

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. 055-253-20 & 055-221-06**

MEETING DATE: **APRIL 26, 2006** REVIEWED BY: SA

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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.

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, or as part of subsequent conditional use permit applications, 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



Town of Tiburon

STAFF REPORT

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 first review of the use permit was conducted on March 9, 2005 and the second review was conducted on September 28, 2005. The third review has now been scheduled in accordance with this condition of approval.

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.

PREVIOUS PERMIT REVIEWS

As noted above, the first review of the St. Hilary use permit was conducted at the March 9, 2005 Planning Commission meeting. The Staff report for that meeting (attached as Exhibit 2) included a review of all conditions of approval contained in Resolution No. 3463, including many which were completed during the construction of the project.

At the March 9, meeting, the Planning Commission heard testimony from several neighboring property owners expressing concerns about the following issues related to the ongoing activities at St. Hilary:

- The efficacy of the approved three foot (3') tall sound wall at the edge of the parking lot in preventing noise for downhill residents.



Town of Tiburon

STAFF REPORT

- Light pollution on downhill residents caused by several parking lot light fixtures.
- Continuing use of Hilary Drive for some St. Hilary traffic.

Although the Planning Commission shared some of these concerns, it was the consensus of the Commission that St. Hilary was operating in compliance with the conditions of its conditional use permit. However, the Planning Commission encouraged representatives of St. Hilary to meet with the neighboring residents to work on resolving these issues.

The second review of the use permit was conducted on September 28, 2005. The Planning Commission heard testimony from one neighbor about concerns with the adequacy of on-site parking. Another neighbor who had previously raised concerns about exterior lighting testified that this issue has now been resolved. The Commission commended the church for working with its neighbors and again determined that St. Hilary was operating in compliance with the conditions of its conditional use permit.

On October 26, 2005, the Planning Commission held a public hearing on a separate request (Conditional Use Permit #10504) from St. Hilary to modify several conditions of approval of Resolution No. 3463. The request was to increase the hours during which CYO basketball games would be played; eliminate a requirement for a 45 minute period between CYO games; and eliminate the requirement for a traffic monitor to be posted at the Hilary Drive entrance to the site on school days. No objections were received from neighboring property owners, and the Planning Commission adopted Resolution No. 2005-16 recommending approval of these changes to the Town Council. On November 16, 2005, the Town Council adopted Resolution No. 60-2005 (Exhibit No. 9) making these modifications to Resolution No. 3463.

ANALYSIS

As noted above, many of the conditions of approval contained within Town Council Resolution No. 3463 pertained to requirements to be completed during the construction of the project. The compliance with these conditions of approval was addressed within the Staff report for the previous use permit review. Following are the remaining conditions of approval regarding the ongoing activities of St. Hilary and the status of compliance for each:

General Conditions

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, or as part of subsequent conditional use permit applications, 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*

Town of Tiburon

STAFF REPORT



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.

Status: The gymnasium was completed in August of 2004. This hearing constitutes the third review under this condition of approval. The next review would occur in March, 2007, and then annually thereafter.

Church and School Conditions

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.*

Status: The current school enrollment is 255 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.*

Status: 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 on all school days from 7:30 a.m. to 8:10 a.m.*

Status: The school has instituted a program using parent volunteers to perform this duty; correspondence previously given to parents is attached as Exhibit 10.

12. *Church clerestory lights shall be turned off when the church is not in use.*

Status: Staff has not received any complaints about the clerestory lights being left on during the night.

Gymnasium Requirements

20. *All traffic using the gymnasium shall only ingress and egress using the entrances on Rock Hill Drive.*

Status: The church has given handouts to CYO coaches directing traffic to only use the Rock Hill Drive entrance (attached as Exhibit 11). Since the last review

Town of Tiburon

STAFF REPORT



of the use permit, the Town has not received any additional complaints about traffic using the Hilary Drive entrance. As previously noted, 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 7:30 p.m. on Tuesdays and Thursdays; and 9:00 a.m. to 5:00 p.m. on Saturdays. CYO uses and all other athletic uses shall be prohibited on all Sundays.*

Status: The scheduled CYO games and practices have been in compliance with this requirement, which was modified by Town Council Resolution No. 60-2005.

22. *[Deleted].*

23. *No CYO tournaments shall be played within the gymnasium. At least one St. Hilary team must play in each game in the gymnasium.*

Status: No CYO tournaments 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*

Status: 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.*

Status: 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*

Town of Tiburon

STAFF REPORT



following recommendations in its review of the future facilities on the subject property:

- (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.*

Status: As discussed in the previous review of this use permit, the Planning Commission commended St. Hilary for its work with these neighbors to resolve this issue. Since the last use permit review, the Town has received no further complaints about the lighting.

- (i) *Require that all exterior lighting use downlight fixtures and, if necessary, baffles so that light cannot be seen directly by neighbors.*

Status: 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.*

Status: As discussed during the March 9, 2005 review of this use permit, 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. Several neighbors questioned the efficacy of the sound wall in preventing noise for downhill residents. The Planning Commission also questioned whether such a sound wall was sufficient, but did not require installation of any additional sound barriers during the previous review of the use permit. No additional complaints regarding noise have been received since the last use permit review.

The mitigation measures included in Resolution No. 3463 as part of the Mitigation Monitoring Program adopted for this use permit have also been completed during the construction of the project.

ELIMINATION OF CONSTRUCTION REQUIREMENTS

As noted above, a number of the conditions of approval of Resolution No. 3463 pertained to requirements to be completed during the construction of the project. There has been some discussion regarding the possibility of deleting the conditions of approval that have already been met from the resolution governing this use permit. Staff recommends that this "clean-up" of the resolution is not necessary at this time, but should be evaluated at such time as St. Hilary may file an application for construction of the other (Phase II) improvements to the site that were originally approved but for which approval has expired, including the convent and rectory.

Town of Tiburon

STAFF REPORT



PUBLIC COMMENT

Since the September 28, 2005 review of this use permit, Staff has not received any additional public comments regarding the activities at St. Hilary.

CONCLUSION

St. Hilary Church and School appear to again be in substantial compliance with the requirements of their use permit. Efforts have been made to meet with the neighbors to address concerns raised at the previous review, and the Town has received no complaints regarding the ongoing activities on the site since the previous review of this 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.

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. Planning Commission Staff report dated March 9, 2005
3. Planning Commission Staff report dated September 28, 2005
4. Planning Commission Staff report dated October 26, 2005
5. Minutes of the March 9, 2005 Planning Commission meeting
6. Minutes of the September 28, 2005 Planning Commission meeting
7. Minutes of the October 26, 2005 Planning Commission meeting
8. Minutes of the November 16, 2005 Town Council meeting
9. Town Council Resolution No. 60-2005
10. St. Hilary School correspondence with parents on posting volunteers for controlling vehicular speed
11. Instructions for CYO gymnasium use