

Location:	5928 Thornhill Drive; Saint John’s Parish
Assessor’s Parcel Number:	048F739000303
Proposal:	Extension of the planning entitlements for construction of a new access bridge over Temescal Creek, reconfiguration of the site circulation and parking, site improvements including tree removal, construction of a new sanctuary building, related site improvements, and reuse of the existing sanctuary as a community hall and fellowship space. NOTE: this is for an extension of the time to complete the building permits associated with the project. It does <u>not</u> include any new additions to or modifications of the original 2012 approval.
Applicant:	St John’s Episcopal Church; Jerry Moran, Project Liaison
Phone Number:	510-910-2466
Owner:	Saint John’s Episcopal Church
Case File Number:	ER08-0001; CMD06-546; TPM9327; CP06-151
Planning Permits Required:	Major Conditional Use Permit for a project site over 1 acre, Regular Design Review, Tentative Parcel Map for lot Merger, Category IV Creek Protection Permit for construction within 20 feet of the top bank of an existing creek
General Plan:	Hillside Residential
Zoning:	RH-4
Environmental Determination:	Final Environmental Impact Report certified on June 6, 2012 (Case File ER08-0001).
Historic Status:	N/A
City Council district:	CCD4
Status:	Pending
Staff Recommendation:	Decision based on staff report
Finality of Decision:	Appealable to City Council
For further information:	Contact Case Planner Sarah Price (510)672-2110; SPrice@oaklandca.gov

SUMMARY

On March 1, 2023 the applicant for the civic project at Saint John’s Episcopal Church submitted a request for an extension of the entitlements originally approved by the Planning Commission in 2012 (*Attachment A*); with additional conditions approved by the Commission in 2016 (*Attachment B*). The Project applicant has taken advantage of all ministerial options for extensions; however, Condition of Approval #2 allows the Project applicant to request, without limit, further entitlement extensions from the Planning Commission if an application is submitted prior to the expiration date. The Project applicant filed extension applications from 2018-2022 which were approved administratively. The applicant has exhausted administrative approval options and is requesting an extension from the original approving body, the Planning Commission. Without an additional extension, the entitlements will be considered expired as of March 11, 2023 (*Attachment C*), however the action on the final disposition of the entitlement has been stayed by the timely extension request.

The Project applicant has not moved forward with the project for several reasons, including:

- Review by California Regional Water Quality Board and completion of the Board’s requirements
- Negotiation period with interested parties and completion of some project specific conditions of approval;
- Suspension of Saint John’s Capital Campaign; and
- COVID-19 pandemic

BACKGROUND

Below is a list of the approved actions for this project.

- Planning Commission approval of a Major Conditional Use Permit, Regular Design Review, Tentative Parcel Map, and Creek Protection Permit on June 6, 2012.
- Planning Commission approval of revised Conditions of Approval January 6, 2016 (*Attachment D*).
- Building permits for demolition and associated site work and tree removal issued and finalized in 2023.
- Permit applications submitted for site work and new entry vehicle bridge, including grading, building, and private infrastructure work submitted in 2019.

PROJECT DESCRIPTION

The proposed project consists of construction of a new access bridge over Temescal Creek, reconfiguration of the site circulation and parking, site improvements including tree removal, construction of a new sanctuary building, related site improvements, and reuse of the existing sanctuary as a community hall and fellowship space. As discussed in the previous Planning Commission staff report (*Attachment E*), the project is still consistent with the General Plan land use designation and related zoning district.

CONCLUSION AND RECOMMENDATION

The project has challenges that are unique to the site, including the requirements imposed by the Regional Water Quality Board, and the fact that the demolition of the existing footbridge and associated tree removal has already been completed. Staff believes that a one-year extension would allow the applicant to successfully complete the approved project while complying with the 2016 Conditions of Approval mandated by this body.

Therefore, staff recommends that the Planning Commission:

1. Approve a one-year extension of the Project approval until March 11, 2024, subject to the previously approved Findings and Conditions of Approval, including the additional Condition of Approvals approved 1/6/2016.
2. Adopt the environmental determination that the approved extension is consistent with, and within the scope of, the

previous EIR for the project pursuant to the requirements of the California Environmental Quality Act (“CEQA”) under Public Resources Code Section 21166 and CEQA Guidelines Section 15162.

Prepared by:

S. Price

Sarah Price
Planner IV

Reviewed by:



Robert Merkamp,
Zoning Manager
Bureau of Planning

Approved for forwarding to the Planning Commission:



For

Edward Manasse,
Deputy Director
Bureau of Planning

ATTACHMENTS:

- A. Staff Report (Excerpt), dated 6/2012
- B. Approval Letter 2016
- C. Extension Letter
- D. Conditions of Approval 2016
- E. Findings for Approval

- F. Demolition Plans
- G. Approved Project Plans

FINDINGS FOR APPROVAL

See Attachment E

ADDITIONAL CONDITION OF APPROVAL

See Attachment D

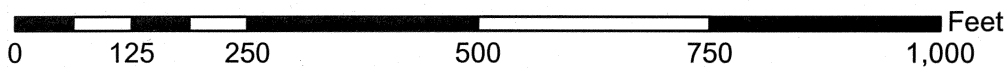
Findings and Additional Condition of Approval

Project Name:	St John’s Episcopal Church – Parking, Bridge, and New Sanctuary Expansion
Location:	1707 Gouldin Road, 1715 Gouldin Road, 5928 Thornhill Drive, 5914 Thornhill Drive, and 1676 Alhambra Lane (APN: 048F-7390-004-09, 048F-7390-001-01, 048F-7390-003-03, 048F-7390-013-00, 048F-7390-001-18)
Proposal:	Phase 1 consists of demolition of an existing single family dwelling, abandonment of a portion of the shared access road with 5940 Thornhill and 1675 Gouldin Road, construction a new access bridge over Temescal Creek, reconfiguration of the site circulation and parking, and removal of 65 trees, 56 of which fall under the City of Oakland tree preservation ordinance. Phase 2 involves construction of a new sanctuary building between 5,000 and 5,500 square feet and related site improvements. The existing sanctuary building would be converted into a community hall and fellowship space.
Contact Person/Phone Number:	St John’s Episcopal Church, Jerry Moran, Project Liaison (510)531-0980
Applicant/ Owner:	St John’s Episcopal Church
Case File Number:	ER08-0001; CMD06-546; TPM9327; CP06-151; T06-141
Planning Permits Required:	Major Conditional Use Permit involving projects over 1 acre; Regular Design Review; Tentative Parcel Map to merge 5 lots into 4; Creek Protection Permit (CPP) (Category IV), related to construction activity within 20’ of the top of bank of an existing creek
General Plan:	Hillside Residential
Zoning:	RH-4 Hillside Residential Zone is current zoning; however, the zoning when the application was deemed complete was R-30 One-Family Residential Zone, which is the applicable zoning.
Environmental Determination:	A NOP for an EIR and an Initial Study were published on March 8, 2008. A Draft Environmental Impact Report was published for a 47-day review period from November 17, 2010 to January 3, 2011. The Final EIR was published on May 25, 2012.
Historic Status:	There are no CEQA historic resources on the project site.
Service Delivery District:	II
City Council District:	4
Action to be Taken:	Adopt the CEQA findings, including Certification of the Environmental Impact Report and decision on the application based on staff report.
Finality of Decision	Appealable to City Council within 10 days.
For Further Information:	Contact Project planner Caesar Quitevis at (510) 238-6343 or by email Cquitevis@oaklandnet.com

