

City of Albany



TO: ALBANY PLANNING & ZONING COMMISSION

FROM: ANNE HERSCH, AICP, CITY PLANNER

SUBJECT: PA 06-053 St. Mary's College High School Conditional Use Permit (CUP) & Design Review (DR)

DATE: NOVEMBER 14, 2012

Property Owner: St. Mary's College High School 1294 Albina St. Berkeley, CA 94706	Applicant/Representative: Vivian Kahn, Kahn Mortimer Associates 737 2nd Street, #307 Oakland, CA 94607
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PROJECT: St. Mary's High School CUP & DR FILE: PA 06-053 LOCATION: 1600 Posen St. GP LU: PQ-Public/Quai Public ZONING: PF-Public Facilities PLANNER: Anne Hersch	Original filing: 2006 Date Received: 4/27/2011 Date Deemed Complete: 10/11/2012 Date of Notice Posted/Mailed: 11/2/2012 Date of Public Hearing: November 14, 2012 Total number of days to hearing: 565 days
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REQUEST

The applicant is seeking approval of a Mitigated Negative Declaration, Conditional Use Permit (CUP) request, and Design Review for a new music 13,400 sq. ft. building at St. Mary's College High School. The CUP proposal includes a proposal for anticipated new buildings on campus as funding becomes available. If approved, the CUP will supersede previous CUPs and will establish new operating conditions for the school.

STAFF RECOMMENDATION

Staff recommends that the Planning and Zoning Commission receive the report and review the draft findings and conditions. The Commission as part of their review may also request additional information of the applicant. Since mediation is scheduled, this review provides one more opportunity for the Commission to request any additional information that may be helpful for a final decision.

Should the Commission take action on the application, staff recommends the following actions:

1. Review the draft Mitigated Negative Declaration (MND) and move to approve Resolution 2012-02 adopting the MND

2. Review the draft Conditional Use Permit (CUP) findings and conditions and move to approve Resolution 2012-03 approving the CUP
3. Review the Design Review request for the new music building at St. Mary's College High School and approve the submittal with project conditions

ANALYSIS

The Planning & Zoning Commission reviewed the project and held a public hearing on September 26, 2012. At that time, the Peralta Park Neighborhood Association and St. Mary's agreed to participate in mediation and asked that the Commission postpone action on the application.

Staff contacted different mediation services for availability and cost. The firm that was initially contacted on September 27, 2012 did not promptly return staff's phone calls. After a week without a returned phone call, staff contacted another mediation service on October 3, 2012. A preliminary estimate was received on Friday October 5, 2012. The estimate provided was too cost prohibitive for the parties involved. Staff then began searching other mediation services.

On the afternoon of October 11, 2012, staff received a returned phone from the firm that was initially contacted. They explained that they could provide mediation services on an hourly basis. Staff e-mailed the affected parties on October 12, 2012 to solicit their thoughts on this approach. The e-mail thread beginning on October 12, 2012 through November 2, 2012 detailing the potential dates and availability is included as Attachment 9 to the staff report. Staff solicited potential dates from the affected parties as well as the mediation service and maintained constant communication with Peralta Park Neighborhood Association representatives. There are total of ten parties participating in the mediation process. Mediation is scheduled for Tuesday November 20, 2012 at 2pm. The mediation will be held at City Hall and will include two representatives from St. Mary's, Community Development staff, and four representatives from the Peralta Park Neighborhood Association.

Non-Violent Communication, an Oakland based mediation service, has been retained to provide mediation services. It was agreed that the cost would be shared among the three parties participating.

The mediation is confidential and the details of the discussion will not be discussed publicly. Based on the request from the Peralta Park Neighborhood Association, it is anticipated that draft conditions will be discussed.

Correspondence

Attached are several pieces of correspondence from PPNA representatives requesting the Commission defer action on the application until the mediation runs its course. This is included as Attachments 4-8. All previously received correspondence can be found on the St. Mary's application page on the City's website.

From staff's perspective, extending the hearings into 2013 is inconsistent with our goal of completing several of the policy initiatives currently underway, initiating the General Plan, and prompt processing of other applications.

ATTACHMENTS

1. Resolution 2012-02 Mitigated Negative Declaration for St. Mary's College High School with Exhibit A: Mitigation Monitoring and Reporting Program (MMRP)
2. Resolution 2012-03 St. Mary's College High School CUP with Exhibit A: Conditions of Approval, Exhibit B: Project Plans, Exhibit C: MMRP
3. Resolution 2012-04 St. Mary's College High School Design Review Approval with Exhibit A: Conditions of Approval
4. Donna Dediemar E-Mail 11/7/12
5. Leni Siegel E-Mail 11/9/12
6. Lisa Friedlander E-Mail 11/9/12
7. Lori Copan E-Mail 11/9/12
8. Davis Krauter E-Mail 11/9/12
9. E-Mail thread detailing mediation coordination with St. Mary's and the Peralta Park Neighborhood Association

**ATTACHMENT 1
PLANNING & ZONING COMMISSION
RESOLUTION 2012-02**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ALBANY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, COMMISSION ADOPTING THE INITIAL STUDY-MITIGATED NEGATIVE DECLARATION FOR THE CONDITIONAL USE PERMIT FOR ST. MARY'S COLLEGE HIGH SCHOOL AND THE DESING REVIEW APPROVAL OF THE MUSIC BUILDING ST. MARY'S COLLEGE HIGH SCHOOL 1600 POSEN ST. ALBANY, CA 94706

WHEREAS, the City of Albany has received an application to amend and update the conditional use permit for St. Mary's College High School; and

WHEREAS, the application is defined as a "project" under the California Environmental Quality Act (CEQA) and is thus subject to environmental review; and

WHEREAS, the City retained the consulting firm Lamphier Gregory to prepare an Initial Study of the proposed Conditional Use Permit and Design Review application; and

WHEREAS, the Initial Study-Mitigated Negative Declaration (IS-MND) was made available to the public on June 1, 2012; and

WHEREAS, the City provided public notice of the availability of the IS-MND for public review and posted copies of the document on the City of Albany website for over 30 days; and

WHEREAS, the Albany Planning and Zoning Commission held a duly noticed public hearing to receive comments on the Initial Study-Mitigated Negative Declaration (IS-MND) on June 12, 2012; and

WHEREAS, a public hearing notice mailed to property owners within 300 ft. of the subject site and was posted in three public places on Friday, August 31, 2012 pursuant to California Government Code Section 65090;

NOW THEREFORE, BE IT RESOLVED THAT THE ALBANY PLANNING AND ZONING COMMISSION MAKES THE FOLLOWING FINDINGS:

a. The Planning and Zoning Commission has reviewed the record for the Mitigated Negative Declaration for the St. Mary's College High School Conditional Use Permit, including the Initial Study, all written and oral comments and the written responses thereto;

b. The documents and materials that constitute the record of proceedings shall be maintained with the City of Albany Community Development Department, 1000 San Pablo Avenue, Albany, CA 94706.

c. The Mitigated Negative Declaration identifies all potentially significant adverse environmental impacts and feasible mitigation measures or standard conditions of approval that would reduce these impacts to a less-than-significant level.

All of the mitigation measures identified in the Mitigated Negative Declaration, including those in the Mitigation Monitoring and Reporting Program, will be adopted and implemented as Conditions of Approval for the project. The Commission finds that on the basis of the whole record before it, there is no substantial evidence that the Project, as mitigated in the Mitigated Negative Declaration, will have a significant impact on the environment;

d. During the preparation of the Initial Study Checklist, it was determined that the Project would have no impact or have less-than-significant impact on the following environment factors: Aesthetics, Agricultural Resources, Hazards and Hazardous Materials, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation/Traffic, Utilities/Services System.

e. During the preparation of the Initial Study Checklist, it was determined that the Project would have a potentially significant impact on one or more of the following environmental factors: Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hydrology and Water Quality;

f. Consistent with CEQA Statutes and CEQA Guidelines, the Mitigated Negative Declaration contains a full and complete explanation as to how the potentially significant impact on these environmental factors are reduced to less-than-significant impact level by the incorporation of the required mitigation measures set forth in the Mitigation Monitoring and Reporting Program attached hereto as Exhibit A and incorporated herein;

g. The Mitigated Negative Declaration constitutes an adequate, accurate, objective and complete document prepared, published, circulated and reviewed in accordance with the requirements of CEQA and the City CEQA Guidelines;

h. The Commission has reviewed and considered the information contained within the Mitigated Negative Declaration prior to acting on the proposed Project, and that the Mitigated Negative Declaration reflects the independent judgment and analysis of the City;

i. Based on the independent judgment of the Council, finds that the Mitigated Negative Declaration, supported by the Mitigation Monitoring Program, is the appropriate document to comply fully with the requirements of the California Environmental Quality Act; and

j. The monitoring and reporting of CEQA mitigation measures in connection with the Project will be conducted in accordance with the Mitigation Monitoring and Reporting Program incorporated into the Conditions of Approval for the Project. Adoption of the Mitigation Monitoring and Reporting Plan will constitute fulfillment of the monitoring and reporting requirement set forth in § 21081.6 of CEQA. All proposed mitigation measures are capable of being fully implemented by the Project sponsor

k. The adoption of the Mitigated Negative Declaration by the Planning and Zoning Commission may be appealed to the Albany City Council pursuant to the

procedures established in the Planning and Zoning Code Section 20.100.080 of the Albany Municipal Code.

NOW THEREFORE BE IT RESOLVED, that the Albany Planning and Zoning Commission adopts the Mitigated Negative Declaration for the Saint Mary's College High School Use Permit Application and the Mitigation Monitoring and Reporting Program contained as Exhibit A.

PASSED, APPROVED AND ADOPTED this 14th day of November, 2012 by the following

vote:

AYES-

NOES-

ABSENT-

ABSTENTION-

Planning Commission Chairperson Arkin

ATTEST:

Anne Hersch, City Planner

**ATTACHMENT 2
PLANNING & ZONING COMMISSION
RESOLUTION 2012-03**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ALBANY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 06-053 ST. MARY'S COLLEGE HIGH SCHOOL 1600 POSEN ST. ALBANY, CA 94706

WHEREAS, the Albany City Council adopted Ordinance 04-09 Chapter 20 "Planning & Zoning" of the Albany Municipal Code on December 6, 2004; and

WHEREAS, Section 20.12.040 of the Albany Municipal Code requires a Conditional Use Permit for a private school in the PF-Public Facilities Zoning District; and

WHEREAS, the subject site is located in the PF-Public Facilities District; and

WHEREAS, St. Mary's College High School filed an application for a new Conditional Use Permit with the City of Albany on August 21, 2007;

WHEREAS, St. Mary's subsequently filed a modified application request on April 27, 2011 which contained a reduction in square footage previously proposed; and

WHEREAS, the Planning & Zoning Commission reviewed the initial application request at its September 27, 2011; and

WHEREAS, the Planning & Zoning Commission conducted a site walk of the St. Mary's campus on October 11, 2012 with School representatives, City staff, and members of the public to view story poles which were installed on-site that illustrate proposed building height; and

WHEREAS, the September 27, 2011 public hearing and October 11, 2011 site walk were publicly noticed and notices sent to residents and property owners within 300 ft. of the subject site pursuant to Government code Section 65090; and

WHEREAS, the application was deemed complete as part of the October 11, 2011 review; and

WHEREAS, the City of Albany authorized Lamphier-Gregory, an environmental consulting firm, to prepare an Initial Study for the proposed project after the October 11, 2011 site walk; and

WHEREAS, Lamphier-Gregory prepared a draft Mitigated Negative Declaration (MND) to analyze potential project impacts associated with the Conditional Use Permit request; and

WHEREAS, mitigation measures as part of the MND are recommended to minimize impacts associated with project development; and

WHEREAS, the MND was circulated for a thirty (30) day public comment period from June 6, 2012-July 6, 2012 pursuant to Section 15073 (a) of the California Environmental Quality Act Guidelines (CEQA); and

WHEREAS, the Planning & Zoning Commission held a public hearing on June 12, 2012 to receive public testimony related the MND during the public comment period; and

WHEREAS, a public hearing notice was sent to residents and property owners within 300 ft. of St. Mary's College High School pursuant to California Government Code Section 65090; and

WHEREAS, the Planning & Zoning Commission has held a public hearing, considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request; and

WHEREAS, Section 20.10.030 (E) grants authority to the Planning & Zoning Commission to impose Conditions of Approval to prevent or minimize impacts upon the public and the City's neighborhoods to ensure compatibility of land uses; and

WHEREAS, the final General Plan and the Zoning Code are incorporated herein by reference, and are available for review at City Hall during normal business hours.

