

Town of Tiburon

STAFF REPORT



AGENDA ITEM _____

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TO: **PLANNING COMMISSION**

FROM: **DANIEL M. WATROUS, PLANNING MANAGER**

SUBJECT: **CONDITIONAL USE PERMIT #19908;
REVIEW OF CONDITIONAL USE PERMIT GRANTED TO EXPAND THE
FACILITIES FOR AN EXISTING CHURCH (ST. HILARY CATHOLIC
CHURCH) AND SCHOOL; 761 HILARY DRIVE; ASSESSOR PARCEL
NOS. 55-253-20 & 55-221-06**

MEETING DATE: **MARCH 9, 2005** REVIEWED BY: SA

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PROJECT DATA

Address:	761 Hilary Drive
Assessor Parcel Numbers:	55-253-20 & 55-221-06
File Number:	19908
General Plan:	Medium Low Density Residential
Zoning:	RO-1 (Single-Family Residential- Open)
Property Size:	7.27 Acres
Current Use:	Church (St. Hilary Church) and Private School
Owner:	Roman Catholic Archdiocese
Date Approved:	December 6, 2000

SUMMARY

On December 6, 2000, the Town Council adopted Resolution No. 3463 granting an appeal of the denial of a conditional use permit (File #19908) for the expansion of an existing church (St. Hilary Catholic Church) and school on property located at 761 Hilary Drive. The use permit approved the following improvements on the site:

- A new 30-foot tall, 8,300 square foot gymnasium for use by the school and to operate the Tiburon Peninsula Catholic Youth Organization (CYO) athletic program, including basketball and volleyball practices and games, sponsored by St. Hilary;
- A single-story, 4,700 square foot parish hall;
- A single-story, 9,000 square foot classroom;
- A single-story, 2,325 square foot convent with a 575 square foot garage; and
- An expansion to the existing rectory.



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Condition of approval No. 2 of Resolution No. 3463 provides for review of the permit and reads as follows:

“The subject permit shall be reviewed by the Planning Commission at a public hearing six (6) months after completion of the gymnasium. Additional reviews shall occur once every six (6) months for the next year thereafter, and annually after the first 18 months. During these reviews, the Planning Commission shall have the authority to modify the restrictions of this permit to further restrict the uses on the site, including, but not limited to, the potential to prohibit CYO use of the gymnasium on weekends and/or weekday evenings; or have the ability to relax the restrictions contained within this resolution if the Commission determines that such modifications would be consistent with the spirit and intent of this resolution and would not result in additional impacts on the surrounding neighborhood. The Town reserves the right to amend or revoke this Conditional Use Permit for cause, in accordance with adopted regulations of the Town.”

As the gymnasium was completed in August of 2004, a public hearing has been scheduled to review of the use permit.

PERMIT HISTORY

The conditional use permit application was filed on October 25, 1999. The Planning Commission held public hearings on May 10, 2000, June 28, 2000, and August 9, 2000. After hearing extensive testimony from supporters of and opponents to the project, the Commission felt that the proposed gymnasium would have resulted in unacceptable noise, light pollution and traffic impacts on the surrounding residential neighborhood. As a result, on September 13, 2000, the Commission adopted Resolution No. 2000-13 denying the application. The church appealed this decision to the Town Council.

The Town Council held public hearings on the appeal on November 9 & 14, 2000. A Council subcommittee also met with St. Hilary representatives and several neighboring property owners; these meetings centered both on issues and concerns associated with the project, but also with ongoing concerns regarding the interaction of the church and its members with the surrounding neighborhood. The subcommittee formulated a series of recommended conditions of approval intended to mitigate the potential impacts of the project on the residential properties in the vicinity of the church. On December 6, 2000, the Town Council adopted Resolution No. 3463 (Exhibit 1) granting the appeal and approving the use permit, incorporating a lengthy set of conditions of approval, including the requirement for subsequent review of the permit by the Planning Commission.