SUMMARY

The St John’s Episcopal Church Expansion Project would be built on an existing 3.13 acre site. Phase 1 of the project includes demolishing the existing house at 5928 Thornhill Road, abandoning a portion of the shared access driveway with the home at 5940 Thornhill Road and 1675 Gouldin Road, and constructing a new access bridge from Thornhill Drive and over Temescal Creek. Primary ingress and egress circulation would be via a new lane from the bridge. A total of 65 trees are proposed for removal, 56 of which fall under the City of Oakland tree preservation ordinance with 89 existing trees to be preserved. Phase 2 would involve construction of a new sanctuary building between 5,000 and 5,500 square feet and one-story in height at the location of the current Gouldin Road entrance to the Church. Upon completion of the new sanctuary building, the current sanctuary building would be converted into a community hall and fellowship space.

CITY OF OAKLAND PLANNING COMMISSION



Case File: ER08-0001, CMD06-546, TPM9327, CP06-151, T06-141
Applicant: St John's Episcopal Church; Jerry Moran, Project Liaison
Address: 1707 & 1715 Gouldin Road, 5928 & 5914 Thornhill Drive,
and 1676 Alhambra Lane
Zone: RH-4 (R-30)

The City is the Lead Agency pursuant to the California Environmental Quality Act (CEQA) and has prepared an Environmental Impact Report (EIR) for the Project, which concluded that, with the Standard Conditions of Approval and proposed Mitigation Measures, all environmental impacts will be reduced to less than significant levels.

The purpose of this public hearing is to take any remaining public testimony concerning the Project and to consider taking action on the application submitted for the Project. Staff recommends the Planning Commission:

(1) Adopt the enclosed CEQA findings, including Certification of the EIR, and rejection of alternatives as infeasible.

(2) Approve the Tentative Parcel Map, Creek Protection Permit, Major Conditional Use Permit and Regular Design Review for the Phase 1 site development including the bridge over Temescal Creek and new parking and circulation, and Phase 2 construction of the new 5,000 -5,500 square foot new sanctuary thirty-feet (30') in height, subject to the conditions of approval (including the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCAMMRP)), requirements, and findings contained in this staff report.

SITE DESCRIPTION

Existing Conditions

The existing site, which is 136,300 square feet or 3.13 acres, is bounded by Thornhill Drive, Gouldin Road, and Alhambra Lane and contains the current sanctuary, offices, and education classrooms in a two-story structure of approximately 10,000 square feet and a 7,475 building footprint, a one-story 2,300 square foot single family dwelling proposed for demolition, and approximately 56 off-street parking spaces including one ADA parking stall. The site is located in a predominantly residential area of Oakland with substantial tree cover. Surveys done of the site indicate there are 155 trees representing 32 species, and at various stages of maturity and decline, distributed across the site. Some of these 155 trees fall under the City of Oakland Tree Preservation Ordinance, including Coast Live Oak, Coast Redwood, Douglas Fir, and Giant Redwood. Additionally, a concave topography describes the area where the main vehicle parking and church sanctuary are located, and over an acre of impervious surface area presently exists on the three acres of Church property. Moreover, an open stretch of Temescal Creek, approximately 200 feet in length, runs parallel with, and below the Thornhill Drive roadway level, and this open section of riparian environment is subject to the City of Oakland Creek Protection Ordinance.

Access to the site is currently from Gouldin Road, via a narrow driveway with a steep downslope incline. Given the width and angle of the driveway, it is limited to ingress only. The project site includes the two paved parking areas, upper parking and lower parking areas (which are currently legal, nonconforming with current code regulations with regard to fire apparatus vehicle access). Egress is provided by a narrow and steep connection to Alhambra Lane, which terminates at Thornhill Drive. Thornhill Drive is the main circulation road to the site.

Surrounding Land Uses

The site is bounded by single-family residential homes to the north, west and south. The Church rectory is located at 1715 Gouldin Road immediately southeast of the Church parcel. Thornhill Elementary School is located adjacent to a portion of the church property to the west at 5880 Thornhill Drive. Additional parcels that are owned by the Church include single-family homes at 5914 Thornhill Drive,

5928 Thornhill Drive, and 1676 Alhambra Lane. Alhambra Court is a small residential cul-de-sac that abuts the westerly boundaries of Project site.

PROJECT DESCRIPTION

Phase 1 of the project includes demolishing the house at 5928 Thornhill Drive, abandoning a portion of the shared driveway with the home at 5940 Thornhill Drive, and constructing a new access bridge over Temescal Creek between the site and Thornhill Drive. Primary ingress and egress would be via a new lane leading from the new bridge to an auto circle, which would allow on-site pick-up and drop-off activities as well as provide improved fire truck access to the sanctuary. Perpendicular parking spaces would be provided along the new lane, as well as a separate pedestrian path, which would run parallel to the new lane. Existing parking areas near the sanctuary would be retained, and the existing parking along the upper parking lot would be retained and resurfaced. The Alhambra Lane driveway would be retained to allow egress for people parking in this area. The project provides a total of 46 new and existing parking spaces. Phase 1 also includes removal of 2,300 square feet of asphalt parking lot abutting the eastern side of the existing sanctuary building and abandonment and removal of paving at the current steep Gouldin Road entry. This area would be landscaped under Phase 2. In total, the project proposes the removal of 65 trees, 56 of which fall under the City of Oakland tree preservation ordinance. Most trees proposed for removal would be replaced with native species.

