



City of Albany

PLANNING & ZONING APPEAL



GENERAL INFORMATION		Date of decision being appealed: <u>4/26/05</u>	
Who: Any Applicant or party with standing may appeal an administrative decision by Planning staff or a Planning & Zoning Commission action		Type of decision: Please check one	
When: A written appeal must be filed with 14 calendar days of the administrative or Commission action		Administrative	<input type="checkbox"/>
Where: Appeals of administrative decisions are filed with the Community Development Department. Appeals of Planning & Zoning Commission actions are filed with the City Clerk		Planning & Zoning Commission	<input checked="" type="checkbox"/>
Cost: \$305.00 (non-refundable)		Municipal Code or Zoning Ordinance Section	<input type="checkbox"/>
Process: Appeals of Planning Staff decisions will be considered by the Planning & Zoning Commission. Appeals of Planning & Zoning Commission decisions will be heard before the City Council. For appeals of Planning & Zoning Commission decisions on items not requiring a Public Hearing, the appeal will be set for formal City Council consideration within 30 days. For items which required a Public Hearing, the City Council will schedule a Public Hearing within 30 days to consider the appeal.		If you have any questions regarding this procedure, please call the City Clerk at (510) 528-5720 or Planning Division at (510) 528-5760.	
Description of Project: <u>PLANNING APPLICATION 02-104. AMENDMENTS TO CONDITIONAL USE PERMIT (CUP) 93-27 AND DESIGN REVIEW 99-24</u>			
Applicant Name: <u>ST. MARY'S COLLEGE HIGH SCHOOL</u> Address: <u>1600 POSEH AVENUE</u> Phone Number: <u>(510) 559-6220</u>		Appellant Name: <u>JAMES NEVILLE, PEARLITA PARK NEIGHBORHOOD ASSOCIATION,</u> Address: <u>AND SEE ATTACHED. 1049 VENTURA AVE., ALBANY 9470</u> Phone Number: <u>(510) 528-0830</u>	
Basis of Appeal: (Please be precise) <u>SEE ATTACHED</u>			
Signature: <u>[Signature]</u>		Date: <u>MAY 9, 2005</u>	
Date Filed: <u>5/10/05</u>	Received by: <u>[Signature]</u>	Fee: \$ <u>305</u>	Receipt #: <u>30019</u>
Appeal Agenda Date: _____		P.&Z.: <input type="checkbox"/>	City Council <input type="checkbox"/>

NOTICE OF APPEAL - May 10, 2005
City of Albany
Planning and Zoning Commission
Application 02-104

The Peralta Park Neighborhood Association and the undersigned individual residents hereby appeal the Planning and Zoning Commission ("Commission") action of April 26, 2005 approving Planning Application 02-104 to amend the Conditional Use Permit 93-27 and Design Review 99-24.

The bases for the appeal include, but are not limited to, the following grounds:

1. The Commission's amendment of CUP 93-27 and Design Review 99-24 to remove conditions imposed by the City of Albany (hereinafter "amendments") was not based on adequate reasons and findings, was arbitrary and capricious and in violation of law.
2. The Commission's amendments did not consider or address the reasons that the City of Albany initially imposed the conditions of approval of CUP 93-27 and Design Review 99-24 and the fact that the applicant agreed to those conditions.
3. The Commission gave no reasoned basis for removing conditions imposed at the time of the original approval given the absence of any change in the circumstances surrounding the project.
4. Amendment of CUP 93-27 and Design Review 99-24 were not supported by substantial evidence.
5. The Commission failed to conduct required CEQA compliance for its discretionary act of amending CUP 93-27 and Design Review 99-24, including analysis of the cumulative impacts (past, present and reasonable future impacts) of amendment of CUP 93-27 and Design Review 99-24.
5. The Commission gave no reason for giving more favorable treatment to this applicant than to other applicants who have come before the Commission seeking removal of conditions imposed by conditional-use permits and design review.
6. The Commission did not consider either 1) the effect of creating a precedent whereby conditions are removed despite the absence of any extenuating circumstances or conditions, or 2) impacts that such precedent may have on the fair and neutral enforcement of planning and zoning in the City of Albany.
7. The amendments will have an adverse impact on the neighborhood, incur potential development, degrade proposed private open space available on the site, will not improve existing vehicular access and will not diminish traffic impacts. In addition, handicap access has not been considered.

Date of Submission: May 10, 2005

Submitted by:

Peralta Park Neighborhood Association

and

Paul Black & Sheryl Black
1525 Posen Avenue, Albany

Rich Brown and Dale Brown
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