ANALYSIS

Following are the conditions of approval contained within Town Council Resolution No. 3463 and the status of compliance for each:



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General Conditions

1. *The plans submitted to the Town dated June 19, 2000 are hereby approved, except as modified herein. The maximum floor areas shall be as indicated on said plans. The construction of the gymnasium, classrooms, parish hall and other improvements complied with the overall floor areas approved by these plans.*
2. *The subject permit shall be reviewed by the Planning Commission at a public hearing six (6) months after completion of the gymnasium. Additional reviews shall occur once every six (6) months for the next year thereafter, and annually after the first 18 months. During these reviews, the Planning Commission shall have the authority to modify the restrictions of this permit to further restrict the uses on the site, including, but not limited to, the potential to prohibit CYO use of the gymnasium on weekends and/or weekday evenings; or have the ability to relax the restrictions contained within this resolution if the Commission determines that such modifications would be consistent with the spirit and intent of this resolution and would not result in additional impacts on the surrounding neighborhood. The Town reserves the right to amend or revoke this Conditional Use Permit for cause, in accordance with adopted regulations of the Town. The gymnasium was completed in August of 2004. This hearing constitutes the first review under this condition of approval. The next reviews would occur in September 2005, March 2006, and then annually thereafter.*
3. *All construction associated with this project shall be completed in two phases. Construction of both phases shall be completed within thirty (30) months of the beginning of construction of the first phase. The building permit to begin construction for this project was issued on March 24, 2003. The gymnasium, classrooms and parish hall were completed prior to the end of this 30 month period. Construction of the convent and rectory additions approved under this permit has not commenced. The church has discussed with Staff the possibility of a time extension for completion of the remainder of the project; Staff has indicated that such a time extension would require an amendment to the use permit.*
4. *The applicant shall meet all requirements of the Tiburon Fire Protection District and all other applicable agencies. The applicant complied with the requirements of the Tiburon Fire Protection District and all other applicable agencies during the construction of this project.*
5. *The applicant shall obtain all necessary permits from the Town Building Division for the proposed addition. All necessary building permits were obtained from the Building Division for this project. Some grading associated with drainage improvements adjacent to the home at 750 Hilary Drive was completed without first obtaining the necessary grading permits, and electrical transformer equipment was moved from an approved location to a site near the home at 745*

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Hilary Drive without first obtaining the necessary permits; after-the-fact permits were lawfully obtained for these improvements.

6. *The Town of Tiburon shall select and retain its own noise consultant to evaluate the proposed noise mitigations to be included in construction of the gymnasium and the noise impacts of the gymnasium operations. The applicant shall pay the costs of the preparation of this noise study. This noise study shall be conducted prior to the first Planning Commission review of the subject conditional use permit.* The Town hired a noise consultant (Rosen Goldberg & Der) to evaluate the construction plans for the gymnasium and the noise generated by basketball games in the gym. The consultant reviewed the construction drawings and recommended sound equipment-related modifications to reduce noise potential; these changes were incorporated into the approved construction drawings.

The consultant took post-construction noise measurements during basketball games at the gym on January 22 and February 5 of this year. Measurements were taken from the rear property line of homes along Hilary Drive below the site and from the rear patio of the home at 11 Via Paraiso West above the gym. Although some sounds associated with the basketball games (cars arriving, car door slams, voices, basketballs bouncing on pavement, a fountain, and yelling and a referee's whistle from inside the gym) were audible from these locations, the noise levels were generally not measurable above the ambient sound levels (primarily from traffic, presumably along Tiburon Boulevard). The consultant concluded that the noise level from the CYO activities was in compliance with the Town's requirements for average day and nighttime average sound levels. The consultant's report is attached as Exhibit 2.

The consultant measured sound from the gymnasium HVAC equipment on February 23 and 25 of this year. The consultant took measurements with the air conditioners operating but without the rooftop fans, and also with the rooftop exhaust fans operating without the air conditioners. In both cases, the noise from the equipment was neither discernable nor measurable from the above-described residential locations.