Phase 2 would involve construction of a new sanctuary building between 5,000 and 5,500 square feet and one story tall at the location of the current Gouldin Road entrance to the Church. Conceptual plans for the new sanctuary call for a 30' high structure and a cupola with a bell. The new sanctuary would be constructed of wood, stucco and a composition roof material to match the style and materials of the existing sanctuary building. As part of this phase, the patio between the existing building and the new sanctuary would be renovated and expanded. Upon completion of the new sanctuary building, the existing building would be converted into a community hall and fellowship space.

GENERAL PLAN ANALYSIS

Land Use and Transportation Element of the General Plan

The General Plan's Land Use and Transportation Element (LUTE) designation for the Project site is Hillside Residential. The General Plan Hillside Residential areas are characterized by detached, single unit structures on hillside lots. The General Plan states the intent of the Hillside Residential designation is to "create, maintain, and enhance neighborhood residential areas that are characterized by detached, single unit structures on hillside lots." The General Plan states that the desired character of future development in the area should remain residential in character. Community Assembly Civic Activities such as churches, and Community Education Civic Activities such as schools are consistent, compatible uses in Hillside Residential areas. The proposed development expands the existing, established civic activity on the same site, while maintaining the predominant residential character of the area.

Among the General Plan Land Use and Transportation policies and objectives the proposed Project meets are the following, relating to Neighborhood Housing Classifications that encourage quality and variety in building and landscape design, compatibility of use and form, and encourage school, and community facilities where appropriate:

- **Objective N-2:** Encourage adequate civic, institutional, and educational facilities located within Oakland, appropriately designed, and sited to serve the community;
- **Policy N-2.1:** Design and Maintain Institutions, in a manner that is sensitive to surrounding residential and other uses;

- **Policy N-2.3:** Support Institutional Facilities, where they are compatible with surrounding activities, and where the facility site adequately supports the proposed uses;
- **Policy N-2.5:** Balance City and Local Benefits of Institutions, taking into account the institutions overall benefit to the entire Oakland, as well as its effects upon the immediately surrounding area;
- **Policy N-9.7:** Create Compatible but Diverse Development, create diversity in Oakland's built environment, geared towards creating compatible and attractive development

The church is an existing use on the site. The proposed Project including the site improvements and construction of a new sanctuary is consistent with these objectives and policies and the general intent of the Hillside Residential land use designation. The Project is designed to maintain a compact building form relating to the structures and topography around it (Policy N-2,1); it would contribute towards serving a diverse population as a community assembly civic activity (Policy N-2.5); it makes a good faith effort to adequately support expanded use of the church, reduce potential conflicts due to traffic, circulation, and parking, and remain compatible with surrounding uses, (Policy N-2.3); and it would provide a convenient and functional civic environment and be as attractive as the use and setting warrant to create a compatible development (Policies N-9.7).

Pedestrian Master Plan Element (PMP)

The following Pedestrian Element policies and objectives apply to the proposed Project:

- **Policy PMP 2.1:** Pedestrian Route Network
- **Objective PMP T4:** Alternative Modes of Transportation

The Project will meet the Pedestrian and Bicycle Master Plan through compliance with the Conditions of Approval including implementation of a Transportation Demand Management Program. Furthermore, staff recommends the Planning Commission also make as Conditions of Approval the Project Traffic Consultant's recommended traffic measures for pedestrian safety to install signage, flashing beacons, mid-block crosswalk treatments, foliage trimming, and restriction of on-street parking near the driveway entrance,.

Open Space Conservation and Recreation Element (OSCAR)

The Project is also consistent with the OSCAR General Plan Element. The Project will protect the basic creek functions and will ensure that water and air quality will not be adversely impacted.

The following OSCAR Element policies and objectives apply to the proposed Project:

- **Policy CO-5.3:** Control of Urban Runoff, reduce water pollution associated with stormwater runoff;
- **Policy CO-7.2:** Native Plant Restoration, encourage native plant communities where they have been compromised by development or invasive species;
- **Policy CO-6.1:** Creek Management,, retain creek vegetation and control bank erosion;
- **Policy CO-6.2:** Creek Maintenance and Safety, enforce the maintenance of creeks and watercourses;
- **Policy OS-8:** Creek Conservation, restore and enhance creeks where feasible

The proposed Project is consistent with these objectives and policies. The Project is designed to incorporate stormwater treatment measures, reduce the overall impervious surface area, and minimize impacts on the creek hydrology (Policy CO-5.3) through implementation of Standard Conditions of

Approval and Mitigation Measures. The Project would restore and encourage native plant communities,(CO-7.2); utilize biotreatment engineering to control bank erosion, and vegetation management to enhance the survival of existing significant trees (Policies CO-6.1 and CO-6.2) through implementation of Standard Conditions of Approval and Mitigation Measures . Additionally, through implementation of Standard Conditions of Approval and Mitigation Measures , the Project would contribute towards the off-site restoration of creeks and watercourses outside the Project site (Policy OS-8).

The proposed Project meets the referenced policies and objectives, the general intent of the Hillside Residential designation, maintains and enhances an established civic community facility, provides diversity in neighborhood activity, and protects the natural setting of the area to the extent practicable.

In addition, all the General Plan Elements contain policies which may in some cases address different goals, policies and objectives and thus some policies may compete with each other. These competing policies must be considered and balanced in review of this entire proposal, also taking into consideration the environmental analysis, the feasibility analysis, zoning analysis, and public comment. The Planning Commission and City Council, in deciding whether to approve a proposed project, must decide whether, on balance, the project is consistent (i.e., in general harmony) with the General Plan. The fact that a specific project does not meet all General Plan goals, policies and objectives does not inherently result in a significant effect on the environment within the context of CEQA (City Council Resolution No. 79312 C.M.S.; adopted June 2005).

One example where General Plan policies appear to compete and must be considered and balanced in review of the entire proposal is Policy CO-9.1 Habitat Protection and Policy CO-6.1 Creek Management, where the protection of wildlife along a potential migratory corridor must be balanced with efforts to stabilize and minimize erosion and minimize alteration to the natural flow of water in a watercourse. Policy CO-6.1 is intended to protect Oakland's creeks from urban encroachment and to enhance their aesthetic and habitat value. However, the Creek Protection Ordinance still allows the City of Oakland Building Official or his/her designee to issue a permit for creek alteration. For example, the Project would utilize Standard Conditions of Approval (HYD-9, HYD-10) regarding Creek Dewatering and Aquatic Life, (BIO-5) regarding Tree Replacement Planting, and Mitigation Measures (BIO-1) regarding wildlife monitoring and avoidance measures to balance Project activity that would involve alteration of the creek and utilize Standard Conditions of Approval SCA BIO-1 regarding Regulatory Permits for construction within the vicinity of the creek, SCA BIO-3a and 3b regarding Construction Feasibility for hand tool use in the creek and creek restoration; SCA HYD-5 regarding Erosion, Sedimentation, and Debris Control, and HYD-6 regarding a Creek Protection Plan. Finally, the OSCAR Element states that it is the intent of Policy CO-6.1 to protect creeks and enhance their aesthetic and habitat value. However, application of this policy will vary according to the use and ownership of the property. This policy also notes that new development along the creeks will be required to take a more pro-active approach to creek protection. The proposed improvements and construction will be required to concurrently implement several conditions and Mitigation Measures, as noted above, that will protect the creek and further enhance it.

