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## **Alameda County Orders Work to Stop on Proposed Cemetery**

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Work has begun on a cemetery in North Livermore before any required approvals or permits are in place. The area is within Alameda County's jurisdiction. Uses on the land are restricted by Measure D because it is outside the urban growth boundary.

The county public works department issued a stop-work order on Oct. 16.

Recently, two dozen people, including six rabbis, consecrated what is planned for use as a Jewish cemetery in Alameda County on 4.5 acres across Interstate 580 from Livermore. There is currently a Jewish Cemetery at Roselawn Cemetery.

The land is next to Las Colinas Road about halfway between the North Livermore Avenue and First Street freeway interchanges.

The Magen David (Star of David) cemetery will be a "cemetery within a cemetery," with Monte Vista Memorial Gardens (MVMG), occupying the remainder of the 105-acre site, according to T.W. Starkweather, chairman of MVMG.

The consecrators walked seven times around the boundary of the site in a ritual that emphasized the three basic pillars of Judaism: Torah, prayer and acts of goodness and kindness, said Rabbi Raleigh Resnick, who participated in the ceremony. He is spiritual leader of Chabad of the Tri-Valley.

Issues still need to be resolved regarding plans for a cemetery. Measure D backers contend that if there were cemetery-related buildings on the site, no matter how rural they look, their uses violate the Measure. The county has noted that Starkweather failed to conduct an environmental review and obtain permits from State Fish and Wildlife.

In discussing plans, Starkweather said that Magen David will be managed and operated by a group responsible for its maintenance. The management will be a completely parallel and separate structure to MVMG. "We are not building two funeral homes. When they need the infrastructure of our home on the site, we will make it available at nominal cost or no cost to the Jewish community," said Starkweather.

Starkweather said that Magen David exemplifies what Monte Vista can do for people of various beliefs — provide a place where they can conduct ceremonies and prepare plots in a manner unique to their own religion. He said that with 80 different ethnic groups in the county, it will be important in the future to have a cemetery that is able to meet the needs of any religion, or for that matter, any secular person. MVMG fills a need in the area, as other cemeteries are filling up, said Starkweather. He projects a likely 150-year life for the capacity of the cemetery, or perhaps longer.

Jewish people bury their dead with no concrete caps in the ground, above or below the coffin. Resnick said that it is consistent with belief in the Jewish scriptural quotation “Ashes to ashes, dust to dust.” In that vein, wooden coffins are used, and even the screws are wood, so they decay, unlike metal screws, said Resnick.

Starkweather said in planning a full service facility on the site that it is important to have one place in the area with full on-site funeral services, including a mortuary, chapel, crematorium, and a columbarium as a final resting place for ashes for those who prefer it.

There also will be 35 acres of vineyards, from which MVMG intends to produce 20,000 cases of wine in the early years, and eventually 50,000 cases. A well drilled on the property yields 1000 acre feet of water per year, far more than the 80 acre feet per year that will be needed on site to irrigate the vineyards and other needs.

Some 20 percent of the profits from MVMG will be going to good causes, to be determined by an 11-member board. Further, the Magen David cemetery has agreed to match that form of tithing, and add another 20 percent, to bring their total to 40 percent, said Starkweather.

MVMG is comprised of about a dozen investors who live in the Tri-Valley, including Livermore residents, among whom are former Mayor Marshall Kamena and retired Navy Captain Tom McCaffrey. The group are all friends who want to bring a full-service cemetery to the Valley, said Starkweather.

Starkweather said that the facilities will not look like a cemetery. CalTrans has built a 15-foot sound wall along Interstate 580 next to the property as part of its freeway widening project. The wall will screen out buildings from view. Passers-by will see only the ridge tops, which will have the vineyards on them.

Aesthetically, the grounds will look like a vineyard in Tuscany. The mortuary will resemble a rural barn, said Starkweather. All of the hearses will be electric. The work vehicles on the grounds will be powered by fuel cells. MVMG intends to achieve a platinum LEEDS rating for the whole facility. Funeral times will be confined to a period between 10 a.m. and 3 p.m., in order not to contribute to rush-hour traffic on I-580.

## **APPROVALS STILL NEEDED**

Starkweather is hoping for an opening in 2015, though it could go into 2016, he said.

After a site investigation was conducted, a county inspector noted that a “considerable area has been graded and filled with various materials between Las Colinas Road and Arroyo Las Positas.”

The county noted construction of a pedestrian bridge in the Arroyo Las Positas and the extension of the culvert to the tributary swale (at the arroyo).

“The work is in violation of the county’s grading and watercourse ordinance, and likely in violation of other state codes,” said the order. It referred to codes for the state Department of Fish & Wildlife and the Regional Water Quality Control Board.

The water quality board oversees discharges into streams and the alterations of their banks. Fish & Wildlife has oversight of threatened or endangered species habitat.

Andrew Hughan, a spokesperson for Fish & Wildlife, said there are three threatened or endangered species on the Monte Vista property: the tiger salamander, red-legged frog and burrowing owl.

Before Starkweather could do any of the work he began, he needed to have completed an environmental document, and submitted an application to Fish & Wildlife for the proposed work, which he did not do, said Hughan.

“This project does not have Fish & Wildlife approval. The bridge and any grading, on, in, around, or above state waters, needs to be addressed in the application and CEQA requirement,” said Hughan.

Starkweather said that there was a misunderstanding about the bridge. There already was a bridge on the property built by the previous owner. One of the investors fell down because of the bridge’s condition. Starkweather simply wanted to repair the bridge.

“The application was for a temporary crossing during the summer. It’s a bridge that’s 14-feet long. I paid the fee. I thought I was following the rules.”

Starkweather said he is leaving a career as a builder of shopping and industrial centers to work full time on the cemetery and the vineyard. He said he knew from his developer experience that sometimes there are situations that are categorically exempt from CEQA.

“I believed we were OK, but it turned out they felt I did too good a job in rebuilding a temporary system. As soon as they indicated that I didn’t follow the rules exactly, I removed the bridge,” said Starkweather.

County assistant engineer Andy Cho, who issued the stop-work order, confirmed to The Independent this week that the bridge has been removed. The culvert work remained.

## **DIFFERENCES ON MEASURE D**

Another concern raised about the cemetery come from backers of Measure D. Dick Schneider, who was co-author of Measure D, said that if the cemetery were simply for burial, and has no buildings, it would meet Measure D regulations, which govern agricultural lands in the unincorporated area outside the urban growth boundary.

However, structures such as a mortuary, chapel, columbarium or crematorium are not allowed in an agricultural zone, said Schneider.

Measure D sets forth uses allowed as “community facilities” in agricultural zones. Among them are schools, nursery schools, colleges, libraries, outdoor recreational facilities, certain public utility buildings or uses, and churches, convents and rectories.

Starkweather contended that MVMG is allowed to build on up to 45,000 square feet of impervious surface. He noted that his attorney has told him that all he needs to do, “under our present zoning,” is to acquire the necessary conditional use permits, and submit mitigation plans for such things as traffic.

However, Measure D supersedes former designations in the zoning ordinance, said Schneider. The legal language in Section 19 of Measure D is clear. Schneider quoted a passage of Measure D that says that no use permit may be granted if it conflicts with Measure D.

County assistant planning director Sandy Rivera said that she does not know the details of what MVMG wants, because there is no application submitted to the county. No CEQA document has been completed that is supposed to precede an application. However, Rivera said that Measure D is in the county General Plan. It governs questions in agricultural districts in the unincorporated areas.