Church and School Conditions

7. *The proposed new rectory building is not approved. An expansion to the rear of the existing rectory building is permitted.* The addition to the rectory was not included on plans submitted for Site Plan and Architectural Review approval by the Design Review Board, and has not been constructed.
8. *The convent shall only be occupied by nuns, sisters and/or persons directly connected to the church. The convent shall not be rented out or sold to other parties or individuals.* The new convent building was not included on plans submitted for Site Plan and Architectural Review approval by the Design Review Board, and has not been constructed.

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9. *The maximum school enrollment shall be limited to 335 students. All school programs shall be limited to grades K-8, with no program for pre-school aged children. The current school enrollment is 235 students. There is no program for pre-school aged children.*
10. *After completion of the new classroom addition and associated circulation improvements, traffic for children in Grades 6-8, except for school buses, shall not use the Hilary Drive entrance in the morning, but during that time shall ingress and egress off Rock Hill Drive directly. School traffic is being directed to the Rock Hill Drive entrance in accordance with this requirement.*
11. *A school representative shall be posted for the primary purpose of controlling vehicular speed at the corner of Rock Hill Drive and Hilary Drive and another school representative shall be posted at the Hilary Drive entrance to the St. Hilary property on all school days from 7:30 a.m. to 8:10 a.m. The school has instituted a program using parent volunteers to perform this duty; correspondence given to parents is attached as Exhibit 3.*
12. *Church clerestory lights shall be turned off when the church is not in use. Staff has not received any complaints about the clerestory lights being left on during the night.*
13. *When the gymnasium is complete, the existing outdoor basketball hoops and standards shall be removed and not replaced. The existing outdoor basketball hoops and standards have been removed.*
14. *Church and/or school functions shall be limited during construction periods based upon site and parking constraints caused by construction. No complaints were received about excessive church and/or school functions during the construction of the project.*
15. *St. Hilary will implement written procedures to limit concurrent functions at the project that may over burden the parking facilities, which shall include the name and telephone number of a responsible contact at St. Hilary that individuals may contact in the event there are concerns or complaints regarding parking impacts. A copy of this written procedure has been submitted and is attached as Exhibit 4.*

Gymnasium Requirements

16. *Non-operable and double-glazed and/or laminated glass windows shall be installed throughout the gymnasium. No skylights or clerestory windows shall be installed within the gymnasium. No windows shall be permitted on the back side of the gymnasium. The gymnasium was designed and constructed in compliance with these requirements.*



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17. *All exterior entrances of the gymnasium consist of a vestibule comprised of two sets of doors. The exterior entrances to the gymnasium are located at the ends of a vestibule facing the parking lot.*
18. *An adjustable buzzer shall be provided for the gymnasium scoreboard. The gymnasium scoreboard has an adjustable buzzer. Buzzer noise was not audible during the post-construction noise measurements taken during basketball games.*
19. *The HVAC unit for the gymnasium shall be baffled to reduce noise to surrounding residents. The HVAC unit shall not be operated after the gymnasium is closed each day. The HVAC unit for the gymnasium has been installed with noise baffles. The noise from the equipment was neither discernable nor measurable from the above-described residential locations during the post-construction noise measurements.*
20. *All traffic using the gymnasium shall only ingress and egress using the entrances on Rock Hill Drive. The church has given handouts to CYO coaches directing traffic to only use the Rock Hill Drive entrance (attached as Exhibit 5). The Town has received isolated complaints about traffic using the Hilary Drive entrance; these complaints have diminished over time, as is expected once more people are aware of the revised circulation patterns for the church property.*