On balance, staff believes the Project is consistent with the General Plan because development of the Project will help maintain the continued operation and contribution the existing church provides to the citizens of Oakland, reduce traffic impacts to a less than significant level, protect and conserve natural resources, and contribute to diversity, and maintain the livability, or appropriate development of abutting residential properties. In sum and as shown in the overall General Plan Analysis section and throughout the staff report, the Project is supported by numerous policies in the LUTE, and OSCAR Element.

ZONING ANALYSIS

The City updated its Zoning Regulations, which took effect on April 14, 2011. The newly adopted Zoning Regulations changed the zoning designation from R-30, One-Family Residential Zone, to RH-4, Hillside Residential Zone. However, the proposed Project was deemed complete prior to the effective date of the ordinance and per the ordinance, the newly adopted zoning regulations do not apply to the proposed Project. Therefore, the application will be processed under the previous zoning regulations. The applicable zoning designation is the R-30 One-Family Residential Zone.

The R-30 Zone is intended to create, preserve, and enhance areas for single-family dwellings in desirable settings for urban living, and is typically appropriate to already developed low density dwelling areas of the City. Community Assembly Civic Activity uses, such as churches, and Community Education Civic Activity uses, such as schools, are conditionally permitted uses for the R-30 One-Family Residential Zone. St John's Episcopal Church has been operating continuously at the same location since April 20, 1952. The parish hall-chapel has been in existence since March 7, 1954, and an educational wing since 1955. The relevant development standards and the site's compliance with these standards are as follows:

The following table depicts the Project's comparison to the R-30 development standards:

Zoning Regulation Comparison Table

Criteria	Required	Proposed
Front Setback (Gouldin Road)	20'-0"	102'-0"
Street Side Setback (Thornhill Drive)	10'-0"	238'-0"
Interior Side Setback	5'-0"	11'-8"
Rear Setback	199'-0"	272'-0" +
Non-residential Facilities	Enclosed Open	Enclosed Open
Parking	43 spaces	46 spaces
Building Height	30 feet for principal structure with pitched roofs.	30. feet as measured to ridge
Allowed Projections over the Height Limit (Cupola with bell)	45'-0" maximum unless approved under CUP	45'- as measured from exterior finished grade

The criteria for review and approval of this facility at this location includes the following: The Major Conditional Use Permit Criteria in Section 17.134.050 for the expansion of a Community Assembly Civic Activity on a project site over one-acre in size; the Design Review Criteria in Section 17.136.070 for additions and alteration for non-residential facilities, Tentative Parcel Map Criteria in Section 16.08.030, to merge five lots into four, and the Creek Protection Ordinance Criteria in Section 13.16.200, for work conducted from the centerline of the creek to within 20'-0" from the top of the creek bank. All applicable criteria are analyzed and appropriate findings are made in the *Findings* section of this report. (Attachment B)

ENVIRONMENTAL DETERMINATION

Scope

The City is the Lead Agency pursuant to CEQA and has the responsibility to prepare the EIR for the Project, under the requirements of CEQA, pursuant to Public Resources Code Section 21000 *et. seq.*

A Notice of Preparation (NOP) of an EIR and an Initial Study were published on March 8, 2008. The Initial Study screened out environmental factors that would not be further studied in the Draft EIR. These factors included: Agricultural Resources, Air Quality, Cultural Resources, Geology/Soils, Hazards/Hazardous Materials, Land Use/Planning, Mineral Resources, Noise, Population/Housing, Public Services, Recreation, and Utilities/Service Systems. A scoping session was held before the Planning Commission April 2, 2008. At the time of the scoping session, the Draft EIR was expected to address the potential environmental effects for Biological Resources, Hydrology/Water Quality, and Traffic and Circulation. The public comment period on the NOP ended on April 10, 2008. Comments received on the Initial Study resulted in the addition of a discussion on Aesthetics to the analysis within the Draft EIR.

Publication and Distribution of the DEIR and Final EIR/Response to Comments Document

A Draft EIR (DEIR) was prepared for the Project to analyze its environmental impacts. Pursuant to CEQA and the CEQA Guidelines, a Notice of Availability/Notice of Release of the DEIR and the DEIR itself was published on November 17, 2010. The Notice of Availability/Notice of Release of the DEIR was distributed to appropriate state and local agencies, posted at the Project site, mailed to property owners within 300' of the Project site, and e-mailed to individuals who have requested to specifically be notified of official City actions on the Project. A duly noticed Public Hearing on the DEIR was held at the December 15, 2010 meeting of the Planning Commission. The DEIR was properly circulated for a 47-day public review period ending on January 3, 2011.

The following environmental topics are addressed in detail in the DEIR, as other topics (agriculture; air quality, cultural resources, geology, hazards/hazardous materials, land use and planning policy; mineral resources; noise; population and housing; public services; recreation, and utilities) were found to not be significant and not evaluated in detail in the DEIR (see DEIR pages 1-3, and 2-1 through 2-4):

- A. Aesthetics
- B. Biological Resources
- C. Hydrology and Water Quality
- D. Traffic and Circulation

The City received written and oral comments on the DEIR. The City prepared responses to comments on environmental issues and made changes to the DEIR. The responses to comments, changes to the DEIR, and additional information were published in a Final EIR (FEIR). A Notice of Release and Availability (NOA) of the Response to Comments Document (which together with the DEIR make up the Final EIR (FEIR) was published on May 25, 2012. The FEIR NOA was provided to the Planning Commission, was sent to all commenters, and is available to the public at the Planning Department office and on the City's website at

<http://www2.oaklandnet.com/Government/o/CEDA/o/PlanningZoning/s/Application/DOWD009157>
under item.

The Final EIR/Response to Comment Document was published on May 25, 2012, 12 days prior to the duly noticed June 6, 2012 Planning Commission public hearing. The DEIR, the FEIR and all appendices thereto constitute the "EIR" referenced in these findings.