NOW, THEREFORE, the City of Albany Planning & Zoning Commission does hereby **RESOLVE** as follows:

Findings for Conditional Use Permit approval (Per section 20.100.030.D of the AMC)

1. **Necessity, Desirability, Compatibility.** *The project's size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.*

St. Mary's College High School has been operating the 12.5 acre campus within the same area of Albany since 1903. The General Plan designates this area for Public/Quasi Public Facilities. A private school use is conditionally allowed in the PF-Public Facilities District. The project meets City zoning standards for location, intensity and type of development and has been conditioned to mitigate on-site and off-site impacts.

2. **Adverse Impacts.** *The project's use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:*

- a. *The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;*

The subject site is 12.5 acres. The proposed new construction will be located in the central portion of the campus and will be in scale and harmony with the surrounding area.

- b. *The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;*

The proposed new use permit will not increase enrollment beyond existing numbers of students and will not change access point to the campus. In addition, the new project conditions require approval of a Transportation Demand Management Plan and a Traffic & Parking handbook. Additionally, the City of Berkeley has requested a condition to further study traffic calming measures in their jurisdiction. Stakeholders including City of Berkeley staff, City of Albany staff, St. Mary's representatives and local residents, will convene to assess appropriate measures and implementation.

- c. *The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;*

Standard conditions related to noise, glare, dust and odor have been included as part of the Use Permit. This includes conditions related to project construction as well as on-going operating conditions.

- d. *Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;*

The applicant has concentrated the proposed construction projects to towards the interior of the campus. Existing landscaping will continue to be maintained and any future landscaping is required to go before the Planning & Zoning Commission for review and action.

- 3. ***Consistency with Zoning Ordinance, General Plan and Specific Plan.*** *That such use or feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.*

The City's current General Plan does not contain specific policies related to St. Mary's. The proposed project will not be detrimental to the health, safety, convenience and welfare of those in the area and would not adversely impact property, improvements or potential future development in the area.

NOW THEREFORE BE IT RESOLVED by the Planning & Zoning Commission of the City of Albany hereby approves Conditional Use Permit 06-053 St. Mary's College High School.

PASSED, APPROVED AND ADOPTED this 14th day of November, 2012 by the following vote:

AYES-

NOES-

ABSENT-

ABSTENTION-

Planning Commission Chairperson Arkin

ATTEST:

Anne Hersch, City Planner

EXHIBIT A
PLANNING COMMISSION RESOLUTION 2012-03
CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT 06-053

A. GENERAL PROJECT CONDITIONS

1. **Project Approval.** This Conditional Use Permit (CUP) approval is for St. Mary's College High School (SMCHS) located at 1600 Posen Avenue (mailing address 1294 Albina Avenue, Berkeley, CA), as substantially shown and described on the CUP date received April 27, 2011 (Application) and plans date received August 23, 2012, as presented to the Planning and Zoning Commission on _____, except as may be modified by conditions herein. The operation of the school and any new construction authorized by this CUP must substantially conform to this CUP.
2. **Effect of CUP.** This CUP is the guiding document for the construction and operation of the SMCHS. This CUP shall supersede all previous conditional use permits for SMCHS.
3. **Design Review Required.** The CUP does not include Design Review entitlement approval for any future new construction, addition or alteration to existing buildings. Future construction will be required to go through the Design Review process pursuant to Section 20.100.050 of the Albany Municipal Code.
4. **Review of CUP Compliance.** The Planning & Zoning Commission reserves the right to review and determine if SMCHS is complying with the CUP. Failure to comply with the CUP may result in revocation of the CUP subject to public notification and formal public hearing pursuant to Albany Municipal Code Section _____.
5. **Hold Harmless Agreement.** Pursuant to Government Code Section 66474.9, SMCHS (including any agent thereof) and Albany Municipal Code Section 20.100.010(N) shall defend, indemnify, and hold harmless, the City of Albany and its agents, officers and employees, from any claim, action, or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul the City's approval concerning this application, which action is brought within the time period provide for in Section 66499.37. The City will promptly notify SMCHS of any such claim action or proceeding and cooperate fully in the defense.
6. **Procedure for Amendments to the CUP.** Minor changes of a technical nature to the CUP may be approved administratively by the Community Development Department utilizing public notice requirements of the Planning and Zoning Code. Refinements to a particular construction project previously approved in the CUP may be approved pursuant to Design Review procedures or Planned Unit Development procedures contained in the Planning and Zoning Code. The following changes should be considered substantive in nature constituting a major amendment to the CUP, and shall be subject to the appropriate level of CEQA review and Planning and Zoning Commission approval:
 - a. Any changes in the approved use to operate as a private religious high school;
 - b. Any increases in enrollment beyond 630 students;

- c. Material changes in size or location or general function of buildings;
 - d. Material changes in location and amount of parking;
 - e. Material changes in internal automobile circulation system; or
 - f. Material changes in vehicle or pedestrian access from nearby streets onto campus,
7. **Non-Conforming Uses and Structures.** All improvements and uses in place on the Effective Date of the CUP are considered lawful and may be continued in use even if such existing use or structure does not conform to existing standards (e.g., legal non-conforming uses and structures).
8. **Site Regulations.** This CUP does not constitute a granting of any variance or exception to City of Albany requirements. All future improvements associated with the CUP shall be subject to the Planning and Zoning Code requirements in effect at the time of application for Design Review, including site regulations associated with the Public Facilities zoning district. SMCHS may submit an application for a Variance or Planned Unit Development as allowed by the Planning and Zoning Code, and the City has its regular discretion in consideration of any such applications.
9. **Subsequent Conditions of Approval.** The City of Albany reserves the right to impose conditions of approval related to the subsequent approval of Design Review or a building permit. Such additional conditions shall be based on standard city procedures and Federal, State, Regional or City regulatory requirements in effect at the time of the subsequent approval. Subject matter covered by subsequent conditions of approval may include:
- a. general engineering,
 - b. site drainage
 - c. grading,
 - d. infrastructure,
 - e. utility services,
 - f. repair of construction-related damage to public streets and sidewalks
 - g. water quality,
 - h. air quality,
 - i. off-site public improvements,
 - j. pollution controls,
 - k. location of construction staging, access, storage
 - l. construction noise and dust controls
 - m. campus parking during construction
 - n. construction employee parking during construction
 - o. traffic controls during construction
 - p. fire department requirements, and
 - q. police department requirements.
10. **Effective Date.** The issuance of this CUP shall be effective fourteen (14) days after the Planning & Zoning Commission decision.
11. **Severability.** Approval of the CUP would not have been granted but for the applicability and validity of each and every one of the specified conditions and mitigation, and if any

one or more of such conditions and mitigations is found to be invalid by a court of competent jurisdiction this CUP would not have been granted without requiring other valid conditions and mitigations consistent with achieving the same purpose and intent of the CUP.

12. **Fees.** SMCHS shall pay all applicable City and other related fees, as may be modified by conditions herein. Fees shall be based on the fee structure in effect at the time the relevant permits are secured, and shall be paid before issuance of said permit or before any City Council final action approval. Notice shall be taken specifically of Plan Check, Engineering, Fire and Inspection Fees. SMCHS shall also reimburse the City for direct costs of planning; building and engineering plan check and inspection, as mutually agreed between the City and SMCHS.
13. **Requirement for Building Permit.** Approval of this CUP does not constitute a building permit or authorization to begin any construction or demolish an existing structure. An appropriate permit issued by the Community Development Department must be obtained before constructing, enlarging, moving, converting, or demolishing any building or structure within the City.
14. **MMRP.** The applicant shall comply with all mitigation measures associated with the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (MMRP).

B. OPERATING CONDITIONS

1. **Athletic Field.** The conditions of approval associated with the Athletic Field Renovation Project approved by the Planning and Zoning Commission on October 16, 2007 remain in full force and effect, and incorporated below.

A. Weekday Use of the Athletic Field for Practice

- Team practices will end by 6:30 p.m.
- Team practices will cease use of whistles at 6:00 p.m.
- Batting-cage practice will cease at 6:00 p.m.
- On seven (7) occasions in the Spring athletic season (February 1-May 31) team practices may last until 7:15 p.m. Batting practice and use of whistles will cease by 6:00 p.m. on those days.
- No whistles, batting practice, hitting of baseballs, or repetitive shouting will occur before school on the athletic field.

B. Weekend Use of the Athletic Field for Practice

- Organized team practices, including field setup, will begin Saturdays after 9:00 a.m. & end by 3:00 p.m. The Athletic Field will not be used on Sundays by SMCHS's athletic teams or by outside organizations.

C. Use of the Athletic Field for Interscholastic Athletic Contests

(These conditions apply to games held on weekdays and Saturdays.)

- SMCHS's will continue to follow the existing practices of using amplified sound for football games and, when appropriate, at NCS playoff games. Volume will be

kept at a level so that neighborhood impacts are minimized. Amplified music will not be used on the field, with the exception of half-time cheerleader routines at football games. Non-amplified live music (e.g., pep bands) is allowed.

- Litter produced by the crowd during games will be removed immediately following interscholastic athletic contests.
- Activities surrounding Saturday interscholastic athletic contests will begin after 9:00 a.m. and end by 5:30 p.m. unless extended by overtime or extra innings. Exceptions to the ending time may occur if the Bay Shore Athletic League (BSAL), North Coast Section (NCS), or California Interscholastic Federation (CIF), or similar athletic league governing body, determines the starting times for post-season contests (i.e., playoffs).
- The Athletic Field will not be used on Sundays by SMCHS's athletic teams or by outside organizations.
- SMCHS's may host one special athletic event per year sponsored by an outside organization (e.g., CYO, American Cancer Society, etc.).
- Number of CIF Regular-Season Athletic Contests on SMCHS's Athletic Field:
 - 5 Football games per team 6th game is allowed once during a four-year period.)
 - 4 Track-meets (a 5th meet is allowed once during a four-year period.)
 - 24 Baseball games
 - 39 Soccer games (including all teams.)
 - 3 Lacrosse games (including all teams.)
- North Coast Section (NCS) playoff contests may be hosted by SMCHS's in baseball, soccer, football and lacrosse only in those years when SMCHS's teams qualify for the post-season and the team is seeded high enough to host a contest.

