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The Appellant fails to show how the setback requirement was not met, nor shows what the Appellant believes the proper setback to be according to the Appellants interpretation of the Redmond Zoning Code. The Appellant states in their appeal application that "...The setback should be calculated as applied to the building envelope per RZC definition and not to the portion of the building with a minaret or mechanical room". The Appellant goes on further to quote the RZC's definition of "setback" and "setback line" as:

"Setback. The distance between a property line and the corresponding parallel setback line"

"Setback Line. A line beyond which, toward a property line, no structure greater than 30 inches above finished grade may extend or be placed except as permitted by the regulations of this title"

Neither definition mentions the measurement from the "building envelope". Additionally, as the "Setback Line" definition clearly states, structures above 30 inches in a setback may be permitted if specifically allowed within the code. RZC 21.08.280.D. clearly allows for structures within the setback line. The application as proposed meets setback requirements as required by RZC 21.08.280.D. This issue should be dismissed.

**3.) "The City erred in calculating required parking for assembly use"**

The application as proposed meets the required parking for the use proposed. The application, as proposed and approved, meets and exceeds the minimum amount of parking that is required of religious institutions in this use per the Redmond Zoning Code (RZC Table 21.08.080C). Additionally, the application falls below the maximum amount of parking that can be provided on-

site. Again, the Appellant incorrectly makes the assertion that the International Building Code (IBC) should be applied in determining the seating capacity of the proposal as prayer rugs do not meet “fixed seating”, “pew or bench”, or “moveable chairs or other portable seating fixtures”. Seating capacity, per RZC 21.08.080 ties parking directly with the amount of seating.

As conclusively shown earlier in this report, the intent of adopting the 2015 Edition of the IBC is to establish the IBC as the Building Code for the City. It was clearly not intended to supplement or offer interpretations of the Redmond Zoning Code under which this application has been filed.

The day to day parking generated by the multi-purpose room shown in the plans is already captured by the general parking requirements of the use. The multi-purpose room is not intended to be used simultaneously with worship services, and therefore does not generate parking demand on its own. However, in the cases of larger events at the facility (e.g. weddings), off-site parking and a transportation management plan has been provided for that meets the demand of the multi-purpose room. Twenty-nine (29) off-site parking stalls have been acquired for the purpose of larger events. The details of the parking calculations and program can be found in the December 20, 2016 transportation study conducted by Jake Traffic Engineering Inc (Exhibit 11) and the two updated traffic studies from Transportation Solutions, Inc. on July 24, 2017 (Exhibit 12) and November 16, 2017 (Exhibit 11). The applicant has not provided data or reasoning that suggests that this report is inaccurate.

The Appellant further states that the “...neighborhood already has issues with the Metro commuters overflow parking, and the Decision does not address those in any way”. It has been clearly shown that parking has been met on-site (in excess of the minimum and below the maximum) and street parking was not used as a part of the calculation. The proposed development does not impact the street parking and makes accommodations for special events off-site. The current conditions of street parking, that may or may not be caused by users of the Metro bus system, should not be considered as a part of this appeal determination. The application as proposed and approved meets the required parking for the use proposed and meets RZC 21.08.280.C.2. and this issue should be dismissed.

**4.) The City erred in reviewing traffic impacts of the project.**

The City did not err in reviewing the traffic impacts of the project. The Appellant claims that there were errors in the review of the traffic impact analysis based on four issues:

- A. Selective use of data, in particular the data collected during the Ramadan holiday
- B. Membership growth projections
- C. Suitability of U-turns due to limited sight distances on NE 51<sup>ST</sup> ST and 154<sup>TH</sup> Avenue NE
- D. Validity of traffic study data sourced from two planned mosque projects rather than existing mosque data

The Appellant has provided “a critique” of the traffic studies to the City that were used in the analysis of this project. However, the critique does not contain any factual data that run contrary to what the data used in the JTE and TSI have provided.

In relation to Issue A, a memo titled *Anjuman-E-Burhani Community Complex Response to WSDOT comments* (Exhibit 12) dated April 2017, Transportation Solutions, Inc (TSI) described that the trip generation was derived from on the data collected at the existing Dawoodi Bohra Community facility in Kirkland on a typical weekday evening prayer/event during Ramadan, on the last Friday of Ramadan, and on a typical Sunday during a community event. The last Friday of Ramadan, per the Dawoodi Bohra Community, represents one of the highest attendance days for the community. This last Friday of Ramadan is representative of peak attendance, trip generation and parking demand conditions. The highest attendance near the end of Ramadan was evident by a chart showing the number of car counts at AEB Seattle Masjid-Kirkland Prayer Center in 2013 during Ramadan (July 9 to August 7, 2013) obtained from the Attachment 3 of *Parking and Traffic Analysis Critique of Proposed AEB Mosque on NE 51<sup>st</sup> St in the City of Redmond* (Appellant’s Exhibit Z-80) provided by William Popp Associates dated March 23, 2017. The chart shows that the highest attendance occurs near the end of Ramadan.