KEY ISSUES

Aesthetics

The Project will result in aesthetic changes with regard to views of the Project site, removal of trees, and construction of the bridge, parking, access roads and the new sanctuary. However, the Project, as designed, and with conformance with the Standard Conditions of Approval (SCA) and Mitigation Measures, will result in less than significant aesthetic impacts. With regard to views into the site, visual building form, and visual quality, the bulk of the proposed sanctuary is sited below the Gouldin roadway elevation to reduce building mass, height, and lessen visual impact. The materials for the proposed building will be compatible with the existing church and consistent with the residential character of the neighborhood. The proposed building footprint displaces an existing asphalt parking lot with a more compact courtyard configuration that better relates with the existing neighborhood scale and surrounding structures.

The site development and related tree removal for the proposed Thornhill Drive access bridge, access lane, and new parking would modify the wooded character adjacent the creek to create an open vista into the site and result in changes to the visual character and quality of the site. However, the removal of trees located along Temescal Creek must conform with an approved Creek Protection Permit (SCA HYD-6), tree removal permit (SCA BIO-2), native species plant and tree replacement (SCA BIO-5) and creek plantings (SCA HYD-8). Implementation of these measures will result in less than significant visual changes and aesthetic impacts. The existing secondary tree orchard will be removed, but implementation of SCA BIO-4 Tree Removal Permit and SCA BIO-5 Tree Replacement Plantings, along with implementation of the proposed tree-lined parking grove will result in less than significant aesthetic impacts. Furthermore, the proposed site development retains a majority of the mature trees and its vegetative canopy. With regular vegetation management practice (SCA HAZ-1) the Project would eliminate weaker trees, trees in poor condition, and trees that are in competition with more desirable existing trees. Remaining protected trees would result in a less than significant impact with implementation of SCA BIO-6 Tree Protection during construction.

Any potential impact of new lighting due to the Project will be reduced to a less than significant level through implementation of SCA AES-1 which requires approval of plans to adequately shield lighting to prevent glare onto adjacent properties impacts. Moreover, compliance with various policies and goals contained in the City's General Plan and Standard Conditions of Approval would ensure there would not be significant adverse aesthetic impacts.

Tree Removal

The Project proposes the removal of 65 existing trees, 56 of which are subject to the Tree Protection Ordinance. More specifically, of the 65 trees recommended for removal in the Tree Report dated October 2008, by HortScience, Inc., 13 trees are currently in close proximity to the proposed bridge location, 37 trees are in close proximity to the proposed parking area, and the remaining 15 trees are located in close proximity to the existing parking area. A total of 18 trees are to be removed to accommodate the development, while the remaining 47 trees were recommended for removal because of their poor condition and unsuitability for preservation. Less than 20 percent of the trees to be removed (13), are

native species indigenous to the area. Tree removal has been identified to be a potentially significant environmental impact.

Staff reviewed whether it was possible to reduce the number of trees proposed for removal. The Tree Report by HortScience, Inc. considers health of specific trees and proximity to the Project activity. As stated in the report, as good standard management practice to sustain the overall quality and health of trees, selective tree removal is necessary to eliminate weaker trees, trees in poor condition, and to reduce competition for light, space, and water for more desirable existing trees. Less than twenty percent of the trees removed (13) are native species indigenous to the area (i.e. coast live oak, big leaf maple, coast redwood, giant redwood) and all are relatively young trees with trunk diameters under fifteen (15) inch diameter. As stated in the report, while trees do provide perching, foraging, and potential nesting opportunities for birds and other wildlife, most of the mature and important trees, in terms of their habitat functions and values, would be preserved. Of the 155 trees surveyed in the report, 89 are designated for preservation, including many of the larger and mature trees, such as the forty-two (42) inch diameter (labeled A in the survey) and fifty-six (56) inch diameter (labeled X) coast redwood trees.

There is little flexibility with the design of the parking grove/driveway due to existing site conditions. Specifically, in order to maintain the health of the large mature trees that would be designated for preservation, and satisfy project objectives, grading and proposed site elevations must be maintained as shown in the Project Grading, Drainage, and Paving Plan of the DEIR. Any adjustments or refinements would result in potential damage to trees proposed for preservation and would impact a greater number of trees as the analysis of the Alternatives indicates. The EIR analyzes a reasonable range of alternatives and of all the feasible alternatives, the proposed project has the least impact on trees within the project site.

Standard Conditions of Approval, SCA BIO-2 through BIO-6 require measures in the protection of trees to remain and for the appropriate removal of trees designated for removal. Additionally, SCA HYD-8 requires a creek landscape plan, and SCA HAZ-1 requires a vegetation management plan to address vegetation adjacent the creek.

- Staff has also recommended additional conditions: A 10-year monitoring period for all plantings shall be established to ensure success of vegetation; and
- All trees designated for removal during construction of Phase 1 of the Project shall be replanted to the satisfaction of the City Arborist Inspector prior to completion of Phase 1

Rare, Threatened or Endangered Species/Riparian Habitat

Development of the proposed Project would result in the removal of existing vegetation around the site, earthwork and grading during construction, tree removal, and the disturbance of potential creek habitat, particularly near the proposed bridge crossing. The DEIR included a detailed biological assessment, performed by a qualified biologist, which concluded potentially significant impacts to rare, threatened or endangered species, as well as to the creek's riparian habitat, can be reduced to less than significant levels with Standard Conditions of Approval and mitigation measures. In response to public comments, additional clarifying biological information has been provided in the Final EIR and a site-specific assessment for the occurrence of the federally threatened California Red Legged frog has also been performed. Although the Project site currently does not support occurrences of any special-status species, there remains a remote possibility that the California red-legged frog could be found during this stretch of Temescal Creek when bridge and restoration work are to be implemented. This is a potentially significant impact. However, this impact would be reduced to a less than significant level with implementation of Mitigation Measure BIO-1 and Standard Condition of Approval HYD-9 Creek Dewatering and Aquatic Life, where wildlife avoidance measures and qualified biologist preconstruction

surveys are conducted and Best Management Practices are implemented during and after Project construction.

The Project would also alter existing shading patterns where the shadows cast by the proposed bridge would result in an area, approximately 476 square feet directly under the proposed bridge, receiving little or no light through the year. The effect of the permanent shading would result in little or no growth of vegetation, and a permanent loss of riparian habitat. On-site mitigation of the loss of 476 square feet of riparian habitat is not feasible given the site constraints for very limited creek daylighting opportunity, the proximity of existing built-out properties, and the existing street roadways. As a result, a potentially significant impact would occur. This impact would be reduced to a less than significant level with implementation of Mitigation Measure BIO-2 where the off-site mitigation requirement would consist of either an off-site mitigation creek restoration Project funded by the applicant for minimum 2:1 replacement area, or 952 square feet, or having the applicant make an in-lieu contribution to cover the costs of restoring a minimum 952 square feet of riparian habitat at an off-site location as specified by the City of Oakland.