D. Summer Program (June 1-August 15) Use of the Athletic Field

- Summer Programs will begin after 9:00 a.m. and end by 5:00 p.m. Only activities involving, SMCHS's students, potential students, and staff will use the field.
 - Summer Sports Camps on the field will include the Sports & Fitness Camp (which runs concurrently with SMCHS's Summer School program), a one-week football camp for elementary- and middle-school-aged students (1 p.m. to 5 p.m.), and a one-week baseball camp for elementary- and middle-school-aged students (9 a.m. to 4 p.m.).
 - The Athletic Field will not be used on Saturdays or Sundays by SMCHS's teams or by outside organizations.
2. **Annual Report Process For Athletic Field Usage:** SMCHS shall prepare and submit an annual report on athletic field usage, no later than July 1st, beginning July 1, 2013, and continue annually thereafter. The Planning and Zoning Commission may change the frequency of annual reports if it makes a finding that SMCHS has operated the athletic fields in substantial compliance with previously approved operating parameters, CUP, and any other future conditions of approval associated with the athletic field. The annual report shall include:
- a. A detailed listing of standard field usage patterns for the forthcoming academic year, including actual hours of operation for each individual team. Detailed listing of special

events drawing more than 50 participants and spectators, or special events generating unusual level of noise or traffic shall also be included. Field use patterns shall conform to the limits and guidelines described in Condition J-1.

- b. A report from an independent licensed arborist, or other appropriate professional, on the condition of approved landscaping and maintenance practices related to landscaping.
 - c. A detailed review of design review, use permit, and other conditions of approval associated with the athletic field, including Special Conditions J-1.
3. **California Environmental Quality Act.** Pursuant to the California Environmental Quality Act (CEQA) requirements, an Initial Study and Mitigated Negative Declaration on the Campus CUP Project dated ____ was prepared and approved by the Planning and Zoning Commission on _____. The MMRP is incorporated by reference and included as Exhibit C.
 4. **Approved Use.** The primary use of the SMCHS campus is a private coeducational high school (grades 9 through 12) operated by a religious corporation under the Nonprofit Religious Corporation Law for religious purposes. SMCHS shall maintain in good standing and accreditation. Other ancillary or temporary uses, shall be limited to activities typically pursued by private East Bay high schools and shall be related to the school's religious purpose, educational mission, or related community service. All ancillary or temporary uses shall comply with all relevant conditions of approval.
 5. **School Calendar.** SMCHS shall operate with a standard school calendar typical of private East Bay high schools, with the start of the school year in August, holiday break in December, and completion of the school year in June. SMCHS shall maintain online one complete, accurate calendar of all events, including those of the athletic fields and the gym or other facilities, for the entire calendar year.
 6. **Enrollment.** St. Mary's College High School (SMCHS) may operate a co-educational high school facility for grades 9 through 12 beginning in September, 1995, for up to 600 total students. The maximum enrollment figures may be exceeded on an absolute basis by up to five percent to allow for attrition and other student body changes.
 7. **Summer Programs.** Other summertime ancillary or temporary uses shall be limited to activities typically pursued by private East Bay high schools and shall be related to the school's religious purpose, educational mission, or related community service. All summer activities shall comply with all relevant conditions of approval. Summer programs should be sized in a manner so that student, guest, and staff parking can be reasonably expected to be absorbed on campus (taking into consideration 44 public parking spaces on Posen Avenue previously included in Resolution 93-47 which were included in the count of total spaces available for school). No summer programs shall be scheduled on weekends or holidays during the summer.

Whenever possible, phasing of major construction should be scheduled so that if possible, major interruptions to the availability of on-campus parking and heavy construction-

related traffic occurs during summer months. During these periods of time, summer programs should be further reduced in scale.

8. **Hours of Operation.** Academic programs shall be scheduled to begin no earlier than 7:00 a.m. Student activities such as athletics and performing arts shall be completed and guests and participants off campus by 10:30 p.m. cleared from the neighborhood by 11 p.m. SMCHS is allowed to schedule six events per year that shall be completed and guests and participants off campus by 12:00 midnight and cleared from the neighborhood by 12:30 a.m. This principle of timely clearing of the campus and the neighborhood shall apply regardless of when any event actually ends. No events shall begin earlier than 9:00 a.m. or end later than 5:00 p.m. during the summer recess. No academic programs shall be scheduled on the weekends or holidays during the summer.
9. **Gross Square Footage.** The total gross square footage of building area on the campus shall be consistent with the plans provided by the applicant date stamped received August 23, 2012. Approximately 652 sq. ft. of classroom space in Cronin Hall previously restricted from use shall be returned to use as a classroom. It is duly noted that the Brothers' Residence expansion has been withdrawn from the application request resulting in a decrease of 2,500 sq. ft. from the project scope.
10. **Emergency Preparation, Response, and Recovery.** St. Mary's shall prepare and submit to the Albany Fire Chief and Emergency Management Plan. The plan shall be prepared based on guidelines for schools published by FEMA and CALEMA (California Emergency Management Agency).

C. CONSTRUCTION REQUIREMENTS

1. **Construction Hours.** Construction activity shall be restricted to the hours of 8:00 a.m. to 6:00 p.m. Mondays through Saturdays, and 10:00 a.m. to 6:00 p.m., Sundays and legal holidays, unless otherwise approved in writing by the City Engineer for general construction activity. (AMC Chapter 8.1 (7) (g)) Failure to comply with construction hours may result in stop work orders or other administrative actions.
2. **Construction Traffic and Parking.** Prior to the issuance of a demolition, grading or building permit, SMCHS and the construction contractor shall meet with appropriate City of Albany agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction and other nearby projects that could be simultaneously under construction. SMCHS shall develop a construction management plan for review and approval by both the Albany and Berkeley Planning and Zoning Departments. The plan shall include at least the following items and requirements:
 - a. A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes.
 - b. Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours and lane closures will occur.

- c. Location of construction staging areas for materials, equipment, and vehicles at an approved location as far as practicable from nearby residences.
 - e. Provision for accommodation of pedestrian and bicycle flow.
 - f. Provision for parking management and spaces for all construction workers and their equipment to ensure that construction workers or construction equipment and vehicles do not occupy on-street spaces nor displace parking for students and school staff.
3. **Storm Water Management.** SMCHS shall obtain all necessary development and land subdivision permits for the portions of the storm water management systems that are located within the City of Berkeley. Storm water management plans shall be consistent with C3 compliance standards.
 4. **Stormwater Pollution Prevention Plan.** The project developer shall submit a Stormwater Pollution Prevention Plan (SWPPP) for review by the City before the issuance of a building or grading and/or building permit. The SWPPP shall be consistent with standards adopted by the Regional Water Quality Control Board and the City of Albany Clean Water Program and implemented by the project general contractor, all subcontractors and suppliers of material and equipment. Construction site cleanup and control of construction shall also be addressed in the SWPPP. The project developer shall be responsible for SWPPP compliance. A copy of the SWPPP shall be kept at the construction site at all times.
 5. **Fire Department Approval.** As part of a building permit application, the applicant shall submit written documentation that all requirements of the Albany Fire Department have, or will be, met to the satisfaction of the AFD.
 6. **Engineering Approval.** As part of a building permit application, the applicant shall submit written documentation that all requirements of the Public Works Department have, or will be, met to the satisfaction of the City Engineer.
 7. **Archeological Remains.** In the event subsurface archeological remains are discovered during any construction or preconstruction activities on the site, all land alteration work within 100 feet of the find shall be halted, the Community Development Department notified, and a professional archeologist, certified by the Society of California Archeology and/or the Society of Professional Archeology, shall be notified. Site work in this area shall not occur until the archeologist has had an opportunity to evaluate the significance of the find and to outline appropriate mitigation measures, if deemed necessary. If prehistoric archeological deposits are discovered during development of the site, local Native American organizations shall be consulted and involved in making resource management decisions.
 8. **Grading Permit.** Any grading shall require a grading permit from the Community Development Department. To obtain this permit, the applicant shall submit a grading plan, indicating the extent and volumes of earth proposed to be moved. A grading permit is subject to 2001 California Building, Appendix 33.

9. **Demolition Permit.** Site demolition and/or building permits shall not occur until construction (do you mean demolition?) permits are issued. All demolition shall be in accordance with permits issued by the City and Bay Area Air Quality Management District (BAAQMD).
10. **Water on Site.** The site shall be graded so as to prevent rainfall runoff originating from improved areas on the project site from crossing onto adjoining private property. Building floor elevations shall be above the FEMA-mapped 100-year flood plain as established by a licensed civil engineer. Provide the elevation and compaction certificates during and upon the completion of grading required by the Uniform Building Code and in conformance with the recommendations of the geotechnical engineer's report. Shore and dewater all excavations in accordance with the requirements of the geotechnical engineer's report.
11. **Flooding Damages.** SMCHS shall execute an assumption of risk, indemnification and hold harmless agreement as required by the City. The agreement, in substance, shall state that the project developer, and any successor in interest, shall assume all risk for damages to the project and to project improvements, flooding caused by surface water intrusion, stormwater runoff, or water under the ground surface pressing on or flowing or seeping through foundations, walls, floors, or paved surfaces, basements, whether paved or not, or windows, doors or other openings, and shall indemnify and hold the City harmless from any claims of such damages, including third-party claims, of such damage or of such damages or of damages arising from rainfall runoff which is not prevented from leaving the project site in violation of Condition 11.
12. **Dust Control Program.** A dust control program shall be prepared and approved by the Community Development Department and City Engineer before issuance of a grading permit. The dust control plan shall address such items as covering stockpiled material, frequent watering of graded areas, revegetating graded areas, speed limits for grading equipment and similar items.

D. TRANSPORTATION MANAGEMENT

1. **Transportation Coordinator.** SMCHS shall designate a staff person as the school's Transportation Coordinator, responsible for traffic, parking and events. SMCHS shall adopt written parking and traffic rules and procedures, and incorporate rules and procedures by reference in all enrollment contracts with student families.
2. **Traffic Monitors.** The Transportation Coordinator shall retain traffic monitors or assign them from the existing SMCHS community to oversee morning and afternoon school commute traffic and after school events. The traffic monitors shall be responsible for facilitating traffic and enforcing the rules of conduct included in the Handbook and TDM. Morning monitors shall stay in place until the school day begins. Traffic monitors shall be provided with colored safety vests. The traffic monitors shall report violators of the driving and parking rules to the Transportation Coordinator.
3. **Transportation Demand Management Program.** The draft Transportation Demand Management Program (TDM) submitted by SMCHS as part of this application request

shall be evaluated by the Albany Traffic & Safety Commission for adequacy with demand management policies. If the Commission determines that draft TDM is inadequate, the applicant revise the document to the satisfaction of the Traffic & Safety Commission for final approval.

