



**TOWN OF TIBURON
PLANNING COMMISSION
1505 Tiburon Boulevard
Tiburon, CA 94920
Action and Approved Minutes
Regular Meeting
March 9, 2005 – 7:30 PM**

ACTION MINUTES

CALL TO ORDER AND ROLL CALL 7:30 PM

Chairman Collins, Vice Chairman Kunzweiler, Commissioner Fraser, Commissioner Hermann, Commissioner Snow **All Present**

ORAL COMMUNICATIONS

Persons wishing to address the Planning Commission on any subject not on the agenda may do so under this portion of the agenda. Please note that the Planning Commission is not able to undertake extended discussion, or take action on, items that do not appear on this agenda. Matters requiring action will be referred to Town Staff for consideration and/or placed on a future Planning Commission agenda. Please limit your comments to no more than three (3) minutes.

COMMISSION AND STAFF BRIEFING **There Were None**

Staff Update
Commission Information Items

PUBLIC HEARING

1. 761 HILARY DRIVE: REVIEW OF CONDITIONAL USE PERMIT #19908 GRANTED TO EXPAND THE FACILITIES FOR AN EXISTING CHURCH (ST. HILARY CATHOLIC CHURCH) AND SCHOOL; Roman Catholic Archdiocese, Owner and Applicant; Assessor's Parcel Nos. 055-253-20 and 055-221-06 **Review Conducted; No Modifications Made to Use Permit (5-0)**

MINUTES

2. Planning Commission Minutes of February 23, 2005 **Approved As Amended (4-0 – Fraser Abstained)**
3. Planning Commission Minutes of February 28, 2005 **Approved As Amended (5-0)**
4. Planning Commission Minutes of March 1, 2005 **Approved As Amended (5-0)**

ADJOURNMENT **10:05 PM**

**MINUTES NO. 910
PLANNING COMMISSION
March 9, 2005
Regular Meeting
Town Council Chambers
1505 Tiburon Boulevard, Tiburon, California**

CALL TO ORDER AND ROLL CALL

Present: Chair Collins, Commissioners Fraser, Hermann, Kunzweiler and Snow

Absent: None

Staff Present: Community Development Director Anderson, Planning Manager Watrous, Police Chief Odetto and Meeting Recorder Flanagan

ORAL COMMUNICATIONS

There were none.

COMMISSION AND STAFF BRIEFING

There were none

PUBLIC HEARING

- 1. 761 HILARY DRIVE: REVIEW OF CONDITIONAL USE PERMIT #19908 GRANTED TO EXPAND THE FACILITIES FOR AN EXISTING CHURCH (ST. HILARY CATHOLIC CHURCH) AND SCHOOL; Roman Catholic Archdiocese, Owner and Applicant; Assessor's Parcel Nos. 555-253-20 and 055-221-06.**

Planning Manager Watrous presented the Staff report.

Chair Collins opened the public hearing.

Katie Vogelheim, St. Hilary representative, reviewed the history of the church in Tiburon. She stated that they had conducted three traffic studies and five acoustical studies. She stated that the biggest concerns of neighbors were traffic safety and flow and explained efforts by the church to address these issues. She said that their programs and site improvements had resulted in a 35 percent decrease in traffic volume on Hilary Drive. She explained soundproofing efforts made on the site and measures taken to reduce light and glare onto neighboring properties. She stated that the church was in full compliance with its requirements, and that they do not request to modify any of the conditions of approval at this time.

Commissioner Hermann asked if the church wished to modify the currently required 45-minute gap between CYO games. Ms. Vogelheim responded that she felt that the Planning Commission would not have enough information to make a decision on that issue at this time.

Merton Lawwill stated his concern is the lighting of the parking lot. He distributed photographs taken from his home uphill of the site in 2004. He suggested that one light could be removed at the Rock Hill Drive entry, and that the lights be turned off at night when there are no activities on the site.

Commissioner Kunzweiler asked if the overall light design was an improvement over the prior lighting. Mr. Lawwill stated that he does not remember a drastic change and was not aware of a change of the lighting in the last few months.

Commissioner Hermann stated that in the submitted photograph, it appears that the light is predominantly reflected from the asphalt and the buildings, and not directly from the lights. Mr. Lawwill responded that he sees an overall glare, not into the lights themselves.

Commissioner Fraser asked if the Planning Commission can look at light intensity. Planning Manager Watrous responded that this was possible, but noted that there is nothing in the zoning ordinance that describes an acceptable level of lighting, and there was no baseline level for the previous lighting on the site. He also noted that Mr. Lawwill's property is uphill from the church, and the recent modifications to the parking lot lighting were done to address the downhill neighbors.