The Project may require use of heavy motorized equipment that could have an adverse impact on the riparian habitat of Temescal Creek during the construction of the bridge and the bioengineering treatment of the creek channel banks. This impact would be reduced to less than a significant level with the implementation of Mitigation Measures BIO-3a and BIO-3b, a Construction Feasibility Plan to minimize mechanized equipment, and the approval of a Creek Restoration Plan whose goal is to restore the disturbed area to pre-construction conditions or better. Specific restoration techniques may include, but are not limited to, the use of roto-tilling quality compost into the soil, native plant re-vegetation, layering the soil with biodegradable erosion control fabric, straw wattles, or silt fences. The Project applicant would also need to obtain other regulatory permits and approval (SCA BIO-1) from U.S. Army Corps of Engineers (Corps), Regional Water Quality Control Board (RWQCB), California Department of Fish and Game; and comply with the tree removal permit (SCA BIO-2 and BIO-4); tree removal during breeding season (SCA BIO-3); and protect trees during construction (SCA BIO-6). Furthermore, the Project applicant must comply with (SCA BIO-5) regarding tree replacement plantings and the following recommended measures:

- a) A 10-year monitoring period for all plantings shall be established to ensure success of vegetation.
- b) All trees designated for removal during construction of Phase 1 of the Project shall be replanted to the satisfaction of the City Arborist Inspector prior to completion of Phase 1.

These measures would reduce potential impacts to wildlife and habitat to a less than significant level as a result of the new bridge and stabilization efforts. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse biological impacts.

Creek Protection Permit

Public comments raise the concern that approval of the St. John's Church project would violate the Creek Protection Ordinance and would set a precedent that will lead to approval and construction of additional bridges over creeks in the City. The alternative evaluations in the EIR, and in the CEQA findings, conclude that, given the site constraints including topography, public easements, ADA and emergency vehicle access, and biological resources, none of the alternatives would reduce impacts to less-than-

significant levels and achieve the project objectives. Thus, constructing a bridge is necessary in these particular set of circumstances.

In granting the Creek Protection Permit, the City must make a series of findings that conclude that the project does not conflict with Chapter 13.16 of the Oakland Municipal Code. In order for the City to grant approval of any future Creek Protection Permit, any future applicants would need to meet the same requirements of the St. John's Church project, and demonstrate the project would meet the requirements of the Chapter 13.16.

The Draft EIR (pages 4.2-32 through 4.2-51) provides a complete discussion on project consistency with the Creek Protection Ordinance, as well as the findings section of this report and discusses the unique site constraints (topography, property lines, and biological resources) that necessitate the construction of the proposed bridge in order to achieve the project objectives. The "Guide to Oakland's Creek Protection Ordinance" is, as the name implies, a guide and not a set of mandatory regulations. Moreover, the Guide does not expressly prohibit bridges, but merely states what "typically" may not be permitted.

The EIR states that the project would not alter the course of the creek, nor significantly alter vegetation or wildlife. Furthermore, the Temescal Creek channel is a regulated waterway, and any modifications to this feature will require authorization from several agencies, including the Army Corps, Regional Water Quality Control Board, California Department of Fish and Game, and the City of Oakland. Adequate controls shall be taken to prevent degradation of downstream receiving waters during construction and revegetation through implementation of Best Management Practices defined as part of the Restoration Plans and the required Stormwater Pollution Prevention Plan. Conditions associated with authorization from jurisdictional agencies will ensure adequate protection of existing resources and appropriate replacement and enhancement of existing habitat values. The proposed bank stabilization plan (see DEIR Figure 3-9) and shadow analysis demonstrate that direct impacts to the creek corridor as a result of the new bridge installation would be less than significant with implementation of Mitigation Measures BIO-2, BIO-3a, and BIO-3b, as well as Standard Conditions of Approval HYD-1, HYD-3, HYD-5(m), HYD-8(a), and HYD-10(b). Accordingly, the project would not fundamentally conflict with the City of Oakland Creek Protection Ordinance.

Traffic, Circulation and Parking

The potential for conflict between pedestrians crossing the street and vehicles entering via the new driveway could result in a potentially significant impact. However, implementation of Mitigation Measure TRAF-1, including review and approval by the City of Oakland, would increase the visibility of the mid-block crosswalk and driveway through a plan to improve sight line distances, and alert drivers exiting the site to the presence of pedestrians, which may include, but not be limited to signage, flashing beacons, mid-block crosswalk treatment, vegetation trimming, and restriction of on-street parking near the entry. Implementation of Standard Conditions of Approval TRAF-1, which would implement a Transportation Demand Management (TDM) Plan to reduce on-site parking demand and single occupancy vehicle travel, would further reduce the less than significant traffic impact.

The proposed Project would result in a new primary entry directly from Thornhill Drive instead of the existing Gouldin Road access. In addition, the proposed Project could result in a reduction of on-street parking during construction, and increased capacity for church assembly with the new sanctuary. These changes could alter traffic volume and trip generation, circulation patterns both within and to the site, and, and potentially alter a secondary circulation pattern related with the operation of the adjacent public school. The Project trip generation study does not trigger thresholds that would result in further signal

controls, nor degrade the Level of Service (LOS) below LOS D, and, therefore, based on the Dowling Consultants traffic analysis, the additional trips generated would have a less than significant impact. Although the traffic study concluded that the Project would not result in a significant traffic impact, implementation of Mitigation Measure TRAF-1, SCA TRAF-1, TRAF-2, along with the following additional project specific measures would further reduce the less than significant impact:

- a) On Sundays, the use of the fellowship hall as a separate meeting space shall be limited to hours of operation conducted outside the times of assembly at the sanctuary space, except the fellowship hall may be used for non-adult accessory activities (such as children's Sunday school) connected with the normal assembly activity being conducted in the sanctuary space; and
- b) On Sundays, when different adult activities scheduled at either of the fellowship hall or sanctuary are to occur one after the other, the church shall stagger the event ending and the start time of the next event for at least a 30 minute period.

Moreover, the Church is required to work in good faith with Thornhill Elementary School to develop a memorandum of understanding to formalize the Church's use of the school's blacktop. In the event that the church's use of the school's existing blacktop is substantially altered or eliminated, the Church will (a) develop a valet/attendant parking program to address the parking shortfall within the Project site, subject to City review and approval, and shall implement the approved program; and (b) revise the TDM plan to increase supply of parking or decrease demand for parking spaces, subject to City review and approval. Finally staff has included recommended measures requiring that the applicant make a reasonable good faith effort to install a pedestrian sidewalk. The sidewalk improvement shall be located to connect the existing mid-block Thornhill pedestrian crossing and the Project bridge pedestrian access fronting on Thornhill Drive, approximately 90 linear feet.