Goals of the TDM shall include but not be limited to the following:

- a. Maximizing pedestrian and vehicle safety
 - b. Minimizing traffic congestion and vehicle queuing
 - c. Minimize adverse impacts on availability of parking on surrounding streets,
 - d. Encouraging students and faculty to take public transportation, carpool, walk/bike to school
 - e. Actively pursue an increase in AC Transit service to the school
 - f. Actively pursue transportation links between campus and BART and/or major AC Transit lines during peak hours
 - g. Provide discounted transit passes
4. **Managing Major Events-** The TDM shall include provisions for Major Events when the on-site parking is not sufficient for the number of guests expected. Measures may include shuttle or valet services and/or off-site over-flow parking options. Traffic monitors shall be positioned during overflow events to intercept and direct traffic to over-flow parking off-site locations prior to its entering Albina and Posen Avenues or Hopkins Court once on-site spaces are occupied. Written copies of overflow parking agreements with the owners of the overflow parking lots shall be submitted to the City to be kept with the file.
5. **Traffic & Parking Handbook-** The applicant shall prepare a Traffic & Parking Handbook which shall include but not be limited to neighborhood parking policies/restrictions, a detailed explanation of the pick-up and drop off process including directions/instructions, traffic & safety rules for students, parents, and faculty, and special events parking information. The draft handbook shall be prepared and submitted to the Albany Community Development Department and reviewed by the Traffic & Safety Commission for adequacy. The applicant shall prepare and submit a draft handbook within sixty (60) days from the date of approval for review by the City of Albany.
6. **Communication of Rules.** Within 30 days of the first semester following approval of the TDM and the Handbook, the Transportation Coordinator shall inform staff and faculty employee or SMCHS contractors as well as each student and his/her parent or guardian, and provide them with the Traffic and Parking Handbook, which shall also be made available on the school's website. The Transportation Coordinator shall describe the rules and policies of the Handbook including detailed explanation of document policies, procedures, and penalties for violation. As a condition of employment or enrollment, employees/contractors, students, and parents/guardians of each student shall be provided and required to sign a contract acknowledging the applicable policies contained in the TDM and Traffic & Parking Handbook.
7. **Annual Report Process.** SMCHS shall prepare and submit an annual report summarizing construction management, event management, transportation management plan, and athletic field usage. The athletic field portion of the annual report shall comply with the condition of approval No. _____ in this CUP. The Planning and Zoning Commission shall hold a public hearing on the annual report. Public notice shall be provided 10 days

before the public hearing to all property owners and residents within 300 feet of the campus. The purpose of the public hearing is to receive public comment on construction management, event management, transportation management plan, and athletic field usage during the prior year and review operating parameters to ensure that SMCHS is operating consistent with CUP and other City requirements. The Planning and Zoning Commission may change the frequency of annual reports if it makes a finding that the school has operated in substantial compliance with the CUP and other operating parameters.

8. **Event Management.** SMCHS shall designate a staff person as the school's Events Coordinator, responsible for preparing and distributing to all staff and faculty written procedures regarding the scheduling of evening and weekend events that may result in exceptional traffic and parking volumes on nearby residents. Particular consideration shall be given to:

- a. Limit large events to functions that are germane to the school's educational mission;
- b. Providing advance notice to neighbors of large events;
- c. Avoid scheduling simultaneous events that cumulatively overwhelm neighborhood roadway and parking capacity; and
- d. Discouraging students and guests from congregating outdoors in parking areas or public right of way close to nearby residences after evening and weekend events.

9. **City of Berkeley Traffic Calming-** An update to previous traffic calming studies shall be undertaken on Albina Avenue and Hopkins Court and should include data collection for speeds, traffic volumes, parking occupancies, and updates on observations of the intersection of Albina Avenue and Hopkins Court. When completed, a comparison and summary should be made with the previous studies (conducted by Korve in 2003 and 2005) and new, if any, recommendations provided. This will provide a longitudinal study that would be the basis for improvements, if any, and any further outreach to the local neighborhood should that become necessary.

City of Berkeley staff will determine the next steps, if any, regarding appropriate traffic calming measures. Upon conclusion of this determination, SMCHS shall provide up to \$20,000 (placed in a mutually acceptable escrow account) for implementation of said measures. If no agreement between Berkeley and the Albina Avenue/Hopkins Court neighbors is reached as to which measures, if any, would be implemented, the money would be returned to the SMCHS within one year of placement of said funds in the escrow account.

E. SCHOOL COORDINATORS AND NEIGHBORHOOD OUTREACH

1. **Construction Management.** The school shall designate a staff person as the school's Construction Coordinator, responsible for neighborhood outreach during the construction projects. Construction management responsibilities include scheduling a preconstruction meeting with neighbors before the start of construction of any significant element as approved by the CUP.

2. **Neighborhood Liaison Committee** - SMCHS shall designate a Neighborhood Liaison Committee to resolve conflicts and maintain communications between SMCHS and the surrounding neighborhood. SMCHS should initiate the Committee formation no later than the first month after approval of the CUP. The Committee shall include the following composition:
 - Up to three neighbors from the Peralta Park Neighborhood Association (PPNA)
 - SMCHS representatives. SMCHS may appoint additional parties to the Committee.
 - Albany Community Development staff will attend the meetings as necessary.

The Committee shall meet at least once a semester to discuss issues related to SMCHS activities. Additional meetings may be held at the discretion of SMCHS as requested by neighborhood participants. The meetings will have an agenda which will be forwarded to Albany Community Development staff.

3. **Point of Contact-** SMCHS shall designate a representative on-site to act as the primary point of contact and as the Complaint Manager for the School. The Complaint Manager shall develop a list of procedures and protocols to track and timely respond to complaints/concerns raised by neighbors related to the school's operations including but not limited to traffic, noise, etc. The procedures and protocols shall include timely review of complaints and the procedures by which the Committee will resolve the issues in a timely manner.

F. DESIGN REVIEW REQUIREMENTS

1. **Application for Design Review.** All new construction and renovation of existing structures, including fencing and other screening, are subject to Design Review, pursuant to Planning and Zoning Code Section 20.100.050, as may be amended from time to time.
2. **Material Samples.** Samples of final exterior materials and the proposed color palette shall be submitted for review and approval by the Community Development Department as part of building permit application.
3. **Exterior Lighting.** As part of the Design Review process, SMCHS shall submit a lighting plan, which shall be reviewed and approved by the Planning and Zoning Commission, prior to processing a building permit application. All exterior lighting shall be installed in such a manner that glare is shielded or directed away from surrounding properties and rights-of-way. If required, exterior light fixtures shall be equipped with "cut off" lenses to minimize light and glare spill over onto adjacent properties.
4. **Interior Lighting.** Interior lighting shall be provided with occupancy and/or time of use controls and installed in a manner to avoid direct illumination or glare outside of the building. A final site lighting plan demonstrating compliance with this standard shall be submitted to the Planning & Zoning Commission as part of Design Review.
5. **Landscape Plan.** As part of the Design Review process, SMCHS shall submit a landscape plan, which shall be reviewed and approved by Planning and Zoning Commission, before

processing a building permit application. The landscape plan shall show existing landscaping, landscaping to be removed, proposed landscaping, and irrigation systems. The landscape plan shall include a landscape maintenance agreement to be completed between the City and SMCHS before installation of landscaping, to guarantee the establishment of new trees and landscaping as approved by design review.

6. **Signage.** All construction/installation of signage shall be subject to the standards and procedural requirements of the Planning and Zoning Code.
7. **Public Art.** As part of the Design Review, SMCHS shall submit to the Arts Committee and the Planning and Zoning Commission a conceptual description of the public art elements of the project, pursuant to the procedures in place at the time of the application for Design Review.
8. **Temporary Buildings and Storage Containers.** No additional storage containers or temporary buildings shall be allowed on campus at any time, unless expressly approved by the City of Albany as part of design review or a building permit. As a condition of approval of the use of shipping containers or temporary building, a fixed date for removal must be established. While in use, square footage of temporary buildings and storage containers shall count towards total square footage allowed in the CUP. No additional storage containers or temporary buildings shall be converted to classroom facilities or to free up other space that could be converted to classroom facilities except as needed arising from an emergency, including but not limited to a fire or natural disaster. (Construction trailer and portable rest rooms associated with an active construction project are not subject to this requirement.) At build-out of the CUP, all such temporary buildings and storage containers must be removed.
9. **Sustainable Building Practices.** As part of an application for design review approval, SMCHS shall meet the requirements of the City of Albany Green Building requirements utilizing the Collaborative High Performance School (CHPS) Best Practices Manual and Scorecard and seek to achieve the maximum feasible number of points.
10. **Codornices Creek.** Codornices Creek should be considered an important campus asset, and student access to the creek should be encouraged and building design should allow for views and access to the creek as applicable. In addition, any construction of structures, grading, landscaping or other site work within 100 feet of the center-line of Codornices Creek shall take into consideration regulatory requirements and best management practices including preservation and enhancement of riparian vegetation, preservation of habitat, improving water quality in the creek, erosion control, etc.
11. **Refuse & Recycling Enclosures**-No refuse or recycling enclosures shall be situated in view of the neighboring properties. All enclosures shall be kept rodent and odor free.

G. PARKING CONDITIONS

1. **Parking.** The general configuration and location of on-campus parking shall conform to the approved CUP plans. As part of the Design Review process, SMCHS shall submit a construction parking and construction access plan, which shall be reviewed and approved

by the Planning & Zoning Commission before processing a building permit application. The Community Development Director may approve short term (30-days or less) reduction in on-campus parking or change in construction access.

2. **Parking Dimensions.** Dimensions and landscaping of parking areas shall comply with the requirement of the Planning and Zoning Code and the California Building Code.
3. **Parking of School-owned Vehicles.** The location of parking spaces reserved for school-owned vehicles shall take into consideration the appearance from neighboring properties or the public right-of-way and shall be screened or landscaped where practical.

H. NOISE

1. **Noise General.** The School operation shall comply with Section 8-1 “Noise of the Albany Municipal Code at all times.
2. **Noise Generation.** The installation of any bells or loudspeakers shall comply with the City of Albany’s noise standards, and are subject to review by the Community Development Department and/or the Planning and Zoning Commission.

Appeals: The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council, if such appeal is filed within 14 days of the date of the action. Appeals shall be initiated by completing the required form and paying the required fee to the City Clerk.

EXHIBIT B
CONDITIONAL USE PERMIT PLANS
(SEPARATE PAGE)

EXHIBIT C
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

**ATTACHMENT 3
PLANNING & ZONING COMMISSION
RESOLUTION 2012-04**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ALBANY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, APPROVING DESIGN REVIEW FOR ST. MARY'S COLLEGE HIGH SCHOOL NEW MUSIC BUILDING 1600 POSEN ST. ALBANY, CA 94706

WHEREAS, the Albany City Council adopted Ordinance 04-09 Chapter 20 "Planning & Zoning" of the Albany Municipal Code on December 6, 2004; and

WHEREAS, Section 20.100.050 of the Albany Municipal Code requires Design Review for new non-residential construction 400 sq. ft. or greater; and

WHEREAS, St. Mary's College High School filed an application for a Design Review for a Music Building on campus with the City of Albany on August 21, 2007;

WHEREAS, the Planning & Zoning Commission reviewed the initial application request at its September 27, 2011; and

WHEREAS, the Planning & Zoning Commission conducted a site walk of the St. Mary's campus on October 11, 2012 with School representatives, City staff, and members of the public to view story poles which were installed on-site that illustrate proposed building height; and

WHEREAS, the September 27, 2011 public hearing and October 11, 2011 site walk were publicly noticed and notices sent to residents and property owners within 300 ft. of the subject site pursuant to Government code Section 65090; and

WHEREAS, the application was deemed complete as part of the October 11, 2011 review; and

WHEREAS, the City of Albany authorized Lamphier-Gregory, an environmental consulting firm, to prepare an Initial Study for the proposed project after the October 11, 2011 site walk; and

WHEREAS, Lamphier-Gregory prepared a draft Mitigated Negative Declaration (MND) to analyze potential project impacts associated with the proposed Music Building; and

WHEREAS, a public hearing notice was sent to residents and property owners within 300 ft. of St. Mary's College High School pursuant to California Government Code Section 65090; and

WHEREAS, the Planning & Zoning Commission has held a public hearing, considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request; and

WHEREAS, Section 20.100.050 (D) grants authority to the Planning & Zoning Commission to evaluate the project application for adherence to standards contained in Section 20.100.050 (D) (1) (a-l) and impose Conditions of Approval to ensure design compatibility; and

WHEREAS, the final General Plan and the Zoning Code are incorporated herein by reference, and are available for review at City Hall during normal business hours.

