

**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: 7/5/05
Prepared Date: 6/28/05
Reviewed by: _____

SUBJECT: Appeal of Planning and Zoning Commission decision regarding St. Mary's College High School located at 1600 Posen Avenue

FROM: David Dowswell, Planning Manager

PLANNING AND ZONING COMMISSION RECOMMENDATION

It is recommended that the City Council uphold the decision of the Planning and Zoning Commission, and deny the appeal of the Peralta Park Neighborhood Association, thereby amending CUP 93-27, Condition No. G-2b, to allow the gross square footage of the St. Mary's College High School facilities to be increased from 90,675 square feet (the amount that existed in April 1994) to 93,707 square feet, and amending Design Review 99-24, Condition No. 7, by eliminating the requirement that 3,032 square feet of building area be demolished or converted as follows: band pavilion/snack shop/2,380 square feet be demolished; and 652 square feet of additional building area be converted to a non-classroom use.

PROJECT DESCRIPTION

The applicant, St Mary's College High School (SMCHS), has requested a Conditional Use Permit, CUP 93-27, Condition No. G-2b and Design Review 99-24, Condition No. 7, be amended. This condition requires that the school remove 3,032 square feet of building space within one year after the Certificate of Occupancy is issued for Frates Memorial Hall (Certificate of Occupancy was issued January 3, 2002). Amending these conditions would allow the school to keep 3,032 square feet of existing buildings (band pavilion and snack shop and classroom), which the school believes are needed to continue to offer music to the students and because the school has a limited amount of classroom space which they believe they cannot lose.

BACKGROUND

On April 13, 1994, the Planning and Zoning Commission approved Conditional Use Permit No. 93-27, subject to the applicant complying with a number of conditions of approval, which included a number of mitigation measures approved as part of a Mitigated Negative Declaration. (It should be noted that there are no minutes from this meeting).

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On April 25, 1994, an appeal was filed appealing the decision of the Planning and Zoning Commission concerning the visual impacts of the proposed gymnasium expansion.

On June 6, 1994, the City Council, on appeal, adopted Resolution 94-37 (Attachment A), approving Conditional Use Permit (CUP) 93-27, which amended the Master Plan for St. Mary's College High School. The approval entitled the school to increase its enrollment up to 635 students, expand the existing gym by 26,000 square feet and make other modifications to the existing classroom facilities that did not result in an increase in the existing building gross square footage that existed as of April 1994. In April of 1994, the existing building square footage was 90,675 square feet.

On October 12 and October 26, 1999, the Planning and Zoning Commission approved Design Review 99-24, a request to construct a two-story, 7 classroom, approximately 9,100 square foot building (Frates Memorial Hall). Condition No. 7, required SMCHS to remove 3,032 square feet of existing buildings (2,380 square foot band pavilion and snack shop and 652 square feet of other buildings), so that the total building square footage located on the campus did not exceed 90,675 square feet. The excess classroom square footage was to have been removed within one year of the date of the Certificate of Occupancy for the new Frates Memorial Hall. Frates Memorial Hall was issued a Certificate of Occupancy on January 3, 2002. The applicant applied to modify Condition No. 7, December 19, 2002. (When the square footage limitation was discussed in 1999, some of the planning and zoning commissioners encouraged the school to return to the Commission to request an increase in the allowable building square footage.)

On March 25, 2003, the Planning and Zoning Commission considered the request by the SMCHS to amend CUP 93-27, Condition No. G-2b, to allow the gross square footage of the classroom facilities to exceed the amount that existed in April 1994, and amend Design Review 99-24, Condition No. 7, by eliminating the requirement that 3,032 square feet of building (band pavilion and snack shop/2,380 square feet; and 652 square feet of additional building) be removed or converted to non-classroom use respectively. Due to a noticing error, no action could be taken on the school's request. At the conclusion of the discussion, the Planning and Zoning Commission voted to continue this item until April 22, 2003. The Commission asked the school and staff to review the prior conditions of approval and mitigations, paying particular attention to the contract with parents and students, regarding driving and parking near the school, and the vehicle sticker program.

On September 25, 2003, the Traffic and Safety Commission met to discuss the proposed drop-off and pick-up zone on Posen Avenue and the proposed diagonal parking to be located due east of the driveway leading to the school parking lot located off Posen Avenue. There has also been at least one meeting held at the school with the neighborhood to discuss this request.

On October 28, 2003, the Planning and Zoning Commission was given a progress report by SMCHS on the implementation of a number of actions being taken by the school to help mitigate the parking and traffic problems in the neighborhood. There was discussion about installing a drop-off and pick-up zone on Posen Avenue. The Commission voted to support

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the recommendation of the Traffic and Safety Commission that the drop-off and pick-up zone be installed.

On November 9, 2004, the Planning and Zoning Commission was given a brief progress report on the status of the most recent traffic related improvements (drop-off, and pick-up zone, roundabout, and opening of Monterey Avenue gate). At that meeting a number of neighbors spoke, expressing their concerns about the SMCHS existing operation. Many of the neighbors also spoke in opposition to allowing the school to expand in the future. At the conclusion of the meeting the Commission continued the public hearing to allow Korve Engineering to complete their assessment of the various traffic related improvements. Since the November 2004 meeting, Korve Engineering prepared a traffic study evaluating/comparing the current traffic conditions near the school to the conditions that existed in May of 2003, before a number of traffic improvements had been installed.

