the specific use standards as set forth in this chapter;*

The Commission finds that the cemetery complies with the purpose statement of the Rural Residential (RR) District as the cemetery will not conflict with adjacent agricultural and rural residential uses. As indicated by the applicant's detailed letter (Exhibit #14) the cemetery will be open for visitation daily from 9:00 A.M. to 7:00 P.M. with each burial taking approximately 3 to 4 hours. In addition, the cemetery will not require excessive expansion of public services to the site.

The Commission finds as evidenced in Finding #H3 that the cemetery complies with the specific use standards for a cemetery.

E. *The proposed use complies with all applicable county ordinances;*

The Commission finds that the cemetery complies with all applicable county ordinances as outlined in Finding B and as outlined herein.

F. *The proposed use complies with all applicable state and federal regulations;*

The Commission finds that all uses are innately required to comply with all applicable state and federal regulations as a matter of law.

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- G. *The proposed use and facilities shall not impede the normal development of surrounding property;*

The Commission finds that there is no evidenced in the record that indicates that the cemetery will impede the normal development of surrounding properties as the use is compatible with surrounding properties.

- H. *Adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are, or shall be, provided for the proposed use.*

The Commission finds as conditioned that adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are provided for the proposed use. The application was transmitted to applicable agencies and political subdivisions on March 14, 2014. The Ada County Building Division replied in Exhibit #27 that they have no objection to the proposed development; however, the applicant should be aware that the proposed 30' x 40' building will require a building permit prior to construction. The Central District Health Department stated in Exhibit #28 that septic application is required for both residential homes/lots and the operation's building. The Ada County Highway District (ACHD) provided a response to the application (Exhibit #34) with some listed findings for consideration that ACHD may identify when it reviews a future development application. ACHD noted that a new collector street is shown on the Master Street Map (MSM) to be located along the northern boundary of the site and that the applicant has shown a preservation of 35 feet for future right-of-way. The Boise Project Board of Control responded in Exhibit #35 that they have no objection as there are no Project facilities located on the property and that this portion of the property has no surface irrigation water rights. The City of Kuna recommended for Ada County to adopt the following conditions in Exhibit #29

1. Soil testing and test holes prior to development due to the historical soil content in this area.
  2. Provide depth to highest known ground water for the site since Kuna has high ground water and a large irrigation canal to the west of the site which could influence ground water in the area during irrigation season. Then obtain approval from Idaho Department of Water Resources that the natural burial will not affect ground water adversely.
  3. All bodies shall be in a concrete vault to protect the bodies from animals.
- I. *Political subdivisions, including school districts, will be able to provide services for the proposed use;*

The Commission finds that there has not been any evidence submitted into the record to indicate that political subdivisions would not be able to provide services for the cemetery.

## CONCLUSIONS OF LAW

If any of these Conclusions of Law are deemed to be Findings of Fact they are incorporated into the Findings of Fact section.

1. The Commission concludes that Project No. 201400337 CU-MSP complies with the Ada County Comprehensive Plan.
2. The Commission concludes that Project No. 201400337 CU-MSP complies with Section 8-4E-5 of the Ada County Code.
3. The Commission concludes that Project No. 201400337 CU-MSP complies with Section 8-5-3-24 of the Ada County Code.
4. The Commission concludes that Project No. 201400337 CU-MSP complies with Section 8-5B-5 of the Ada County Code.

## ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein, the Commission approves Project #201400337 CU-MSP, subject to the Conditions of Approval attached as Exhibit A and the Master Site Plan/Site Plan Drawing dated March 3, 2014.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