NOW, THEREFORE, the City of Albany Planning & Zoning Commission does hereby **RESOLVE** as follows:

1. *The project conforms to the General Plan, any applicable specific plan, applicable design guidelines adopted by the City of Albany, and all applicable provisions of this Chapter.*

The General Plan designates this area for Public/Quasi Public uses. A private school use is conditionally allowed in the PF-Public Facilities District. The project meets City zoning standards for location, intensity and type of development.

2. *Approval of project design is consistent with the purpose and intent of this section, which states “designs of projects...will result in improvements that are visually and functionally appropriate to their site conditions and harmonious with their surroundings, including natural landforms and vegetation. Additional purposes of design review include (but are not limited to): that retention and maintenance of existing buildings and landscape features are considered; and that site access and vehicular parking are sufficient.”*

The proposal is in scale and harmony with existing development in the vicinity of the site. The architectural style, design and building materials are appropriate for the setting. The proposed project will provide safe and convenient access to the property.

3. *Approval of the project is in the interest of public health, safety and general welfare.*

The proposed project will modernize and improve the St. Mary's College High School campus by creating a modern music facility with proper sound-proofing and acoustic insulation. The new Music Building will support the health, safety, convenience and welfare of those in the area and will eliminate music practices/uses currently held in the gymnasium.

4. *The project is in substantial compliance with applicable general and specific Standards for Review stated in Subsection 20.100.050.D.*

The project as designed is in substantial compliance with the standards as stated, including access, architecture, natural features, coordination of design details, retention and maintenance of buildings, and privacy.

NOW THEREFORE BE IT RESOLVED by the Planning & Zoning Commission of the City of Albany hereby approves Design Review for the New Music Building at St. Mary's College High School.

PASSED, APPROVED AND ADOPTED this 14th day of November, 2012 by the following vote:

AYES-

NOES-

ABSENT-

ABSTENTION-

Planning Commission Chairperson Arkin

ATTEST:

Anne Hersch, City Planner

EXHIBIT A
PLANNING & ZONING COMMISSION RESOLUTION 2012-05
ST. MARY'S COLLEGE HIGH SCHOOL
CONDITIONS OF APPROVAL – DESIGN REVIEW FOR THE NEW MUSIC BUILDING
SEPTEMBER 12, 2012

GENERAL PROJECT CONDITIONS

- 1. Project Approval.** This Conditional Use Permit for St. Mary's College High School, as substantially provided in the staff report, may be modified by conditions herein. Plans include the report and project correspondence, as presented to the Planning and Zoning Commission on September 12, 2012. For any condition herein that requires preparation of a Final Plan where the project developer has submitted a conceptual plan, the project developer shall submit final plan(s) in substantial conformance with the conceptual plan, but incorporate the modifications required by the conditions herein for approval by the City.
- 2. Project Approval Expiration.** This Conditional Use Permit approval will expire on June 26, 2013 unless a building permit has been issued and construction diligently pursued. The approval may be renewed by the Community Development Director for a period up to an additional two (2) years, provided that, at least ten (10) days prior to expiration of one (1) year from the date when the approval becomes effective, an application for renewal of the approval is filed with the Community Development Department. The Community Development Director may grant a renewal of an approval where there is no change in the original application, or there is no request to change any condition of approval.
- 3. Fees.** The applicant shall pay all City and other related fees applicable to the property, as may be modified by conditions herein. Fees shall be based on the current fee structure in effect at the time the relevant permits are secured, and shall be paid prior to issuance of said permit or prior to any City Council final action approval. Notice shall be taken specifically of Plan Check, Engineering, Fire and Inspection Fees. The project developer shall also reimburse the City for direct costs of planning; building and engineering plan check and inspection, as mutually agreed between the City and developer.
- 4. Appeals.** The Albany Municipal Code provides that any action of the Planning staff may be appealed to the Planning and Zoning Commission, and any action of the Planning and Zoning Commission may be appealed to the City Council as per the procedures described in Section 20.100.080. The City Clerk will then schedule the matter for the next available City Council meeting.
- 5. Requirement for Building Permit.** Approval granted by the Planning and Zoning Commission does not constitute a building permit or authorization to begin any construction or demolish an existing structure. An appropriate permit issued by the Community Development Department must be obtained prior to constructing, enlarging, moving, converting, or demolishing any building or structure within the City.

- 6. Fire Department Approval.** As part of a building permit application, the applicant shall submit written documentation that all requirements of the Albany Fire Department have, or will be, met to the satisfaction of the AFD.
- 7. Engineering Approval.** As part of a building permit application, the applicant shall submit written documentation that all requirements of the Public Works Department have, or will be, met to the satisfaction of the City Engineer.
- 8. Construction Hours.** Construction activity shall be restricted to the hours of 8:00 a.m. to 6:00 p.m. Mondays through Saturdays, and 10:00 a.m. to 6:00 p.m., Sundays and legal holidays, unless otherwise approved in writing by the City Engineer for general construction activity. Failure to comply with construction hours may result in stop work orders or other administrative actions.
- 9. Archeological Remains.** In the event subsurface archeological remains are discovered during any construction or preconstruction activities on the site, all land alteration work within 100 feet of the find shall be halted, the Community Development Department notified, and a professional archeologist, certified by the Society of California Archeology and/or the Society of Professional Archeology, shall be notified. Site work in this area shall not occur until the archeologist has had an opportunity to evaluate the significance of the find and to outline appropriate mitigation measures, if deemed necessary. If prehistoric archeological deposits are discovered during development of the site, local Native American organizations shall be consulted and involved in making resource management decisions.
- 10. Modifications to Approved Plans.** The project shall be constructed as approved. Planning staff may approve minor modifications in the project design, but not the permitted land use (per Municipal Code Section 20.12). A change in an item requiring discretionary approval and any other changes deemed appropriate by the Planning staff shall require further Planning and Zoning Commission approval through the Design Review process.
- 11. Hold Harmless Agreement.** Pursuant to Government Code Section 66474.9, the applicant (including any agent thereof) shall defend, indemnify, and hold harmless, the City of Albany and its agents, officers and employees, from any claim, action, or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul the City's approval concerning this application, which action is brought within the time period provide for in Section 66499.37. The City will promptly notify the applicant of any such claim action or proceeding and cooperate fully in the defense.
- 12. Public Improvements Standards.** Public improvements shall be designed and constructed in accordance with the City's Standard Specifications and Standard Details, unless specifically waived in writing by the City Engineer.
- 13. Title 24 Standards.** All construction shall be designed and built in accordance with California Title 24 disabled accessibility standards. Appropriate details and specifications shall be incorporated into the plans and submitted at time of building permit application.

14. Energy Conservation Standards. All buildings shall be designed in accordance with the State of California energy conservation standards for non-residential buildings. The necessary plans and documentation shall be submitted at time of building permit application.

Architecture Condition

1. **Material Samples.** Samples of final exterior materials and the proposed color palette shall be submitted for review and approval by the Community Development Department as part of building permit application.
2. **Final Architectural Drawings.** The applicant shall submit final architectural elevations, details and revisions for the review and approval of the Community Development Department as part of building permit application.

Lighting Conditions

1. **Exterior Lighting.** All exterior lighting shall be installed in such a manner that glare is directed away from surrounding properties and rights-of-way. If required, exterior light fixtures shall be equipped with “cut off” lenses to minimize light and glare spill over onto adjacent properties.
2. **Shielding of Lighting.** All accent lighting shall be directed downward and, if necessary, fixed with cut-off lenses to ensure that no glare spills onto neighboring properties.

Landscaping Conditions

1. **Tree Preservation.** All existing trees on the site shall be preserved to the fullest extent practicable. Removal will be allowed only upon prior written approval from the Community Development Department.
2. **Water Efficient Landscaping.** The project shall comply with the requirements of Section 12-7 of the Albany Municipal Code “Water Efficient Landscaping” and the latest Bay Friendly Basics policy. The applicant shall submit landscape plans for plan check at the time of building permit submittal to be reviewed for consistency.
3. **Landscape Plan Review.** The landscape plan shall be submitted with the building permit application and reviewed by staff.

PUBLIC WORKS DEPARTMENT CONDITIONS

General Engineering Conditions

1. **Title Report.** A recent preliminary title report for the property, prepared within six months of the date of application, shall be submitted to the City Engineer for review. If any interior lot line(s) exist, the applicant must obtain approval of a minor lot line adjustment from the City to remove the interior lot line(s), and cause that lot line adjustment to be recorded before any building permits will be issued.

2. **Geo-Technical Report.** The applicant shall submit, as part of a building permit application, a geotechnical investigation report prepared by a California certified engineering geologist and geotechnical engineer, if determined necessary by the City Engineer. The investigation shall specifically address any hazards of surface fault rupture in accordance with the Alquist-Priolo Special Study Zones Act. Any mitigation measures or conditions requiring further review noted during the Planning process shall be fully addressed prior to plan check.
3. **Backflow Device.** Any required water service for fire protection purposes shall be equipped with a City approved backflow device. Services for irrigation purposes also require a separate City approved backflow prevention device.

GRADING CONDITIONS

1. **Grading Permit.** Any grading required in association with the project shall require a grading permit from the Community Development Department. To obtain this permit, the applicant shall submit a grading plan, indicating the extent and volumes of earth proposed to be moved. A grading permit is subject to 2001 California Building, Appendix 33.
2. **Demolition Permit.** Site demolition shall not occur until construction permits are issued for the development project. All demolition shall be in accordance with permits issued by the City and Bay Area Air Quality Management District (BAAQMD).
3. **Water on Site.** The site shall be graded so as to prevent rainfall runoff originating from improved areas on the project site from crossing onto adjoining private property. Building floor elevations shall be above the FEMA-mapped 100-year flood plain as established by a licensed civil engineer. Provide the elevation and compaction certificates during and upon the completion of grading required by the Uniform Building Code and in conformance with the recommendations of the geotechnical engineer's report. Shore and dewater all excavations in accordance with the requirements of the geotechnical engineer's report.
4. **Flooding Damages.** The project developer shall execute an assumption of risk, indemnification and hold harmless agreement as required by the City. The agreement, in substance, shall state that the project developer, and any successor in interest, shall assume all risk for damages to the project and to project improvements, flooding caused by surface water intrusion, stormwater runoff, or water under the ground surface pressing on or flowing or seeping through foundations, walls, floors, or paved surfaces, basements, whether paved or not, or windows, doors or other openings, and shall indemnify and hold the City harmless from any claims of such damages, including third-party claims, of such damage or of such damages or of damages arising from rainfall runoff which is not prevented from leaving the project site in violation of Condition GRAD-3.
5. **Dust Control Program.** A dust control program shall be prepared by the project developer and approved by the Community Development Department and City Engineer before issuance of a grading permit. The dust control plan shall address such items as covering stockpiled material, frequent watering of graded areas, revegetating graded areas, speed limits for grading equipment and similar items.