On April 26, 2005, the Planning and Zoning Commission on a 3 to 1 vote approved amending CUP 93-27, Condition No. G-2b and Design Review 99-24, Condition No. 7 (Attachment C). In amending these two conditions, the Planning and Zoning Commission increased the allowable building square footage from 90,675 square feet to 93,707 square feet. The Commission also added a new condition, which states:

“If the additional 3,032 square feet of building (band pavilion/snack shop) area, which brings the overall total square footage to 93,707 square feet, is torn down the allowed square footage would revert to 90,675 square feet. The applicant shall first obtain city approval before changing the band pavilion/snack shop (2,380 square feet) or classroom (652 square feet) located in St. Joseph’s Hall to another use.”

This condition was added in response to the neighborhood’s concern that once the school was allowed to keep the square footage, they would apply to demolish the buildings and replace them with new ones.

On May 9, 2005, an appeal was received from the Peralta Park Neighborhood Association appealing the decision of the Planning and Zoning Commission (Attachment D). The appeal includes seven separate reasons for why the Commission’s decision should be overturned.

SUMMARY OF REASONS FOR THE APPEAL

The appeal argues that the Commission’s amendment of CUP 93-27 and Design Review 99-24 was not based on adequate reasoning and findings; ignores the reasons these conditions were imposed by the City; violates the law; and was approved without evidence to support removal of the conditions.

The appeal further argues that the Commission’s amendment of CUP 93-27 and Design Review 99-24 failed to include any CEQA analysis of the cumulative impacts of the amendment; that it was precedent setting; and by their decision to remove the conditions, will degrade the private open space on the site; will not improve traffic; and, does not address handicap access.

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DISCUSSION

The decision on April 26, 2005, to amend CUP 93-27 and Design Review 99-24, was made after the Planning and Zoning Commission held numerous meetings. During those meetings, the Commission discussed the reasons for imposing the conditions limiting the allowable square footage for SMCHS. At these hearings the Commission took testimony from residents who expressed concern about amending the two conditions. Before voting to amend the conditions, the Commission took steps to insure all of the other conditions of approval and mitigation measures, imposed by both the Planning and Zoning Commission and City Council, had been met. To help insure that all of the traffic/parking related issues had been addressed, the Commission required the school to hire a traffic consultant.

The traffic consultant (Korve Engineering) was charged with observing the school and its traffic patterns, identifying potential problems and providing possible solutions. Two solutions, which were implemented to help alleviate some of the traffic problems, included reopening of the school's entrance on Monterey Street and installing a drop-off and pick-up zone on Posen Avenue. The school also actively worked to encourage carpooling, and encourage students and faculty to use public transportation. AC Transit agreed to modify one of their routes to bring students from the Oakland area to the campus. In March the traffic consultant reassessed the traffic and parking impacts of the school on the neighborhood. The consultant determined that the various changes/solutions that had been made to address traffic and parking problems had a positive affect.

In reviewing the records of 1994 approval, staff was unable to find a specific reason or reasons for limiting the total building square footage allotted to the school to 90,675 square feet. In the Council minutes (Attachment E), there is considerable discussion about the size and impacts of the proposed gymnasium expansion and the increase in student enrollment. Staff believes the square footage limit was imposed as a means to further regulate, probably from a visual standpoint, the school's impact on the neighborhood. Ultimately, the Planning and Zoning Commission felt that allowing the 3,032 square feet of building area to remain (i.e., band pavilion/snack shop and classroom in lower floor of St. Joseph's Hall), would not have a negative visual (environmental) impact on the neighborhood since the two buildings already exist. In making its decision to amend the conditions of approval, the Commission adopted the required findings (Attachment C).

In 1994 when the expansion plans were approved for the school. an Initial Study was prepared and a Mitigated Negative Declaration (MND) was approved. Staff believes that the 1994 MND adequately addressed the impacts of the additional 3,032 square feet of building area since these buildings existed at that the time the MND was approved. The limit on building square footage was a condition of approval and not a mitigation measure.

The Planning and Zoning Commission did not believe that allowing this building square footage to remain would affect the private open space since both buildings already existed. In addition, the Commission did not believe that retaining this building area would affect traffic

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since the enrollment was not changing. Finally, allowing the two buildings to remain does not affect their need to meet handicap accessibility requirements.

Some residents expressed concern that if the Commission approved the school's request, SMCHS would immediately request a permit to tear down the band pavilion and snack shop and build a new one. Therefore, the Commission imposed a new condition, mentioned above, that prohibits the school from converting the space without a public hearing.

SUMMARY

Staff recommends that the City Council uphold the decision of the Planning and Zoning Commission and approve the findings as found in the April 26, 2005, Notice of Action.

ATTACHMENTS

- A. Resolution 94-37
- B. St. Mary's College High School Traffic Study dated March 17, 2005
- C. Planning and Zoning Commission minutes dated April 26, 2005
- D. Planning and Zoning Appeal from Peralta Park Neighborhood Association dated May 9, 2005
- E. City Council minutes dated May 23, 1994
- F. Planning and Zoning Commission – Notice of Action dated April 26, 2005

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