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RESOLUTION NO. 05-46

A RESOLUTION OF THE ALBANY CITY COUNCIL UPHOLDING THE APPEAL OF THE PERALTA NEIGHBORHOOD ASSOCIATION AND OVERTURNING THE APRIL 26, 2005, DECISION OF THE PLANNING AND ZONING COMMISSION BY AMENDING CONDITIONAL USE PERMIT 93-27 AND DESIGN REVIEW PERMIT 99-24, AND REQUIRING THE FOLLOWING:

1. **CONVERSION OF 2,380 SQUARE FEET OF BUILDING AREA (BAND PAVILION AND SNACK BAR) FROM CLASSROOM SPACE TO UNUSABLE SPACE, AND**
2. **CONVERSION OF 652 SQUARE FEET OF CLASSROOM SPACE TO UNINHABITABLE SPACE.**

WHEREAS, St. Mary's College High School (SMCHS) on December 19, 2002, applied to amend Conditional Use Permit (CUP) 93-27 Condition G-2b, which limited the maximum amount of classroom square footage permitted on campus to what existed in April 1994 and to amend Design Review (DR) 99-24 Condition No. 7, which required 2,380 square feet of building (band pavilion and snack bar) be demolished and 652 square feet of classroom space be converted to uninhabitable space within one year of occupying Frates Memorial Hall; and

WHEREAS, the amendment to the two applications would have allowed SMCHS to increase the allowable classroom square footage by 3,032 square feet; and

WHEREAS, the Planning and Zoning Commission held duly and properly noticed public hearings on March 23, 2003, April 28, 2003, May 13, 2003, June 30, 2003, July 8, 2003, October 28, 2003, March 23, 2004, November 9, 2004, and April 26, 2005; and

WHEREAS, the Planning and Zoning Commission on April 26, 2005, took action (3 to 1) to approve the requested amendments to CUP 93-27 Condition G2-b and DR 99-24 Condition No. 7, subject to the findings and conditions as contained in the Planning and Zoning Commission Notice of Action dated April 26, 2005; and

1 **WHEREAS**, on May 9, 2005, an appeal was filed by the Peralta Park Neighborhood
2 Association (PPNA), concerning the decision of the Planning and Zoning Commission to allow
3 the maximum amount of classroom square footage on campus to be increased by 3,032 square
4 feet; and

5
6 **WHEREAS**, the City Council held a duly and properly noticed public hearing on July 5,
7 2005, to consider the appeal by PPNA of the Planning and Zoning Commission action, closed the
8 public hearing, and directed staff to prepare findings for upholding the appeal of the PPNA and
9 amending the conditions of approval for CUP 93-27 and DR 99-24, consistent with the Council's
10 decision;

11
12 **NOW THEREFORE BE IT RESOLVED THAT:**

13
14 **Section I.** The City Council hereby upholds the appeal of the PPNA and overturns the decision of
15 the Planning and Zoning Commission thereby requiring SMCHS to convert 2,380 square feet of
16 building (band pavilion and snack bar) from use as classroom space into unusable space, and
17 convert 652 square feet of classroom space into uninhabitable space.

18
19 **Section II.** The Albany City Council hereby upholds the appeal of the PPNA, and amends CUP
20 93-27 Condition G-2b and DR 99-24 Condition No. 7 as follows:

21
22 **CUP 93-27**

23 Condition G2b Modifications to or expansion of classroom facilities including Cronin
24 Hall and St. Joseph's Hall, shall not exceed the total, existing square
25 footage as of April 1994, including the two temporary classroom
26 buildings. Prior to issuance of an occupancy permit for the gymnasium
27 expansion, or prior to any construction activity to modify classroom
28 space, whichever occurs first, SMCHS shall submit a detailed phased
29 construction schedule to the Planning Department for modifying the

1 classroom facilities to the Planning Department for review and approval.
2 This plan shall include the total, existing classroom square footage on
3 campus and plans for how and when existing classrooms will be
4 modified, demolished or newly constructed. At the discretion of the
5 applicant, temporary buildings may be used to account for required
6 classroom space between the time of building demolition and completion
7 of a new facility. These arrangements, including time frames, shall also
8 be included in phased construction.

9
10 As per Conditional Use Permit No. 587, SMCHS shall be permitted to
11 construct new classroom buildings to replace Cronin Hall and the two
12 temporary buildings. Prior to the issuance of a building permit for these
13 facilities, they shall be reviewed and approved by the Planning and
14 Zoning Commission through a design review process. The property
15 owners around the campus shall receive public notice of the design
16 review process and when it is scheduled. No further amendment to the
17 Master Plan shall be required for these modifications. The design review
18 criteria shall focus on assuring architectural compatibility with existing
19 campus buildings and confirming that the gross square footage of the
20 new construction does not exceed the existing classroom square footage
21 as of April 1994. Further, all construction activity associated with the
22 classroom modifications and rebuilding shall conform to the construction
23 requirements section of this Resolution (Conditions CR-1 through CR-8).

24
25 **SMCHS shall immediately cease using the band pavilion and snack bar**
26 **for any purpose and shall immediately convert 652 square feet of**
27 **identifiable classroom space to uninhabitable space until SMCHS**
28 **obtains approval of a new master plan or related approvals.**
29

1 The City shall inspect these facilities on a regular basis, but not less
2 than twice a year, to insure they are not being used in violation of the
3 City Council's July 5, 2005, action. The School shall allow reasonable
4 access by the City for the purpose of inspection of these facilities.
5 Should the City find these facilities are being used in violation of the
6 City Council's decision, the Community Development Director shall
7 take immediate action to schedule for possible revocation CUP 93-27,
8 as outlined in section 20.100.010. M of the Zoning Ordinance, or such
9 other action as deemed appropriate, with the understanding that upon
10 a finding of revocation or determination to abate, the space shall be
11 demolished as was originally contemplated in condition 7 of DR 9924.