6. **Stormwater Pollution Prevention Plan.** The project developer shall submit a Stormwater Pollution Prevention Plan (SWPPP) for review by the City before the issuance of a building or grading and/or building permit. The SWPPP shall be consistent with standards adopted by the Regional Water Quality Control Board and the City of Albany Clean Water Program and implemented by the project general contractor, all subcontractors and suppliers of material and equipment. Construction site cleanup and control of construction shall also be addressed in the SWPPP. The project developer shall be responsible for SWPPP compliance. A copy of the SWPPP shall be kept at the construction site at all times.

Infrastructure Conditions

1. **Sewer System Requirements.** The sewer system for the subject building shall comply with Chapter 15 of the Albany Municipal Code and to the satisfaction of the City Engineer before Final Inspection approval of the construction permit.
2. **Two-Way Cleanout.** Installation of a two-way curbside cleanout shall be required per Chapter 15 of the Albany City Code. This applies to all properties, including properties with a valid upper sewer lateral certificate of compliance. All 2-way curbside clean outs shall be fitted with a loose cap in accordance with the City's standard detail SS6.
3. **Property Run-off Requirements.** All runoff from impervious surfaces shall be intercepted at the project boundary and shall be collected and conducted via an approved drainage system through the project site to an approved storm drain facility, as determined by the City Engineer. Development that contributes additional water to the existing drainage system shall be required to complete a hydraulic study and make improvements to the system as required to accommodate the expected ultimate peak water flow and to stabilize erosive banks that could be impacted by additional storm water flow.
4. **Roof Drainage.** Roof drainage from the structure shall be collected via a closed pipe and conveyed to an approved storm drain system off the street curb. No concentrated drainage of surface flow across sidewalks shall be permitted. Alternative natural treatment measures are subject review and approval by the City Engineer.
5. **Hydraulic Calculations.** The applicant shall submit hydraulic calculations, prepared by a California licensed civil engineer, necessary to determine if the existing water and sewer mains that serve this lot have available capacity for the addition of the proposed development. If capacity is not available, sewer and water mains of adequate size shall be designed and secured prior to issuance of building permits and constructed in a manner acceptable to the City Engineer prior to occupancy release, unless determined otherwise by the City Engineer.
6. **Completion of Off-Site Improvements.** Off-site improvements, as required by the City Engineer, shall be complete before issuance of a Certificate of Occupancy unless alternatives are approved in writing by the Albany City Engineer.

Public Improvements Conditions

1. **Encroachment Permit.** The applicant shall obtain an encroachment permit from the Engineering Division before commencing any construction activities within any public right-of-way or easement.
2. **Debris Removal.** All mud, dirt or construction debris carried off the construction site onto adjacent streets shall be removed each day. No materials shall be discharged onto a sidewalk, street, gutter, storm drain or creek.
3. **Damage to Street Improvements.** Any damage to street improvements now existing, done during construction on, or adjacent to the subject property, shall be repaired to the satisfaction of the City Engineer at the full expense of the applicant. This shall include sidewalk repair, slurry seal, street reconstruction or others, as may be required by the City Engineer.
4. **Right-of-Way Construction Standards.** All improvements within the public right-of-way, including curb, gutter, sidewalks, driveways, paving and utilities, shall be reconstructed in accordance with approved standards and/or plans and shall comply with the standard plans and specification of the Community Development Department and Chapter 14 of the City Code.

Fire Department Conditions

1. **Construction of 1,500 Square Feet or Greater.** 1500 sq. ft. or more or any addition, remodel, rehabilitation, etc. is 50% of the existing sq. ft.:
 - a) This dwelling will be required install an Automatic Fire Extinguishing System throughout the entire dwelling. Ordinance No. 94-010, Albany Municipal Code, Chapter 11, Section 11-2.3a(3)(a).
 - b) Plans, information sheets on all sprinkler components and hydraulic calculations are required.
 - c) A 110-volt interconnected smoke alarm system with a 10-year lithium battery back-up is acceptable with a fire suppression system.
2. **Fire Rated Construction.** Any portion of a building five (5) feet or less from the property line shall comply with fire-rating requirements of the CBC.
3. **Gallons-per-Minute Requirement.** The water system for fire protection shall comply with City of Albany Fire Department standards. Fire flow test data and water system plans must be provided at time of building plan check. The plans must include all equipment, components and layout of the system. Private fire protection water systems shall be supplied through an approved backflow device per City Engineering Division standards.
4. **Distance From Fire Hydrant.** Before building permit issuance the distance from existing fire hydrants to the building shall be verified and if necessary, a new hydrant shall be shown on the plans and installed prior to combustible construction.

Structural Control Measures

1. **Illegal Dumping to Storm Drain Inlets and Waterways.** On-site storm drain inlets shall be clearly marked with the words “No Dumping! Flows to Bay,” or equivalent, using methods approved by the City of Albany.
2. **Pesticide/Fertilizer Application.** Landscaping shall be designed to minimize irrigation and runoff, promote surface infiltration where appropriate, and minimize the use of fertilizers and pesticides that can contribute to stormwater pollution. If a landscaping plan is required as part of a development project application, the plan shall meet the following conditions related to reduction of pesticide use on the project site:
 - a) Where feasible, landscaping shall be designed and operated to treat stormwater runoff by incorporating elements that collect, detain, and infiltrate runoff. In areas that provide detention of water, plants that are tolerant of saturated soil conditions and prolonged exposure to water shall be specified.
 - b) Plant materials selected shall be appropriate to cite specific characteristics such as soil type, topography, climate, amount and timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment.
 - c) Existing native trees, shrubs, and ground cover shall be retained and incorporated into the landscape plan to the maximum extent practicable.
 - d) Proper maintenance of landscaping, with minimal pesticide use, shall be the responsibility of the property owner.

Operational Best Management Practices (Bumps)

1. **Stormwater Pollution Prevention Control Measures.** The project plans shall include stormwater pollution prevention and control measures for the operation and maintenance of the project during and after construction for the review and approval of the City or County Engineer. The project plan shall identify Best Management Practices (Bumps) appropriate to the uses conducted on-site in order to limit to the maximum extent practicable the entry of pollutants into stormwater runoff.
2. **Erosion Control Measures.** The project plan shall also include erosion control measures to prevent soil, dirt and debris from entering the storm drain system, in accordance with the practices outlined in the *BAG Erosion and Sediment Control Handbook*, California Storm Water Best Management Practice Handbooks, and Regional Water Quality Control Board’s *Erosion and Sediment Control Field Manual*
3. **Responsibility of Contractors.** The applicant is responsible for ensuring that all contractors and subcontractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction Bumps shall result in the issuance of correction notices, citations and/or a project stop order.
4. **Paved Sidewalks and Parking Lots.** Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. Debris resulting from pressure washing shall be trapped and collected to prevent entry into the storm drain system. Wash water containing any soap, cleaning agent or degreaser shall be collected and discharged to

the sanitary sewer and shall not be discharged to a storm drain. The applicant shall contact the City Engineer for specific connection and discharge requirements.

5. **Private Streets, Utilities and Common Areas.** The owner of private streets and storm drains shall prepare and implement a plan for street sweeping of paved private roads and cleaning of all storm drain inlets.

General Construction Best Management Practices

1. **Construction Access Routes.** Construction access routes shall be limited to those approved by the City Engineer and shall be shown on the approval grading plan.
2. **Collection of Construction Debris.** Gather all construction debris on a regular basis and place them in a dumpster or other container that is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.
3. **Removal of Waste.** Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.
4. **Sweeping of Public Right-of-Way.** Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping.
5. **Filter Materials at Storm Drain Inlet.** Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to:
 - a) start of the rainy season (October 1);
 - b) site dewatering activities;
 - c) street washing activities;
 - d) saw cutting asphalt or concrete; and
 - e) order to retain any debris or dirt flowing into the City storm drain system.Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash.
6. **Containment of Materials.** Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides, or any other materials used on the project site that have the potential for being discharged to the storm drain system by wind or in the event of a material spill.
7. **Cleaning of Equipment.** Never clean machinery, tools, brushes, etc., rinse containers into a street, gutter, storm drain, or stream. See the *Building Maintenance/ Remodeling* flyer for more information.
8. **Minimize Removal of Natural Vegetation.** Minimize removal of natural vegetation or ground cover from the site in order to minimize the potential for erosion and sedimentation problems. Replant the area as soon as possible. All cut and fill slopes shall be stabilized as soon as possible after grading is completed. No site grading shall occur between

October 1 and April 15 unless approved erosion and sedimentation control measures are in place.

Parking Conditions

1. All parking solutions shall conform to the approved plans as shown in the plans, as described in condition GEN-1 and maintained available for parking as shown on approved plans.

Appeals:The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council, if such appeal is filed within 14 days of the date of the action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee. The City Clerk will then schedule the matter for the next available City Council meeting.

From: [DONNA DEDIEMAR](#)
To: [Anne Hersch](#)
Date: Wednesday, November 07, 2012 10:58:46 PM

Commissioners:

It will come as no surprise to you that I am writing to encourage you to again postpone action on the St. Mary's CUP application to a date uncertain. While I completely understand why staff wants this issue resolved before the new year, it is an unwise and unwarranted push for action on an issue that has been difficult and contentious for years. The desire of the parties - both St. Mary's and the PPNA - to engage in discussions/mediation, rather than to rush to final judgment to meet an arbitrary deadline, should be honored. It will allow both the neighbors and the school to be vested in any compromises than can be achieved, and will lay the groundwork for the creation of a long term working relationship between all parties.

Certainly you must wonder how more time will do any good, since the topic of mediation/facilitation/negotiation has been with us for many years. In fact, there have been attempts of this sort several times in the past, all without success. What is different this time is that we have specifics to deal with. Everyone has long known what issues are significant to the neighbors: traffic, parking, noise, visual impacts. With the new application for a CUP it is now possible to address those issues in a positive and definitive way.

PPNA has done exhaustive research into the background of expansion at St. Mary's, and has studied the expansions and use permits of similar schools in the Bay Area. We have met with officials from Head Royce, for instance, to see how that school, which also has had a history of contentious relations with its neighbors, has begun to turn the situation around. We have had frank discussions with other school officials to see what it is that we don't know or understand about the governance of private schools so that we might understand what effect our demands might have on St. Mary's.

We have gathered information on other similar private high schools to see what their facilities are like, what curriculum and sports they are able to offer, what their surrounding neighborhoods look like and how those schools potentially impact their surroundings. We have done all this in order to make certain that our demands are not unreasonable, that our concerns are not phantom, that our motives are not less than honorable. We have hired consultants in order to make certain that we are not overreaching. We have made ourselves available to meet to discuss our differences with the school, and we have agreed to every condition for such meetings that have been put in front of us, not because we thought the conditions were reasonable or necessary, but rather to do whatever seemed necessary to further the process.