CYO Limitations

21. *The CYO use of the gymnasium shall be limited to September through March of each year. Hours of CYO use shall be limited to 8:00 a.m. to 7:30 p.m. on Mondays, Wednesdays and Fridays; 8:00 a.m. to 6:30 p.m. on Tuesdays and Thursdays; and 9:00 a.m. to 3:00 p.m. on Saturdays. CYO uses and all other athletic uses shall be prohibited on all Sundays. A schedule of CYO games and practices submitted by the church (attached as Exhibit 6) indicates compliance with this requirement.*
22. *CYO games shall be scheduled with at least 45 minutes between the end of one game and the beginning of the next game to avoid overlapping traffic and parking impacts. CYO games that have been played in the gymnasium have been in conformance with this requirement. However, church representatives have indicated that this requirement has proven to be difficult. This extended break between games results in a longer overall period for which referees must be hired, and local referees have been reluctant to work longer days with such periods of down time. As a result, few actual CYO games have actually been played in the gymnasium.*
23. *No CYO tournaments shall be played within the gymnasium. At least one St. Hilary team must play in each game in the gymnasium. No CYO tournaments*

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have been held in the gymnasium. Church representatives have indicated that at least one St. Hilary team has played in each game held in the gym.

24. *The CYO program shall be open to all children on the Tiburon Peninsula, based on the normal age ranges for CYO participants. Children that are not students of St. Hilary shall have equal priority to St. Hilary students and church members to participate in the CYO program* Church representatives have indicated compliance with this requirement.
25. *At least one supervising adult from St. Hilary shall be on duty at all times during all CYO games and practices to ensure compliance with the operating hours and to discourage activities that result in unwanted noise and/or traffic impacts on homes in the vicinity.* Church representatives have confirmed that at least one supervising adult has been present during all CYO games and practices.

Design Review Board Recommendations

26. *Site Plan and Architectural Review approvals shall be obtained for all new buildings and improvements approved under this permit. During the review of these applications, the Design Review Board shall be encouraged to consider the following recommendations in its review of the future facilities on the subject property:* A Site Plan and Architectural Review application (File #701108) for the construction of the gymnasium, classrooms and parish hall was approved by the Design Review Board on July 19, 2001. The following supplemental applications were also approved for various changes to the project:
 - File #701152 design review permit for construction of a fence along the southwest property line shared with 745 Hilary Drive (approved by Staff on November 11, 2001)
 - File #702003 design review permit for construction of temporary classroom buildings, removed after construction of the permanent classrooms (approved by Staff on January 25, 2002)
 - File #702125 design review permit for construction of a fence along the southern property line near the Hilary Drive entrance (approved by Staff on August 12, 2002)
 - File #703094 design review permit to legalize placement of fill in association with grading improvements and future construction of a fence adjacent to the property located at 750 Hilary Drive (denied by the Design Review Board on September 18, 2003; approved on appeal by the Town Council on November 5, 2003)

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- File #703120 design review permit for construction of a security gate and fencing at the entrance to Hilary Drive (approved by the Design Review Board on November 6, 2003)
 - File #704027 design review permit to legalize as-built construction of transformer equipment and construction of a fence adjacent to the property at 745 Hilary Drive, with a variance for excess fence height (approved by the Design Review Board on September 2, 2004)
 - File #50406 sign permit for construction of two wooden monument signs at the Hilary Drive and Rock Hill Drive entrances to the church (approved by Staff on August 18, 2004)
- (a) *Explore the possibility of stepping up the Parish Center from Lyddon Hall, and attempt to lower the building height of the parish center to 25 feet.* The parish hall building is 22 feet in height.
- (b) *Set back the location of the convent from the street approximately the same distance as other homes along the adjacent portion of Hilary Drive.* The new convent building was not included on plans submitted for Site Plan and Architectural Review approval by the Design Review Board, and has not been constructed.
- (c) *Minimize or mitigate all exterior windows and skylights to minimize light pollution on nearby residential neighborhoods.* The approved building designs minimized the number of windows facing uphill, limiting the amount of light pollution for nearby homes.
- (d) *Reduce the height of the gymnasium to 25 feet.* The gymnasium is 29 feet in height. The Design Review Board determined that the location of the building tucked into the hillside and its roof pitch lessened the visible mass and bulk of the building, and did not result in view blockage or substantial visual massing for neighboring residents.
- (e) *Reduce the height of the classroom addition to 20 feet.* The tallest point of the classroom building is 25.5 feet in height. The Design Review Board also determined that the design and location of the classroom building did not result in view blockage or substantial visual massing for neighboring residents.
- (f) *(Deleted)*
- (g) *Mitigate glare and light pollution from parking lot lighting by requiring use of light standards that direct light downward and baffles or other necessary devices.* The parking lot lighting originally installed for this