Chris Henry stated that he sees no difference in the parking lot lighting since the baffles were installed two weeks ago. He said that noise outside the gym at night is still a concern. He said that the sound wall simply consists of wooden planks, and he asked that a true sound wall be built. He felt that traffic on Hilary Drive at night is still a problem, and that traffic should instead use Rock Hill Drive. He said that the lights remain on until around 11:00 p., and basketball traffic goes on until 7:00 p.m. He said that children coming out of the gym can be heard at night.

In response to questions, Planning Manager Watrous stated the three-foot sound wall came from a recommendation in the Mitigation Monitoring Program which was intended to address noise across the parking lot, rather than noise going down the hill. He said that the wall was built as approved.

Steve Bendinelli stated that his back yard adjoins the parking lot, and that he was not pleased with the increased noise, light and traffic associated with this project. He acknowledged that some improvements had been made, but he still had some concerns. He said that the noise was greater than ever due to the increased activity level, and was not acceptable. He said that the sound wall does not act as a significant sound barrier; he said that the wall is not high or long enough and is made out of the wrong materials. He felt that the wall should be 8 to 10 feet tall and made out of cinder block. He said that he was thrilled with the installation of the speed bumps, and suggested installing another speed bump halfway up Hilary Drive. He asked that the Hilary Drive gate be closed all the time, so traffic is forced onto Rock Hill Drive. He felt that the gate should have been moved further back to provide a better turnaround in front of the gate. If the gate is not closed permanently, he felt that there should be an electronic sign at the bottom of the hill that tells drivers whether the gate is closed or open. He said that the parking lot lighting is bothersome, but is now better. He said that a hood should be placed around the lights to eliminate the spillage of light that still occurs. He said that he was not pleased with the lower quality of life that has resulted from the expansion of St.

Hilary, and asked that there be no incremental increase in the use of the campus in the future. He felt that the church has treated the closest neighbors poorly.

Commissioner Kunzweiler asked if the noise is from a game in the gym or people in the parking lot. Mr. Bendinelli stated replied that the gymnasium is well constructed and he hears nothing during the games; rather, noise comes from people and car doors slamming in the parking lot before and after the games.

Commissioner Hermann asked Mr. Bendinelli if there were not a sound, light or traffic problem, would he have a problem with the current, or an increased, activity level of St. Hilary. Mr. Bendinelli responded that if Hilary Drive were closed except for emergency vehicles and special events such as weddings and there was a cinder block wall, ten feet tall, 50 feet past his property, he would not object. He said that he can tolerate the school noise that previously existed; it is the increase in noise that is a problem.

Gus Ezcurra stated his back yard borders the St. Hilary property. He said that there has been a tremendous improvement in traffic. He said that the new lights, entrances and signs have made it is safe for his daughter to walk to St. Hilary School. He said that the lights in front of the church shine over his deck, and the new yellow lights are better. He said that the speed bumps have made a big difference. He said that he would like the gym used more, for community events.

Ron Ash stated that his children attend St. Hilary. He said that he would like to see longer hours allowed on the use of the gym.

Deborah Bendinelli stated that she was speaking for neighbors on her street that could not attend this meeting. She said that while it is great to see support for St. Hilary, this is her community also. She stated that Byron and Jean Park have said that the lights at night ruin the atmosphere inside their home. She stated that Barbara Elliott has said that the lighting is still a problem, and that people ignore the stop signs. She stated that Ed Rama has said that traffic is still an issue, with too many cars speeding. She stated that Bonnie Austin has said that the modified lighting has not been diminished enough. She stated that Fran Seitas has said that stated lighting is still a problem and there is more traffic.

Ms. Bendinelli summarized that noise, lighting and traffic are still issues. She said that she was delighted to see the speed bumps, but people begin speeding after the bumps. She said that she does not hear the games, but hears noise outside the gym from car doors, people and bouncing balls. She said that she can see the parking lot lights.

Commissioner Fraser asked whether neighbors would be supportive if it were possible to add a traffic control on Hilary Drive. Ms. Bendinelli responded that she thought that they would be generally supportive. She described her participation in a traffic study several years ago about St. Hilary traffic.

Enda McGovern stated that the education system provided by a community is the most important thing. He said that the church and school have been understanding in mitigating traffic and noise problems. He asked the Commission to understand the dynamics of the community and do what is right for the community at large. He said that children provide the vibrancy of Tiburon.

Craig Hunt stated that, as a CYO coach, he has not seen one ball bounced outside the gym, as kids quickly head into the gym. He said that usually 4 or 5 cars are parked per practice session. He explained the difficulty with the current requirement that there be a 45 minute period between CYO games. He said that children do not wait outside for games to begin and they leave when their games are over.