The road to reconciliation has been fraught with difficulties and the process has not proceeded as quickly as we would have liked, but we are now at a place where it can happen. We finally have a date for one session of mediation. PPNA has made a side by side comparison of the conditions put forth by staff and those suggested by PPNA so that they will be easier to discuss one topic at a time. We have not just proposed conditions; we have explained each problem that we are trying to resolve through that condition. We are not tied to our words, but rather to the results that might be achieved if our concerns are addressed. But there is not the tiniest doubt that the process of resolving our differences will take more than one session or one day with a mediator.

You need to allow us to begin this process, now that we have spent nine weeks setting it up. Please let staff know that a kick-the-can-down-the-road approach, which simply has the Commission take action on the assumption that one or both parties is likely to appeal to the City Council anyway, is inappropriate, undesirable, and worst of all, likely to be a self-fulfilling prophesy. I respectfully request that you continue this matter to a date uncertain, let us meet as long as we are making progress, and return to the Commission with agreement on as many items as we can possibly manage - even if it means that the process outlives the current Commission. It will truly be in the best interest of St. Mary's, the neighbors, and the City of Albany.

Sincerely,

Donna DeDiemar

1316 Albina Ave., Berkeley

Anne Hersch

From: Leni Siegel [leni.siegel@sbcglobal.net]
Sent: Friday, November 09, 2012 8:10 AM
To: Anne Hersch
Cc: mchltmpkns7@yahoo.com; 'Watry, Andrew (LNG-SFR)'
Subject: St. Mary's CUP

Dear Anne Hersch-

As a neighbor who has lived directly next to St. Mary's for over 20 years, it is alarming to read that St. Mary's is once again, attempting to create buildings that potentially will negatively impact the quality of life in our community and discontinue the CUP provisions that neighbors have fought so hard to maintain: boundaries of appropriate use, size and enrollment at their campus. St. Mary's needs to be reined in, not given free rein to overdevelop its property. St. Mary's seems to forget that it is nestled and completely surrounded by a RESIDENTIAL community of single family dwellings, that our concerns are valid and need to be considered and addressed more completely before any action is taken by the Planning and Zoning Commission on their new request.

What St. Mary's does and how big they get affects us in our daily lives. We prepare for games and events that implode our neighborhood on a regular basis during the day and at night. We want assurance from the Planning and Zoning Commission that the needs of the men, women, children and grandchildren living in our homes have equal weight in making any decisions or granting any CUP permits to St. Mary's College High School.

New operating conditions that are vague and do not comply with former limits imposed on St. Mary's are a serious concern for me. Any additional permits for buildings need to be looked at individually and studied carefully. No carte blanche for St. Mary's.

I am opposed to granting the Mitigated Negative Declaration, Conditional Use Permit request. I am requesting that all past and pertinent CUP provisions be upheld in the best interests of the community.

Thank you.

Leni Siegel
1566 Posen Avenue

From: [Lisa Friedlander](#)
To: [Anne Hersch](#)
Subject: St. Mary's application
Date: Friday, November 09, 2012 8:43:10 AM

Dear Commissioners,

I am writing to request that you postpone any action of St. Mary's application until PPNA, St. Mary's and staff have time to follow through on the mediation process that was finally able to be scheduled.

The changes requested by St. Mary's in its current application have far-reaching consequences for our neighborhoods, and the effects of those changes on our daily lives will continue to affect us for years to come. Please do not rush through these decisions without allowing the parties to at least try, in this new format, to find some common ground, and to work out some solutions that will work for both the school and the neighborhood.

The members of PPNA have spent countless hours researching ways that other schools and communities have worked out some of these issues, and solutions are possible, as long as there is some willingness on both sides to work together. If you rule on this issue next week, all impetus for compromise will be gone, and this chance to create a bit of good will will be as well.

These are not phantom issues, and we are not obstructionist NIMBYs. I have attended Albany P&Z meetings regarding issues with St. Mary's for close to 15 years - ever since the ramifications of St. Mary's 1994 expansion began to impact our lives daily, and believe me there is nothing I long for so much as never having to spend another evening in the Albany council chambers or another weekend meeting with consultants and other neighbors for the purpose of dealing with St. Mary's issues, but I think now is not the time to cut short the process, just when we have the chance to meet face to face to negotiate. We hope that these mediations will allow us to find some mutually agreeable compromises and, as a consequence, for all parties to have an investment in maintaining positive dialogues into the future.

Thank you for considering my point of view.

Lisa Friedlander
1325 Albina Avenue

--

Lisa Friedlander Design
510-295-7363
www.lisafriedlanderdesign.com

From: [Lori Copan](#)
To: [Anne Hersch](#)
Subject: SMCHS Application
Date: Friday, November 09, 2012 9:54:18 AM

Good morning Commissioners,
I wanted to take a moment before heading out to work to briefly register my opposition to the scheduled Albany P&Z meeting in which action may be taken on the proposed Saint Mary's Catholic High School application. My understanding is that a mediation session is planned between Saint Mary's and PPNA for around November 20th. Mediation was requested by Commissioners at the past P&Z meeting and despite a number of setbacks it is finally about to happen. Mediation is a chance for representatives of the school and neighborhood to hear each others' concerns and attempt to make agreements on issues that have been repeatedly brought up at P&Z meetings since I've been in attendance for over 10 years now. Why is there a rush to have a meeting that will be much of the same when instead you could wait for the outcome of mediation and potentially have a workable solution presented to the commissioners? Please respect the wishes of the neighbors and postpone the hearing scheduled for next week. Give us a chance to work through issues in mediation before subjecting us (and you) to another evening of frustration and deadlock.

Thank you for your consideration,

Lori Copan

From: krautfowl@comcast.net
To: [Anne Hersch](#)
Subject: St. Mary's College High School CUP Application
Date: Friday, November 09, 2012 11:08:18 AM

November 9, 2012

Dear Commissioners,

I am writing to express my despair over the fact that Staff is requesting that you act upon the St. Mary's CUP on November 14. It was my understanding from the September 12 and 26 hearings that you wanted St. Mary's and the neighbors to meet, negotiate, and come to their own conclusions on as many topics as possible. Commissioner Panian even said that he didn't want to be in the position of having to 'split the baby' on contentious items.

At the September 12 hearing, Jeff Bond said he thought there should be mediation and, because he had a plan for it, he encouraged you to continue the hearing to September 26, at which time you could take action. But his plan was barely set in motion by September 26 and, as there was nothing to report, you continued the hearing to a date uncertain. It took another two weeks for staff to determine that the path it was following toward mediation was too expensive, and another week to come up with an alternate approach. Another week passed before there was a survey to see when everyone could get together. In order to be able to get the matter back before you on November 14, Anne Hersch proposed a date for mediation that she knew would preclude participation by two key people for PPNA. In addition, in complete disregard for the fact that most of PPNA's negotiating team work, the process was scheduled for day hours, even though the original plan had been for weeknights. When PPNA rejected the date (four of the five team members were either out of the country or had work obligations that could not be changed), a compromise date was set for November 20, one day short of ten weeks from the time Jeff Bond said that he had a plan for mediation and implied that a two-week continuance of the hearing would be sufficient.

The extraordinary thing is that staff went ahead and scheduled the matter on the November 14 calendar anyway. So, once again, we will be back before you with absolutely nothing to report, only this time we actually do have in place a date for mediation, a mediator, and a set of participants committed to showing up to see if we can make it work. There is no reason I can think of that the City of Albany staff or Planning and Zoning would want to render moot what has taken ten weeks to arrange.

The source of my despair is that I am certain that if we go forward, though you will surely try, you will be absolutely unable to reach any decision that will resolve the issues between St. Mary's and its surrounding neighbors, and this time-consuming, draining process will go on and on and on. Every new project contained in this application will trigger a new and prolonged fight as it comes to the Commission for review, and none of us will ever get any rest. You must be sick of it, St. Mary's must

be sick of it, and we are sick of it.

Give us all a chance at finding a solution by again continuing this matter to a date uncertain. Only this time instruct staff to leave it off the calendar until there is actually something to report. While I understand your point about pushing this through because there has been an election, I think it will ultimately hurt the process. Staff wants you to act because you are familiar with the application, but it knows that a 'split the baby' approach is likely to get your decision appealed. If that happens, the matter ends up with a group that is unfamiliar with the application. So it's six of one and a half dozen of the other. In that case, I appeal to you to do the right thing: Continue this item to a date uncertain.

Sincerely,
Davis Krauter
1208 Monterey Avenue

From: [DONNA DEDIEMAR](#)
To: [Anne Hersch](#); [Vivian Kahn](#)
Cc: [J Light](#); [Jeff Bond](#); [Brother Edmond](#)
Subject: Re: Mediation Follow-Up
Date: Friday, November 02, 2012 9:14:39 AM

Andrew, Michael, Chris, and Donna will be available for a start time of 2:00. It is unlikely that Robin will be able to participate in this meeting.

From: Anne Hersch <ahersch@albanyca.org>
To: Vivian Kahn <vkahn@kmort.com>; DONNA DEDIEMAR <dediemar@sbcglobal.net>
Cc: J Light <lightplng@yahoo.com>; Jeff Bond <jbond@albanyca.org>; Brother Edmond <elarouche@STMCHS.ORG>
Sent: Wed, October 31, 2012 2:57:00 PM
Subject: RE: Mediation Follow-Up

If everyone thinks that two hours is sufficient, a 3 pm start time is fine. If not, we can start a little earlier if necessary. I will reserve a room at City Hall. How many PPNA representatives will be participating?

Anne L. Hersch, AICP
City Planner |City of Albany, CA
(510) 528-5765 direct
(510) 524-9359 fax
E-Mail: ahersch@albanyca.org
<http://www.albanyca.org/>

-----Original Message-----

From: Vivian Kahn [mailto:vkahn@kmort.com]
Sent: Wednesday, October 31, 2012 2:55 PM
To: DONNA DEDIEMAR
Cc: Anne Hersch; J Light; Jeff Bond; Brother Edmond
Subject: Re: Mediation Follow-Up

I'm available all day on Nov. 20. Only mentioned afternoon since Newt was only available before 5 pm and I thought a late afternoon start would accommodate those who have to work.

Vivian

Vivian Kahn, FAICP
KAHN/MORTIMER/ASSOCIATES
737 Second Street #307
Oakland, CA 94607-3007
(510) 842-0542

On Oct 31, 2012, at 2:44 PM, DONNA DEDIEMAR wrote:

> Because Vivian had said she was available in the late afternoon or evening on 11/20, PPNA people agreed to take off work around 2:00 in order to be back on this side of the bay

by around 3:00. If it's going to be earlier than that, I need to let them know ASAP.

> Donna

>

> From: Anne Hersch <ahersch@albanyca.org>

> To: DONNA DEDIEMAR <dediemar@sbcglobal.net>; J Light <lightplng@yahoo.com>;

Vivian Kahn <vkahn@kmort.com>

> Cc: Jeff Bond <jbond@albanyca.org>; Brother Edmond <elarouche@STMCHS.ORG>

> Sent: Wed, October 31, 2012 1:42:06 PM

> Subject: RE: Mediation Follow-Up

>

> Shall we plan a 12pm start time? 1pm?