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project cast light and glare onto the rear yards of several residential properties below the site along Hilary Drive. Staff informed church representatives of this problem on February 24, 2004. The required baffles for these lights were installed on February 18, 2005. The light modifications appear to effectively mitigate this light pollution impacts on the homes below the site.

- (h) *Attempt to preserve as many mature trees as possible on the site, and require adequate replacement trees if tree removal is deemed necessary.* The Site Plan and Architectural Review application approved by the Design Review Board indicated the removal of 29 trees, with 237 trees to be planted as replacements; this represented an increase of 61 trees above the 176 trees proposed to be planted during review of the project by the Town Council. In addition, two separate tree permits have been approved (T03-18, approved August 18, 2003, and T05-02, approved January 31, 2005) to remove an additional five Monterey Pine trees, one Eucalyptus tree and one Palm tree from the site.
- (i) *Require that all exterior lighting use downlight fixtures and, if necessary, baffles so that light cannot be seen directly by neighbors.* See Item (g) above. Other new exterior lighting fixtures installed as part of this project are appropriate downlights.
- (j) *Require a fence or other form of sound barrier at the top lip of the slope facing the downhill property owners along Hilary Drive. The barrier should be landscaped.* A three foot (3') tall wooden sound barrier fence has been installed at the top lip of the slope facing the downhill property owners along Hilary Drive, in accordance with the approved Site Plan and Architectural Review plans. Landscaping has been installed in the area behind the sound barrier.

- 27. *The applicant shall obtain an approved lot line adjustment from the Tiburon Planning Department to reduce the total lot coverage of buildings for this project to 15.0% or less. This lot line adjustment shall be obtained prior to approval of Site Plan and Architectural Review applications required for the project.* The required lot line adjustment (File #60101) was approved on May 31, 2001, prior to the approval of the Site Plan and Architectural Review application for the project.

Mitigation Monitoring Program

The following mitigation measures were included in Resolution No. 3463 as part of the Mitigation Monitoring Program adopted for this use permit:

- 1.b.1. *Prior to the issuance of grading or building permits for the buildings on the subject property, the building design and landscaping of the property shall receive Site*



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Plan and Architectural Review approval pursuant to Section 4.02.00 of the Tiburon Zoning Ordinance. At least 176 trees shall be planted in a landscaping design so as to minimize and effectively mitigate any visual impacts on the surrounding neighborhood. See Items 26 & 26 (h) above.

1.c.1. Prior to the issuance of grading or building permits for the proposed buildings on this property, the building design and landscaping of the structures shall receive Site Plan and Architectural Review approval pursuant to Section 4.02.00 of the Tiburon Zoning Ordinance. The buildings and landscaping shall be designed so as to minimize and effectively mitigate any visual impacts on the surrounding neighborhood. See Item 26 above.

3.b.1. The site shall be watered during construction to reduce the impacts of such dust to acceptable levels. The site was watered during construction as required.

6.a.1. All improvements, including structures, fills, utilities and roads should be designed to resist earthquake groundshaking. The latest seismic safety building and engineering techniques should be employed in the design of all structures on the site. The site improvements were designed in conformance with these requirements.

6.a.2. Structures should be designed to accommodate settlement. When this is not acceptable, it will be necessary to support improvements (structures, utilities, roads, etc.) on piers extending into firm materials below fill. The site improvements were designed in conformance with these requirements.