In relation to Issue B, the memo titled *Anjuman-E-Burhani Community Complex Response to WSDOT comments* (Exhibit 12) dated April 2017, TSI described that per Dawoodi Bohra community leaders, the community membership growth is flat. However,

TSI conservatively assumed a 5 percent growth in community membership through next few years for the purposes of a standardized traffic analysis. TSI's revised trip generation was based on the community membership, currently 150 members and forecast 160 members after applying the 5% growth. The 5 percent growth forecast was deemed as reasonable and acceptable to the City of Redmond and the Washington State Department of Transportation (WSDOT) for the purposes of traffic analysis. It is important to remember that although the transportation study accounts for growth, it does not necessarily entitle the application to such growth. The number of seats have been approved as 147.

In relation to Issue C, U-turns at intersections in Washington state are legal unless specifically posted "No U-turns". The RCW 46.61.295 "U" turns states:

- The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety and without interfering with other traffic.
- No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within five hundred feet.

Per RCW 46.61.295, drivers also have the responsibility to determine if it is safe to execute U-turn maneuvers. The City's collision records show that there have been five accidents at the intersection of 154<sup>th</sup> Avenue NE and NE 51<sup>st</sup> Street over the past ten years. None of these appear to involve vehicles attempting a U-turn. In addition, recent traffic counts conducted at this intersection in the PM peak hour on September 29, 2016 show no-turn traffic occurs at this intersection. Following occupancy of the development, the City will observe 154<sup>th</sup> Avenue NE and NE 51<sup>st</sup> Street to see how many vehicles are making U-turns, and whether there are safety concerns with this maneuver. If staff observes a continuing pattern of unsafe U-turns, the City will post signs prohibiting this maneuver. City of Redmond Police will then be able to write citations for drivers making U-turns illegally.

In relation to Issue D, TSI re-calculated the trip generation based on data collected at the local existing Dawoodi Bohra Community facility in Kirkland. Existing trip generation was collected during and after Ramadan in 2017. The Ramadan surveys were conducted by Traffic Count Consultants, Inc and TSI staff collected the data on the non-Ramadan

day. Selecting the other two planned Mosque projects as a comparison was to respond to WSDOT's comments by conducting a sensitivity test to show a possible range of trip generation using the trip generation rates acceptable to other jurisdictions. Considering the size of the local Dawoodi Bohra Community and the flat growth of the limited membership, using the local trip generation data was deemed reasonable and acceptable to the City and WSDOT.

The Appellant has not submitted factual data that contradicts the City's findings. The City did not err in reviewing the traffic impacts of the project and requests that this issue be dismissed.

**5.) The City erred in approving a guest apartment to be part of the building**

The parsonage, as depicted, was correctly approved as part of the development. The split-level parsonage is connected by an internal elevator system that can only be accessed within the defined parsonage area. Furthermore, the parsonage contains only one cooking area split between the two levels which qualifies both levels as one dwelling unit. A dwelling unit is defined by RZC 21.78 "Dwelling Unit" as: "A single unit providing complete, independent living facilities for not more than one [family](#) and permitted roomers and boarders, including permanent provisions for living, sleeping, eating, cooking, and sanitation. A [mobile home](#), [manufactured home](#), modular home, apartment, condominium, townhouse, single-family attached or detached house, or [accessory dwelling unit](#) is considered to be a dwelling unit". The dwelling unit/parsonage is accessory to the main religious use.

As stated in an earlier portion of this report, RZC 21.76.100.D. allows for the Code Administrator (in this case the Director of Planning and Community Development) to issue an Administrative Interpretation. RZC 21.76.100.D.3. places the responsibility of interpreting provisions of the RZC, except where expressly provided otherwise, on the Code Administrator. It was incumbent on the Code Administrator to exercise RZC 21.76.100.D. for the processing of this land use application in determining whether or not a parsonage can be considered an accessory use to a religious institution (Exhibit 14). An administrative interpretation was issued on April 29, 2015 on this matter. The interpretation concluded that the RZC addresses the impacts associated with places of worship. RZC 21.08.280.A states that "This section is intended to ensure that the unique impacts associated with church, temple, synagogue, and mosque uses are addressed while still allowing for a wide range of possible locations for religious assembly". RZC 21.78

defines an “accessory use” as “a use customarily incidental to and on the same lot as the principal use of a building or operation and so necessary or commonly to be expected that it cannot be supposed that it was intended to be prohibited.