>

> Anne L. Hersch, AICP

> City Planner |City of Albany, CA

> (510) 528-5765 direct

> (510) 524-9359 fax

> E-Mail: ahersch@albanyca.org

> <http://www.albanyca.org/>

>

>

> From: DONNA DEDIEMAR [mailto:dediemar@sbcglobal.net]

> Sent: Wednesday, October 31, 2012 12:35 PM

> To: J Light; Anne Hersch; Vivian Kahn

> Cc: Jeff Bond; Brother Edmond

> Subject: Re: Mediation Follow-Up

>

> No, this is not correct. PPNA can confirm Nov. 20. Nov. 11th has never been on the table.

>

> Donna

>

> From: J Light <lightplng@yahoo.com>

> To: Anne Hersch <ahersch@albanyca.org>; Vivian Kahn <vkahn@kmort.com>

> Cc: Jeff Bond <jbond@albanyca.org>; DONNA DEDIEMAR <dediemar@sbcglobal.net>;

Brother Edmond <elarouche@STMCHS.ORG>

> Sent: Wed, October 31, 2012 12:18:22 PM

> Subject: Re: Mediation Follow-Up

>

> Anne,

>

> The PPNA can confirm their afternoon availability on November 11.

>

> Joe Light

>

> From: Anne Hersch <ahersch@albanyca.org>

> To: Vivian Kahn <vkahn@kmort.com>

> Cc: Jeff Bond <jbond@albanyca.org>; DONNA DEDIEMAR <dediemar@sbcglobal.net>;

Light Joe <lightplng@yahoo.com>; Brother Edmond <elarouche@STMCHS.ORG>

> Sent: Monday, October 29, 2012 12:13 PM

> Subject: RE: Mediation Follow-Up

>
> The idea is that we would have had the majority of the day to work through mediation if necessary. Unfortunately, Newt only had availability until 5 pm on 11/20 so evening mediation is not an option.

>
> Joe, will an afternoon meeting work for PPNA on 11/20?

>
> Anne L. Hersch, AICP
> City Planner |City of Albany, CA
> (510) 528-5765 direct
> (510) 524-9359 fax
> E-Mail: ahersch@albanyca.org
> <http://www.albanyca.org/>

>
>
> -----Original Message-----
> From: Vivian Kahn [mailto:vkahn@kmort.com]
> Sent: Friday, October 26, 2012 5:05 PM
> To: Anne Hersch
> Cc: Jeff Bond; DONNA DEDIEMAR; Light Joe; Brother Edmond
> Subject: Re: Mediation Follow-Up

>
> Evening or late afternoon of Nov. 20 works for me. I was NOT under the impression that this was intended to be an all-day meeting and see no need for such an event. Anne, please clarify.

>
> Vivian
> -----
> Vivian Kahn, FAICP
> KAHN/MORTIMER/ASSOCIATES
> 737 Second Street #307
> Oakland, CA 94607-3007
> (510) 842-0542

>
> On Oct 26, 2012, at 4:08 PM, J Light wrote:
>
>>
>> Anne,
>>
>> I'm sorry to have to report that most of the members on the PPNA negotiating team have a real problem attending day-time meetings, especially an all day one, due to their work commitments. As I mentioned earlier, the working assumption had been a series of evening meetings due to work day demands on the residents. I believe that had been the consensus from the 'planners meeting' back in September. An evening meeting on the 20th does seem doable, by the way. Because of their numbers and their work commitments it is difficult to find workable dates and times for all of them to meet, especially for an all day event.
>> The PPNA team will be meeting on Tuesday to discuss options and try to figure out a path forward on this. I will let you know specific options and availability directly thereafter.
>>
>> Joe Light

everyone.

> >

> > As we have stated before, the Commission is likely to experience significant turnover in the next several months. Given their significant investment of time in this application, we believe the current Planning and Zoning Commission will make the most informed decision. Therefore, we are planning to take the application forward to the Planning & Zoning Commission on November 14, 2012.

> >

> > We fully expect that this application will be appealed to the City Council. Thus, if the Commission takes action on November 14, the November 20 mediation can be in preparation for the City Council appeal. Alternatively, the Commission could postpone their action to a date certain of November 28 for a full report on the mediation.

> >

> > Sincerely,

> >

> > Anne L. Hersch, AICP

> > City Planner |City of Albany, CA

> > (510) 528-5765 direct

> > (510) 524-9359 fax

> > E-Mail: ahersch@albanyca.org

> > <http://www.albanyca.org/>

> >

> >

> > From: J Light [mailto:lightplng@yahoo.com]

> > Sent: Tuesday, October 23, 2012 12:58 PM

> > To: Anne Hersch

> > Cc: Vivian Kahn

> > Subject: Re: Mediation Follow-Up

> >

> > Hi Anne,

> >

> > I'm sorry to be somewhat tardy in response, but it takes some time to poll the various PPNA members. I'm afraid a day meeting on November 7 is not possible for the PPNA. Only one of the five members of their team is available then. The PPNA's working assumption hitherto were that meetings would be in the evenings and several key members have unavoidable work conflicts on the 7th, Chris Hamilton and I, will be away that day as well. It appears that of the days that Nancy Kahn has indicated that Mr. Bailey is available, only the 20th coheres with Vivian Khan and my presence which would functionally push the Commission hearing date to 12/12 as Vivian Khan will be away on the 28th, with perhaps a follow up on 1/9 (anticipating that the present Commission would still be seated then is a reasonable calculation I presume). Given the long retard in retaining a mediator following the 9/12 hearing we appreciate staff's anxieties that the process continue further into January. If you would like, perhaps we should talk on the phone and 'brainstorm'?

> >

> > From: Anne Hersch <ahersch@albanyca.org>

> > To: Vivian Kahn <vkahn@kmort.com>

> > Cc: J Light <lightplng@yahoo.com>; Jeff Bond <jbond@albanyca.org>; Brother Edmond <elarouche@STMCHS.ORG>

> > Sent: Friday, October 19, 2012 4:51 PM

> > Subject: RE: Mediation Follow-Up

> >
> > I have asked the mediator if they might be able to accommodate us on November 7 in order to make the 11/14 Commission hearing. If 11/7 does not work for him, I would suggest that we plan on 11/14 and going back to the Commission in November.

> >
> > Anne L. Hersch, AICP
> > City Planner |City of Albany, CA
> > (510) 528-5765 direct
> > (510) 524-9359 fax
> > E-Mail: ahersch@albanyca.org
> > <http://www.albanyca.org/>

> >
> >
> > -----Original Message-----
> > From: Vivian Kahn [mailto:vkahn@kmort.com]
> > Sent: Friday, October 19, 2012 12:33 PM
> > To: Anne Hersch
> > Cc: J Light; Jeff Bond; Brother Edmond
> > Subject: Re: Mediation Follow-Up

> >
> > Anne,
> >
> > I'll be out of town Monday through Wednesday next week and am also not available Nov 6, 8, 16, 17, and 27-30.

> >
> >
> > Vivian
> > -----
> > Vivian Kahn, FAICP
> > KAHN/MORTIMER/ASSOCIATES
> > 737 Second Street #307
> > Oakland, CA 94607-3007
> > (510) 842-0542

> >
> > On Oct 19, 2012, at 11:45 AM, Anne Hersch wrote:
> >
> > > Good morning,
> > >
> > > Since we seem to be moving forward with mediation, I'd like to determine potential dates of availability. I recall that some participants will be out of town in October and November. I will be out of town from 11/1-11/6. Please let me know what availability you have in the upcoming weeks so that we can continue to keep this project moving forward.

> > >
> > > Thank you in advance for your cooperation.

> > >
> > > Sincerely,

> > >
> > > Anne L. Hersch, AICP
> > > City Planner |City of Albany, CA
> > > (510) 528-5765 direct

>>> (510) 524-9359 fax
>>> E-Mail: ahersch@albanyca.org
>>> <http://www.albanyca.org/>

>>>
>>>

>>> From: J Light [mailto:lightplng@yahoo.com]
>>> Sent: Monday, October 15, 2012 9:31 PM
>>> To: Anne Hersch; Vivian Kahn
>>> Cc: Jeff Bond; Brother Edmond
>>> Subject: Re: Mediation Follow-Up

>>>
>>>

>>>
>>>

>>> Anne,

>>>

>>> The PPNA agrees to the match. While they still feel that hiring a mediator is neither practical nor necessary, they do not want to impede any attempt at working out mutually beneficial solutions to the differences between St. Mary's and the neighborhood as regards the current CUP application. That said, they hope that no further hurdles will be erected in order to begin the process.

>>>

>>> Joe Light

>>>

>>>

>>> From: Anne Hersch <ahersch@albanyca.org>
>>> To: Vivian Kahn <vkahn@kmort.com>
>>> Cc: J Light <lightplng@yahoo.com>; Jeff Bond <jbond@albanyca.org>; Brother Edmond <elarouche@STMCHS.ORG>
>>> Sent: Monday, October 15, 2012 3:25 PM
>>> Subject: RE: Mediation Follow-Up

>>>

>>> Hi Joe,

>>>

>>> Is PPNA willing to contribute to the cost of mediation services?

>>>

>>> Sincerely,

>>>

>>> Anne L. Hersch, AICP
>>> City Planner |City of Albany, CA
>>> (510) 528-5765 direct
>>> (510) 524-9359 fax
>>> E-Mail: ahersch@albanyca.org
>>> <http://www.albanyca.org/>

>>>

>>>

>>>

>>> -----Original Message-----

>>> From: Vivian Kahn [mailto:vkahn@kmort.com]
>>> Sent: Saturday, October 13, 2012 10:46 PM

>>> To: Anne Hersch
>>> Cc: J Light; Jeff Bond; Brother Edmond
>>> Subject: Re: Mediation Follow-Up
>>>

>>> Saint Mary's College High School is willing to share the cost of hiring a trained facilitator with the City and PPNA and agrees to pay a third of the cost up to \$500 if the City and PPNA are willing to make the same contribution.

>>>

>>> Vivian

>>> -----

>>> Vivian Kahn, FAICP
>>> KAHN/MORTIMER/ASSOCIATES
>>> 737 Second Street #307
>>> Oakland, CA 94607-3007
>>> (510) 842-0542

>>>

>>> On Oct 12, 2012, at 12:19 PM, Anne Hersch wrote:

>>>

>>>> Good afternoon,

>>>>

>>>> I touched bases with Nancy Kahn from Non-Violent Communication yesterday afternoon. After explaining the project circumstances, she suggested a mediator by the name of Newt Bailey who is with Non-Violent Communication. <http://www.newtbailey.com/>

>>>>

>>>> She explained that they could prepare a scope of work or we could simply pay an hourly fee of \$150 as well as travel expenses. Our inclination is to work on an hourly basis. The City has enough funds to pay for the first three hours. Beyond that, we would ask that the other participating parties contribute to defray the cost. Please let me know your thoughts on this approach.

>>>>

>>>> Thank you in advance for your consideration.

>>>>

>>>> Sincerely,

>>>>

>>>> Anne L. Hersch, AICP
>>>> City Planner |City of Albany, CA
>>>> (510) 528-5765 direct
>>>> (510) 524-9359 fax
>>>> E-Mail: ahersch@albanyca.org
>>>> <http://www.albanyca.org/>

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