Gary Schoch stated that his house is directly across from the church driveway on Rock Hill Drive, and would be most potentially impacted because of the location and line of sight. He said that he works from his home and had no issues during construction phase. He said that the church activities are not as loud and do not impact him. He said that cars leaving the driveway are polite and let him back out of his driveway. He said that parking on Rock Hill Drive is not a problem. He said that St. Hilary representatives have cooperated with him.

Robin McNally stated that a lot of traffic going up Rock Hill Drive goes to Del Mar School. She said that traffic is part of living on Hilary Drive and having a school in the neighborhood. She said that the sound of children playing is a nice noise, and felt that the new lights added to the safety of the area..

In response to questions, Ms. Vogelheim stated that the lights are on until 10:30 p.m., and there are many meetings and other activities on the site until 10:30 on many nights. She said that two lights that were included in the original plan had been removed. She said that some of the concern about the new lights is a result from the contrast experienced from the time during construction when there were no lights. She said that exterior baffles on the lighting fixtures would cause wind shear problems. She stated that the interior baffles absolutely stop the light above the property line, and the lights do not go into neighbors' living rooms. She said that she has worked diligently for the last six months to solve the lighting issue. She said that noise has decreased since the new facilities were built. She described the situation at St. Hilary as being similar to that of the Tiburon Peninsula Club, where children play outside near residential areas. She noted that children now play inside the gym during the winter. She noted that the sound wall was designed when the gym was to be 20 feet closer to the property line; the gym has now been moved back and she said that a sound wall was unnecessary. She said that putting up a tall cinder block wall would make the property look like it faced an interstate freeway. She said that the parking lot often functions as a playground during the day, which makes it impossible to always close the gate on Hilary Drive. She said that there have been no traffic problems since the gates and speed bumps were installed. She said that the neighbors' complaints are not substantiated by the facts. She acknowledged that she has not looked at the parking lot lights from the neighbors' back yards. She said that the Hilary Drive gate is open until 9:30 p.m.

Commissioner Fraser asked if it is possible that neighbors who experience noise, light and traffic problem from their homes are actually experiencing these problems. Ms. Vogelheim responded that the neighbors are not experiencing any problems. She said that the neighbors may have issues, but their actual conditions are better.

Commissioner Snow asked if she thought that the sound wall is adequate. Ms. Vogelheim replied that the sound engineer could not measure any sound from the gym at the Bendinelli's property line. She said that the noise from a car door closing is less than that of a barking dog.

Commissioner Kunzweiler stated there are two noise issues: the average sound levels and spikes in noise levels. He noted that for the recent TPC project, neighbors agreed that the average noise was fine, but had problems with the noise spikes. He assumed that the St. Hilary neighbors are also concerned about the noise spikes.

Deborah Diaz stated that her home is directly across from the St. Hilary driveway. She stated that she works at home, and the noise does not impact her. She said that drivers at the school are considerate. She said that the lights are visible from her living room and deck but have never bothered anyone.

Chair Collins asked about the noise level and lights before and after construction. Ms. Diaz responded that there was no difference in noise, but there is an improvement since the lights were modified.

There being no further comments, the public comment period was closed.

Commissioner Hermann stated that he was pleased to hear that the speed bumps helped the traffic problem. He said that this seemed to be a strategy problem: trying to make a community asset more available while making the neighbors more comfortable. He said that spending time in a gym is a great thing, and he felt that this facility is being underutilized. He felt that the time limits on CYO games did not make sense, but acknowledged that there is a need to protect the rights of the neighbors. He characterized the sound wall as a joke that is symbolic but does not block sound. He said that there is still ambient light on the neighbors' properties. He felt that traffic was the least of the issues. He said that St. Hilary should build a better sound wall and make efforts to ensure that light does not affect the neighbors. He said that once these issues have been addressed, the use of the gym could be opened up, creating a win-win situation for the community.

In response to questions, Planning Manager Watrous stated that not enough information has been presented to Staff, the Commission and neighbors to understand what expanding the gym's use would entail. He said that he expects that St. Hilary will likely submit a request to amend the Conditional Use Permit, with specific information and a proposal about the hours for CYO use.

Commissioner Fraser stated that he supports the existing resolution. He said that St. Hilary has a magnificent facility, and that there are not many places like this for children to use in Tiburon. He felt that the perception of issues is the problem, as the expectations of the neighbors have not been met. He said that if he was a neighbor and there were lights in his back yard and a sound wall was supposed to be built and was not, he would not be happy. He said that it is in the best interest of the community for the neighbors and the church to meet and resolve these issues. He said that it was time to move forward.