A parsonage is a residence provided within or adjacent to a religious institution to be used by one of its members and usually by a spiritual leader. It is not unrealistic to encounter a parsonage associated with a place of worship and should a particular faith desire to have a parsonage associated with their place of worship, it should be considered accessory to the permitted use. It should also be noted that properties that are within residential zones, like the R-5 zone in which this application is located in, allow for single-family development as a permitted use.

The Appellant fails to show how there is a “guest apartment” in addition to the parsonage. Furthermore, the Appellant is incorrect in asserting that a “guest apartment” is not allowed in the R-5 zone. Accessory dwelling units are an allowed use in all residential zones, and much like the parsonage, are considered an accessory use to the main allowed use of a single-family home. Accessory dwelling units are governed under RZC 21.08.220 “Accessory Dwelling Units” under the main chapter of RZC 21.08 “Residential Regulations”.

The parsonage, as depicted, was correctly approved as part of the development as an accessory use and this issue should be dismissed.

**6.) The City erred in not applying scale, bulk, and neighborhood character**

The City correctly applied scale, bulk, and neighborhood character to this project. Site plan entitlements, like the application being appealed, must be reviewed against the City’s design standards set in Article III “Design Standards” of the Redmond Zoning Code. A Design Standards Checklist (Exhibit 7) is used to demonstrate compliance to the City’s design standards, identify critical project design issues, and note how these issues have been addressed. The design is reviewed by the Design Review Board (DRB), which has the decision authority over Article III. The DRB reviews the project in context with the neighborhood of which the proposal is being built. The DRB found that the project met the intent of the RZC’s Article III Design Standards (Exhibit 9). The Design Standards Checklist specifically includes RZC 21.60.040(b)(2) “Building Scale” which addresses scale and bulk. Additionally, the Design Standards Checklist addresses RZC

21.60.040(B)(4) which addresses building details, materials, and colors which assures the use of high quality materials and ensures that it is compatible with the context of the neighborhood.

In the appeal form, the Appellant lists several of the City's Comprehensive Plan policies for the Overlake area. However, the Appellant does not elaborate on how the design, especially taken in context of the rigorous design checklist, fails to meet the comprehensive plan policies. As the Hearing Examiner is aware, the Redmond Zoning Code is an implementation tool of the City's Comprehensive Plan. Staff is confident that the Design Standards Checklist, which was also run through a public process and adjudicated by design professionals, was implemented correctly to further the Comprehensive Plans vision. All provisions for scale and bulk have been appropriately enforced. The City correctly applied scale, bulk, and neighborhood character to this project and staff requests that this issue be dismissed.

**7.) The City erred by not conditioning the application on overall building capacity.**

The City did not err by not conditioning the application on overall building capacity. The Redmond Zoning Code does not contain language to which the City may base their decision of approval upon the "overall building capacity" on religious institutions. The application of such a condition would be arbitrary and capricious when the land use application and its materials prove that the main use is a religious institution as allowed by RZC Table 21.08.080C. The multi-purpose room, to which the Appellant is apparently referring to, serves to further support the main use of the religious institution. Everything from the land use application process type to parking ratios rely on the number of seats (or as shown, equivalent of) the use is intended to support. As shown in Assertions 1 and 3, the application makes appropriate accommodations for up to 147 "seats". As demonstrated in Assertion 3, the day to day parking generated by the multi-purpose room shown in the plans is already captured by the general parking requirements of the use. The multi-purpose room is not intended to be used simultaneously with worship services, and therefore does not generate parking demand on its own. However, in the cases of larger events at the facility (e.g. weddings), off-site parking and a transportation management plan has been provided for that meets the demand of the multi-purpose room. Twenty-nine (29) off-site parking stalls have been acquired for the purpose of larger events. The details of the parking calculations and program can be found in the December 20, 2016 transportation study conducted by Jake Traffic Engineering Inc

(Exhibit 11) and the two updated traffic studies from Transportation Solutions, Inc. on July 24, 2017 and November 16, 2017 (Exhibit 12). The applicant has not provided data or reasoning that suggests that this report is inaccurate. The Appellant has not demonstrated why the overall building capacity must be included in the approval conditions. The City did not err by not conditioning the application on overall building capacity and therefore this issue should be dismissed.

**8.) The City erred by not incorporating any growth projections into its review process.**

The City is not required by the Redmond Zoning Code to incorporate growth projections for religious institutions, or any other private developments, when determining whether or not a Site Plan Entitlement meets the decision criteria of RZC 21.76.070.Y. The Site Plan Entitlement sets the maximum levels of seating capacity and associated use of this project. If it is shown that an applicant of a project goes beyond the limits set out by the approval of the Site Plan Entitlement, that will trigger enforcement action. Enforcement action may include (but not limited to) code enforcement action, additional conditions placed on the Site Plan Entitlement approval, and/or revocation of the entitlement. However, how the religious institution chooses to appropriate the 147-approved membership number is not the purview of the City or any other regulatory body.