6.a.3. Portions of landslides shall be removed and/or reconstructed as part of the grading and construction of a proposed retaining wall at the northwest property line. For landslide areas upslope of the proposed gymnasium, the Town Engineer shall require that either the slopes be reconstructed, catchment structures constructed to control slide debris, or the landslides left in place with ongoing maintenance performed for the landslides. Reconstruction, grading and maintenance of landslide areas was completed in conformance with these requirements.

6.a.4. The Town Engineer or Building Official shall review all other recommendations made within the Geological and Geotechnical Investigation completed by Treadwell & Rollo (1999), Pages 21-29, and determine which recommendations shall be required for construction of improvements on the subject property. The Town Engineer and Building Official conducted this review and made determinations as required prior to construction of the project.

8.f.1. Project design and construction activities will utilize Best Management Practices as described in the California Storm Water Best Management Practice Handbook for Construction Activity, March 1993. These practices were used in the design and construction of the project.

11.a.1. A new three foot (3') high perimeter berming or masonry wall shall be installed along the north property line. See Item 26 (j) above.

11.a.2. No clerestory windows shall be installed for the gymnasium. No clerestory windows were installed in the gymnasium.



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11.a.3. The gymnasium ceiling shall be made of acoustical tile, or shall consist of 20 percent soft material or a hanging panel. All interior gymnasium walls shall consist of 30 percent soft materials or drapery. The gymnasium ceiling was constructed in conformance with these requirements.

11.b.1. All construction activities shall comply with Tiburon building standards for hours of operation. Construction shall be limited to 7:00 a.m. to 5:00 p.m., Monday through Friday, and 9:30 a.m. to 4:00 p.m. on Saturdays. Work shall not be performed on Sundays or on holidays recognized by the Town of Tiburon. Hours of operation, maintenance, and servicing of heavy equipment shall be limited to 8:00 a.m. to 5:00 p.m., Monday through Friday. Project construction was conducted in substantial compliance with these hours of construction.

PUBLIC COMMENT

During the construction of the project, the Town received phone calls and electronic correspondence from several neighboring property owners regarding compliance with the requirements of the use permit and subsequent Design Review approvals. Most of these comments centered on parking lot lighting and the sound wall. Correspondence received from the owners of the nearby properties at 735 Hilary Drive and 3 Via Paraiso West is attached as Exhibits 7 & 8.

The Tiburon Police Department has conducted a search of its records for any calls regarding the St. Hilary property. A letter sent from Police Chief Odetto to the church (Exhibit 9) summarizes several minor complaints received by the Police Department. The letter also notes that the police monitor traffic issues related to schools as part of their normal activities, and have not reported any traffic problems associated with the operation of St. Hilary School.

CONCLUSION

St. Hilary Church and School appear to be in substantial compliance with the requirements of their use permit. The noise study has indicated that the operation of the gymnasium and the project's mechanical systems do not result in significant noise impacts on surrounding residential properties, which is consistent with the intent of the use permit. The revised circulation patterns and the efforts of the church and school to inform their members of these improvements have not resulted in any substantial traffic impacts on the surrounding neighborhood, and will continue to mitigate any potential traffic impacts in the future. The modified parking lot lighting does not spread unnecessary light and glare onto surrounding properties. The improvements and operations of the church and school appear to be consistent with the spirit and intent of the use permit. Based on the information received to date, Staff does not recommend any modifications to the adopted conditions of approval for the use permit at this time.

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RECOMMENDATION

Staff recommends that the Planning Commission take public testimony on this item, close the public hearing, and determine what, if any, modifications should be made to the adopted conditions of approval for this use permit at this time.

EXHIBITS

1. Town Council Resolution No. 3463
2. Traffic Noise study prepared by Rosen, Goldberg & Der, dated March 1, 2005
3. St. Hilary School correspondence with parents on posting volunteers for controlling vehicular speed
4. St. Hilary Church policy on scheduling concurrent functions
5. Instructions for CYO gymnasium use
6. CYO basketball schedule for January and February 2005
7. Correspondence from Steven and Deborah Bendinelli
8. Correspondence from Nick Honchariw
9. Letter from Police Chief Odetto, dated January 19, 2005