Hydrology/Water Quality

The proposed Project provides new vehicle access by constructing a bridge over the Creek; modification of the creek channel banks beneath the location of the bridge and immediately adjacent upstream/downstream of the proposed bridge; new access lane and parking; earthwork and grading and construction activities for a new building that could result in stormwater runoff, erosion, and generation of pollutants that could impact the water quality, capacity and flow of the creek and/or alter the existing drainage pattern of the site and surrounding area, as noted in Initial Study (Section VIII) and as further analyzed in the DEIR. The proposed Project incorporates bioengineering treatments of the creek banks to stabilize the slope, provide erosion protection, and prevent scour of the bridge support structure. The bioengineering treatments include the installation of a live crib wall and vegetative soil lifts. The proposed channel modifications associated with the bridge design increase the channel cross section to facilitate channel water flow and the bioengineering treatments protect the bridge from potential scour from projected channel velocities at and in the vicinity of the bridge. As analyzed in the hydrology study (FEIR Response to Comments, Appendix B, Scour Analysis), the proposed bridge design and associated channel modifications including the bioengineering treatment are sufficient to preclude bridge abutment scour at the location most vulnerable to erosion, and result in a less than significant impact to hydrology. Additionally, implementation of Standard Conditions of Approval HYD-1 Stormwater Pollution Prevention Plan; HYD-2 Drainage Plan for Project on Slopes Greater than 20%; HYD-3 Post-Construction Stormwater Pollution Management Plan; HYD-4 Maintenance Agreement for Stormwater Treatment Measures; HYD-5 Erosion, Sedimentation, and Debris Control Measures; HYD-6 Creek Protection Plan; HYD-7 Creek Monitoring; HYD-8 Creek Landscaping Plan; HYD-9 Creek Dewatering and Aquatic Life; HYD-10 Creek Dewatering and Diversion; HYD-11 Hazards Best Management

Practices; and HYD-12 Lead-based Paint Remediation would result in a less than significant impact on hydrology and water quality. These Standard Conditions require practices to reduce erosion and pollutants during construction and pollutant discharge during Project operation; and preparation of a post-construction Stormwater Pollution Management Plan. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse hydrology and water quality impacts.

Project Alternatives

Chapter V of the Draft EIR includes the analysis of three alternatives to the Proposed Project that meet the requirements of CEQA, which include a reasonable range of alternatives to the Project that would feasibly attain most of the Project's basic objectives, and avoid or substantially lessen many of the Project's significant environmental effects. The three CEQA alternatives analyzed in detail in Chapter V include: (1) No Project/No Build Alternative; (2) Existing Gouldin Road/Alhambra Lane Access (One-Way/No Bridge); and (3) Gouldin Road Access (Two-way/No Bridge)

The Environmentally Superior Alternative is the No Project/No Build Alternative. Under CEQA, if a No Project Alternative is identified as the environmentally superior alternative, the EIR shall also identify an environmentally superior alternative development among the other alternatives. In this case, the environmentally superior development alternative is Alternative 2, Existing Gouldin Road/Alhambra Lane Access (One-Way/No Bridge), as it would avoid all of the Proposed Project's significant impacts on the creek and no worsening of existing substandard traffic conditions. There is a trade-off of potentially significant creek impacts (which can be reduced to less-than-significant levels) against improved ingress/egress and ADA access. Therefore, Alternative 2, Existing Gouldin Road/Alhambra Lane Access (One-Way/No Bridge) is the next environmentally superior alternative.

In addition, the DEIR also reviewed alternatives that were not studied in detail because they were determined infeasible. These alternatives include: (a) Alhambra Court/Alhambra Lane Access (No Bridge) Alternative; (b) Gouldin Road Access (No Bridge) Alternative; (c) Alternative Bridge Location; (d) Alteration of Existing Church Hall Alternative; and (e) Off-Site Location Alternative.

Additional alternatives discussed in the FEIR Master Responses to Comments on the DEIR include the following, all of which are rejected as infeasible for reasons stated in the FEIR: (1) Alternative to Expansion Plan; and (2) Alternative analysis for reduced trees to be removed.

Staff believes all the alternatives are infeasible and should be rejected for the reasons detailed in the CEQA Findings (see Attachment B).

Recommended Conditions of Approval in EIR

The EIR contains Recommended Conditions of Approval in the Transportation Circulation and in the Public Services – Fire Safety sections of the EIR. Although the Recommended Conditions relate to the analysis in the EIR, they are not required by CEQA and are not necessary to address or mitigate any environmental impacts of the Project. Nevertheless, they are recommended by City staff to improve fire safety and response, improve pedestrian safety, and lessen parking conflicts and traffic congestion. The recommended conditions include:

- Recommended Measure 1: A fire hydrant shall be located within the traffic circle with the required distance to the furthest rear wall of the proposed structure, and fire sprinklers shall

be included within the project site. This Recommended Measure will improve compliance with current codes for fire crew and apparatus access, water supply availability, and fire safety.

- Recommended Measure 2: The shared use access driveway to 5928 Thornhill Drive shall not be unreasonably blocked or interfered with during project construction. This Recommended Measure will minimize conflicts to access the parking areas of separately owned properties at 5928 Thornhill and 1675 Gouldin Road.
- Recommended Measure 3: The Church shall make a reasonable good faith effort to install a pedestrian sidewalk. The sidewalk improvement shall be located to connect the existing mid-block Thornhill pedestrian crossing and the Project bridge pedestrian access fronting on Thornhill Drive, approximately 90 linear feet. In determining feasibility, consideration shall be given to topography, slope stability, construction adjacent the creek, and public safety. If determined the sidewalk is feasible, the sidewalk construction shall meet City standards. This Recommended Measure will increase pedestrian safety along the Project street frontage on Thornhill Drive.

Staff recommends approval of these Recommended Conditions and imposition of them on the Project as Project Specific Conditions of Approval.

CONCLUSION AND RECOMMENDATION

In summary, based on the analysis contained within this report and the EIR, staff believes that the proposed Project is an appropriate project at this location with implementation of Standard Conditions of Approval and Mitigation Measures recommended in the EIR. The Project will further the overall objectives of the General Plan Land Use and Transportation policies and objectives for appropriate development and Open Space Conservation and Recreation Element policies and objectives for conservation.