The Appellant makes unsubstantiated claims such as “...many members of the congregation work in Internet Technology (IT)” and that “Washington State migration patterns and reasonable birth rate projections” were not taken into consideration when approving the application. The Appellant has not shown factual data from verifiable sources and an analysis of such data in order to justify the Appellant’s claim that the project is at “...capacity before it is issued building permits”. Whether or not such claims or data can be substantiated, it is ultimately inconsequential. As stated before, the Site Plan Entitlement sets out conditions of approval, and if any of the conditions of approval are exceeded or modified, the Site Plan Entitlement is subject to code enforcement and/or revocation.

The City is not required by the Redmond Zoning Code to incorporate growth projections for religious institutions and therefore acted within the bounds of the Redmond Zoning Code. Staff believes this issue should be dismissed.

**9.) The City erred by not complying with transit corridor preservation rules.**

The City has complied with RZC 21.28 and has complied with the transit corridor preservation rules. Per RZC 21.28.020 and RZC Figure 21.28.020.B, the High Capacity Corridor area is designated and mapped out for Sound Transit light rail development. Figure 21.28.020.B show the Sound Transit East Link project does not encroach into the Anjuman-E-Burhani property. Recent Sound Transit light rail plans are only at 5 percent design and show there may be a potential of up to 20 feet of either permanent or temporary easement(s) planned for the Anjuman-E-Burhani property for a noise wall. The Sound Transit 5% light rail design is still in a very early preliminary stage and the wall location may be adjustable to avoid encroaching into the Anjuman-E-Burhani property in the final design.

Depending on the timing of the construction of Anjuman-E-Burhani and the Sound Transit light rail project, the easement encroachment will be resolved regardless of which project gets built first. Communication and coordination between the City, Sound Transit and Anjuman-E-Burhani will occur. If the light rail project is constructed first, Sound Transit may need to acquire easement(s) from the Anjuman-E-Burhani property if the easement is absolutely required in the final design. In that scenario Anjuman-E-Burhani would need to then adjust the approved site plan or building footprint accordingly to accommodate that. In the event that Anjuman-E-Burhani is constructed first, and Sound Transit already knows the easement is necessary, staff will inform the applicant about this easement requirement during the Civil construction review process and require the Anjuman-E-Burhani to adjust the site plan to accommodate the easement. Per the Notice of Decision for Anjuman-E-Burhani shown in 1.a. (b) on page 9 (Exhibit 3) a condition exists stating that at the time of construction, additional easements may be required to accommodate the improvements as constructed.

The City has complied with RZC 21.28 and has complied with the transit corridor preservation rules and has adequately conditioned the approval. Staff requests that this issue be dismissed.

### **SECTION VIII. CONCLUSIONS IN SUPPORT OF THE STAFF RECOMMENDATION**

The Appellant has the burden to prove that the City erred in issuing the approval of the Type II Site Plan Entitlement of the Anjumann E Burhani proposal. The Appellant has provided no evidence to meet that burden and cannot establish that the City erred procedurally or substantively in issuing the approval.

The City has demonstrated through this report that:

1. The application, as proposed and approved, meets and exceeds the minimum amount of parking that is required of religious institutions in this use per the Redmond Zoning Code (RZC Table 21.08.080C).
2. The application as proposed meets setback requirements as required by RZC 21.08.280.D.
3. The application, as proposed and approved, meets and exceeds the minimum amount of parking that is required of religious institutions in this use per the Redmond Zoning Code (RZC Table 21.08.080C).
4. The City did not err in reviewing the traffic impacts of the project and relied on factual data to inform its decision.
5. The parsonage, as depicted, was correctly approved as part of the development.
6. The City correctly applied scale, bulk, and neighborhood character to this project.
7. The City did not err by not conditioning the application on overall building capacity.
8. The City is not required by the Redmond Zoning Code to incorporate growth projections for religious institutions, or any other private developments, when determining whether or not a Site Plan Entitlement meets the decision criteria of RZC 21.76.070.Y.
9. The City has complied with RZC 21.28 and has complied with the transit corridor preservation rules.

**SECTION IX.  
STAFF RECOMMENDATION**

Based on the analysis included in this report, staff recommends the Hearing Examiner deny the appeal of the approval of the Type II Site Plan Entitlement of the Anjumann E Burhani proposal.

**EXHIBIT 1**

Hearing Examiner

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