12
13 If the 2,380 square foot band pavilion and snack bar are torn down
14 before a new master plan or related approvals are obtained, the
15 allowable footage of campus facilities shall revert to what existed in
16 April 1994.

17
18 SMCHS retains the option to demolish the band pavilion and snack bar
19 at anytime.

20 **Design Review 99-24**

21 *Condition No. 7*

22 Conditional Use Permit #93-27 provides, as part of the Planning and
23 Zoning Commission's action on the design review of classroom building
24 replacements, a determination be made that the authorized new
25 construction not exceed the classroom size limitations established by the
26 permit. The Commission finds that the new building will add
27 approximately 9,100 square feet of educational facilities to the school.
28 Subsequent to the issuance of the Conditional Use Permit in 1994, the
29

1 school removed 2,772 square feet of building area space comprising a
2 temporary classroom (2,272 square feet) and bookstore building (500
3 square feet). The school now proposes to remove Coleman Hall (3,296
4 square feet) and, the existing Band Room/Pavilion/Snack bar (2,380
5 square feet) following occupancy of the new classroom building. The
6 removal of these two existing facilities total an additional 5216 square
7 feet and when combined with previous demolition, provide a total of
8 8,448 square feet of credit for new construction. The new building size
9 (9,100 sq. ft.) exceeds that credit by approximately 652 square feet.

10
11 This increase in campus building square footage ~~can be~~ is consistent with
12 Conditional Use Permit #93-27. The conditions of approval require that,
13 following completion of the new building, the school remove a minimum
14 of 652 square feet of existing educational facilities.

15
16 Alternatively, the Conditions of Approval provide this excess in
17 authorized new building area can be reconciled by decreasing the
18 proposed size of the new building by 652 square feet. This alternative
19 would be accomplished without apparent modifications to the design
20 appearance and siting of the proposed building. The conditions of
21 approval provide that this alternative may be used individually or in
22 conjunction with the removal of other campus building area. The
23 reduction in the proposed building size of up to 652 square feet would
24 continue to be consistent with the Design Review approval of this
25 proposed building.

26
27 **Section III.** In approving the amendment to CUP 93-27 and DR 99-24 for St. Mary's
28 College High School, the City Council grants approval for the school to maintain the
29 band pavilion and snack shop buildings (2,380 square feet) as unusable space and 652 of

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identifiable classroom space as uninhabitable space, subject to the required findings pursuant to Section 20.100.030D and Section 20.100.050.E of the Albany Municipal Code:

Conditional Use Permit

1. *The 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.* The additional 3,032 square feet of building that is being allowed to remain cannot be used for any purpose, which is compatible with the 1994 (CUP 93-27) decision and therefore compatible with the surrounding neighborhood.

2. *That such 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* because the site is of sufficient size and shape to successfully support the additional 2,380 square feet of building (band pavilion and snack bar) if it is not used for any purposes and 652 square feet of identifiable classroom space is converted to uninhabitable space.

 - 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* because the existing accessibility to the site will not be altered. Maintaining the existing buildings will not have any adverse traffic impacts because they will not be actively used and/or will remain uninhabitable until a new master plan is approved by the City or the buildings are demolished.

1 c. *The safeguards afforded to prevent noxious or offensive emissions such as noise,*
2 *glare, dust and odor* because the project will not develop new noxious noise, glare, dust
3 or odor emissions because the buildings are existing.

4
5 d. *Treatment given, as appropriate, to such aspects as landscaping, screening, open*
6 *spaces, parking and loading areas, service areas, lighting and signs* because the project
7 is consistent with City zoning standards.

8
9 2. *That such use or feature as proposed will comply with the applicable provisions of this*
10 *Chapter and will be consistent with the policies and standards of the General Plan*
11 because the proposed project is consistent with the City zoning standards and
12 requirements relating to the height, size, location, and bulk for such expansions and the
13 policies and standards of the General Plan. The site is both zoned and designated in the
14 General Plan for residential use, which includes private and public schools.

15
16 *Design Review Permit*

17 1. *The project conforms to the General Plan, any applicable specific plan, applicable*
18 *design guidelines adopted by the City of Albany, and all applicable provisions of this*
19 *Chapter.* The General Plan designates this area for residential development and private
20 and public schools are consistent with this designation. Additionally, the project meets
21 City zoning standards for location, intensity and type of development.

22
23 2. *Approval of project design is consistent with the purpose and intent of this section, which*
24 *states, “designs of projects...will result in improvements that are visually and*
25 *functionally appropriate to their site conditions and harmonious with their surroundings,*
26 *including natural landforms and vegetation. Additional purposes of design review*
27 *include (but are not limited to): that retention and maintenance of existing buildings and*
28 *landscape features are considered; and that site access and vehicular parking are*
29 *sufficient.”* The existing buildings are in scale and harmony with existing development

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and with the residences in the vicinity of the site. The existing buildings will continue to provide safe and convenient access to the property for both vehicles and pedestrians. Therefore, the project will not cause an adverse impact to the visual character, quality or appearance of the neighborhood and City.

3. *Approval of the project is in the interest of public health, safety and general welfare.* Maintaining the existing buildings (band pavilion and snack bar) as an unusable and 652 square feet of identifiable classroom space as uninhabitable space until such time as a new master plan for the school is approved or the buildings are demolished 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.
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, Landscape design, Coordination of design details and Privacy.

Robert Good, Mayor