Commissioner Kunzweiler stated that the legacy of this project goes back many years. He said that the good news is that the project is completed and is down to the final punch list of what needs to be done to get it perfect. He felt that the facility should be used more. He said that there is a clear and honest difference of opinion between St. Hilary and the neighbors regarding noise, light and traffic issues. He said that these impacts can be measured. He recommended a joint meeting with St. Hilary and the neighbors to resolve the issues. He said that a fair and proper way can be found to mitigate the problems. He said that it was time to put the issues behind us and allow the use of the facilities without harming the neighbors.

Commissioner Snow stated that he sat on the Commission when conditional use permit was first reviewed. He said that the use permit constrained CYO usage to show that the program could work. He said that he would now encourage a request for increased usage of the gym. He questioned whether a 10 foot tall sound wall would be wanted by the neighbors, but felt that there are ways to increase the effectiveness of the existing sound wall. He commended the church for installing the yellow lights, but said he was unsure whether the neighbors are affected by the lighting. He said that traffic appears to be improved. He said that he supported the current use permit with no modifications, but hoped that the neighbors' concerns are addressed.

Chair Collins stated that it is unfortunate that the lights and sound bother neighbors, but this hearing is about compliance issues. He said that the issue before the Planning Commission is whether the conditions of approval of the use permit have been satisfied. He said he could not see how the conditions can be modified at this review. He suggested that perhaps Mr. Bendinelli can have his own sound study completed. He said that he finds that St. Hilary is in substantial compliance with their permit. He said that if the use is to be expanded, the issues will have to be evaluated again.

Commissioner Kunzweiler stated that although St. Hilary is in compliance with the use permit, if these issues are not tackled St. Hilary may not be able to expand the use of the gym. He recommended that St. Hilary work together with the neighbors toward a solution.

Commissioner Fraser stated that this hearing has indicated the reason why the Planning Commission is required to look at this project every six months. He said that it is in the best interest of the community to resolve neighbors' problems. He said that he would not modify the permit and recommend that the church and neighbors resolve issues that surfaced tonight, real or perceived, so that the church may fully utilize its facilities.

In response to questions, Planning Manager Watrous stated the Commission can state that no modifications need to be made to the use permit, and that there should be progress toward resolving these issues before the next review in six months.

Commissioner Hermann stated that he would like to see an expansion request soon in order to resolve the issues immediately, rather than wait for six months.

Commissioner Kunzweiler felt that the Commission should let it go through the process, and that it is in everyone's interest to solve the issues.

M/S, Kunzweiler/Snow (passed 5-0) to accept the review of the Conditional Use Permit as being in compliance, and not require any modifications at this time.

DISCUSSION ITEMS

There were none.

MINUTES

2. Planning Commission Minutes of February 23, 2005

Amendments include:

Page 2, last paragraph, 1st line, delete the quote sign after TPC. 2nd line, change “with a large” to “serving a large.”

Page 3, 4th paragraph, 3rd line, insert “regularly scheduled and noticed” before “meetings.” After “meetings,” insert “with the neighbors.” 4th line, insert “concerns and” before “comments.”

Page 3, 7th paragraph, 4th line, insert “finalized” before “pedestrian.” After “improvement,” insert “as approved by Staff, fire and police.” 5th line, after “Commission,” insert “before final approval is given.”

M/S, Kunzweiler/Snow (passed 4-0-1, Fraser abstained) to approve the minutes as amended.

3. Planning Commission Minutes of February 28, 2005

Page 1, 1st line, insert “said he” before “believed.”

Page 1, 6th paragraph, 2nd line, change “connection” to “promenade.”

Page 1, last paragraph, last line to state, “...strengthened and that OSC-36 also be strengthened.”

M/S, Kunzweiler/Fraser (passed 5-0) to approve the minutes as amended.

4. Planning Commission Minutes of March 1, 2005

Amendments include:

Page 2, 3rd paragraph, 1st line, insert “if” before “the Town’s.” 2nd line, change “are not” to “were.”

Page 2 6th paragraph, 1st line, change “believed” to “stated that he believed.”

Page 2, last paragraph, 2nd line, add “by the Planning Commission. Before “believed” insert “stated that he.”

Page 3, 3rd paragraph, change “specific” to “technical”

Throughout the document, change “Mr. Bryant” to “Advance Planner Bryant.”

M/S, Fraser/Snow (passed 5-0) to approve the minutes as amended.

ADJOURNMENT

The meeting was adjourned at 10:00 p.m.

RICHARD COLLINS, CHAIRMAN

ATTEST:

SCOTT ANDERSON, SECRETARY

Action and Approved Minutes – Planning Commission
Regular Meeting
March 9, 2005