By: \_\_\_\_\_

John Seidl, Chairperson  
Ada County Planning and Zoning Commission

**ATTEST:**

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Mark Perfect, Secretary

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## EXHIBIT A

### CONDITIONS OF APPROVAL

**REQUIRED ACTIONS. THE FOLLOWING LIST DETAILS THE TASKS THAT MUST BE COMPLETED BEFORE THE APPROVAL OF FILE #201400337 CU-MSP WILL BE CONSIDERED FINAL. THE APPLICANT AND/OR OWNER HAVE UNTIL MAY 8, 2016 TO COMPLETE THE REQUIRED ACTIONS AND TO OBTAIN A ZONING CERTIFICATE UNLESS A TIME EXTENSION IS GRANTED. SEE SECTION 8-7-6 OF THE ADA COUNTY CODE FOR INFORMATION ON TIME EXTENSIONS. IF A BUILDING PERMIT IS REQUIRED, THE ZONING CERTIFICATE SHALL BE ISSUED WITH THE BUILDING PERMIT. THIS APPROVAL SHALL BECOME VOID IF A VALID ZONING CERTIFICATE HAS NOT BEEN ISSUED BY THAT DATE. SITE IMPROVEMENTS ARE NOT ALLOWED UNTIL THE ZONING CERTIFICATE HAS BEEN ISSUED.**

1. The applicant and/or owner shall obtain written approval of the development (site plan and/or use) from the agencies noted below. All site improvements are prohibited prior to approval of these agencies.
  - a) Idaho Department of Finance must approve the Cemetery for the creation of a perpetual care cemetery.
  - b) Central District Health must approve the septic permit.
  - c) The County Engineer must approve a surface drainage run-off plan. The plan shall contain all proposed site grading. Please contact the County Engineer at 287-7900 for fee and application information. See Section 8-4A-11 of the Ada County Code for drainage plan standards.
2. A preliminary plat for the cemetery must be submitted.
3. The off-street parking areas shall be improved with a compacted gravel base, not less than four inches (4") thick, surfaced with asphaltic concrete or some comparable all weather dustless material.
4. If the off-street parking area is not surfaced with asphaltic concrete then the County Engineer must approve some comparable all weather dustless material.
5. If required by the Ada County Building Code as set forth in Title 7, Chapter 2, of the Ada County Code, the applicant and/or owner shall obtain a building permit prior to commencing any development. Please contact the County Building Official at 287-7900 for fee and application information. The design and construction of the development shall comply with the approved and stamped master site plan and the Ada County Code.
6. The applicant and/or owner shall obtain written verification from ACHD that they have approved the construction of the driveway approach for proper ingress and egress of the development site. The verification must be on agency letterhead referring to the approved use.
7. Once construction is complete, the applicant shall request a zoning compliance inspection from the Development Services Department. Staff will check for compliance with the

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## EXHIBIT A

approved master site plan. The Director must approve any modification and/or expansion to the master site plan. See Section 8-4E-3 of the Ada County Code.

8. A Certificate of Occupancy will be issued when all of the above conditions have been met. In the event conditions cannot be met by the desired date of occupancy, the owner and/or applicant may request a surety agreement in lieu of completing the improvements. See Title 8, Chapter 4, Article K of the Ada County Code for the terms and regulations of surety agreements.

### **TERMS OF APPROVAL. THE FOLLOWING TERMS MUST BE COMPLIED WITH AT ALL TIMES OR YOUR APPROVAL MAY BE REVOKED.**

9. A zoning certificate and/or a building permit may not be issued until 15 days after the Commission issued the written decision on the proposed development. In the event the decision of the Commission is appealed, the building permit may not be issued until the appeal is resolved in favor of the proposed development. See Section 8-7-7 of the Ada County Code for more information on appeals.
10. The Director must approve any modification and/or expansion to the master site plan. See Section 8-4E-3 of the Ada County Code.
11. The use must comply with the specific use standards for a cemetery in Section 8-5-3 of the Ada County Code.
12. The property must be managed and maintained consistent with the standard regulations in Title 8, Chapter 4, Article A of the Ada County Code. Please note that this Article contains specific regulations regarding the accumulation of junk, atmospheric emissions, construction sites, hazardous material storage, outdoor public address systems, outdoor storage of chemicals and fertilizers, transmission line corridors, and utilities.
13. Any lighting on the site shall comply with the lighting regulations in Title 8, Chapter 4, Article H, of the Ada County Code.
14. The use must comply with the noise regulations in Ada County Code, Title 5, Chapter 13.

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