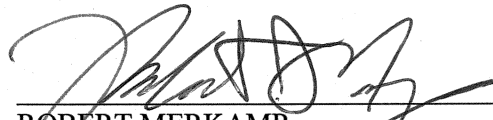
Staff recommends that the Planning Commission:

- (1) Adopt the enclosed CEQA findings, including Certification of the EIR, and rejection of alternatives as infeasible.
- (2) Approve the Tentative Parcel Map, Major Conditional Use Permit, Regular Design Review, and Creek Protection Permit, subject to the attached conditions (including the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCAMMRP)), requirements, and findings.

Approved for forwarding to the
City Planning Commission:

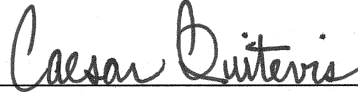


SCOTT MILLER
Interim Planning & Zoning Director
Department of Planning, Building, and Neighborhood
Preservation



ROBERT MERKAMP
Acting Zoning Manager
Department of Planning, Building, and Neighborhood
Preservation

Prepared by:



Caesar Quitevis
Planner II

Attachments:

- A. Project Plans
- B. Findings, including CEQA Findings
- C. Conditions of Approval, including SCAMMRP
- D. Revised and Corrected Kamman Hydrology & Engineering, Scour Analysis (May 1, 2012)

NOTE:

The Draft and Final EIRs were provided under separate cover for review and consideration by the Planning Commission, and are available to the public at the Planning Department office at 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612 and on the City's website at <http://www2.oaklandnet.com/Government/o/CEDA/o/PlanningZoning/s/Application/DOWD009157>



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 2114 • OAKLAND, CALIFORNIA 94612-2031

Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3911
FAX (510) 238-4730
TDD (510) 238-3254

Sent via U.S. Mail and Electronic Mail

March 11, 2016

The Reverend Scott L. Denman
Jerry Moran, Project Liaison
St John's Episcopal Church
1707 Gouldin Road
Oakland, CA 94611

Appellants: Thornhill Creekside Neighbors and Friends
Interested Parties:

RE: St. Johns Church Project; Case File Nos. ER08-0001, CMD06-546, TPM9327, CP06-151

Dear Reverend Denman:

Pursuant to your January 6, 2016 request, the above applications previously **APPROVED** by the City Planning Commission meeting (by a 4-0 vote) on June 6, 2012 have been revised, pursuant to Conditions of Approval No. 3, "Scope of this Approval, Major and Minor changes." Under this Condition, the Zoning Administrator, as designee of the Director of City Planning, has administratively approved the minor changes to the approved plans in the **REVISED CONDITIONS OF APPROVAL Attachment C.** This decision is effective ten (10) days after the date of this letter unless appealed as explained below.

If you, or any other interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten calendar (10) days from the date of the Zoning Administrator's (no later than **4:00 pm on March 21, 2016**). An appeal shall be on a form provided by the Bureau of Planning and Zoning of the Planning and Building Department and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of Caesar Quitevis, Planner II. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Zoning Administrator or wherein his/her is not supported by substantial evidence and must include payment of **\$1,622.57** in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the City Planning Commission prior to the close of the City Planning Commission's public hearing on the matter.

Within five working days of the date of the announcement of the decision, you must record a Notice of Determination (NOD) and the Environmental Declaration with the Alameda County Clerk's office at 1106 Madison Street, Oakland, CA 94612, at a cost of \$50.00 for the County Clerk fee, made payable to the Alameda County Clerk. To record these documents, please take the original NOD related documents and five copies to the Alameda County Clerk, and return one date stamped copy to the Zoning Division, to the attention of Caesar Quitevis, Planner II. Also, please send a file-endorsed copy of the NOD to the State Clearinghouse/Office of Planning & Research.

The City's issuance of this revised approval, with Revised Conditions of Approval, reflect the agreed to conditions between St John's Episcopal Church and the (former) Appellants, Thornhill Creekside Neighbors and Friends, who formally withdrew their appeal (A12090). For the benefit of other interested parties, the revisions to the original Conditions of Approval are shown in ~~strike-out~~ (deletion) and underscore (addition) format, as well as a "clean" version.

If you have any questions, please contact the case planner, Caesar Quitevis, Planner II at (510) 238-6343 or Cquitevis@oaklandnet.com, however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,



SCOTT MILLER
Zoning Manager
Bureau of Planning, Planning and Building Department

cc: David Harlan, Bureau of Building Services
Bill Quesada, Bureau of Building Services
Gay Luster, Public Works /Tree Section
Ann Clevenger, Planner III, Bureau of Planning
Mark Wald, Deputy City Attorney, City Attorney Office
Caesar Quitevis, Planner II, Bureau of Planning

Interested Parties:

David Brown, dab141@gmail.com
Peter Smith, 177 Post Street, Suite 700, San Francisco, CA 94108
Leila Moncharsh, 5707 Redwood Road, Suite #10, Oakland, CA 94619
Nancy Havassy, 5940 Thornhill Drive, Oakland, CA 94611
Alice Youmans and Tyler Pon, 5950 Thornhill Drive, Oakland, CA 94611
Elaine Kawakami, 1731 Gouldin Road, Oakland, CA 94611
Carl Eric and Pamm Anderson, 1675 Gouldin Road, Oakland, CA 94611
Todd Freter, 5900 Thornhill Drive, Oakland, CA 94611

Attachments:

Revised Conditions of Approval, including Standard Conditions of Approvals/ Mitigation Monitoring and Report Program (SCAMMRP)



CITY OF OAKLAND
BUREAU OF PLANNING - ZONING DIVISION
250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612-2031
Phone: 510-238-3911 Fax: 510-238-4730

PLANNING APPROVAL EXTENSION LETTER

March 25, 2022

Mr. Jerry Moran
St. John's Episcopal Church
1707 Goulding Road
Oakland, CA 9611

RE: Extension of Planning Permit Approval

Case No. **CMD06-546; CP06-15; ER08-0001; TPM9327**

Project Address: **1707 Gouldin Road**

Assessor Parcel Number: **048F-7390-004-09; -001-01; -003-03; -013-00; & -001-18**

Original Planning Approval Date: March 11, 2016

Current Expiration date: March 11, 2021 (Extension request was submitted 2/11/2021)

Dear Mr. Moran:

The above referenced permit(s) currently has an expiration date of March 11, 2021. Pursuant to your request for time extension (submitted 2/11/2021), the Planning Permit(s) referenced above are hereby extended to March 11, 2023.

In order to maintain the validity of planning permits, projects should receive building permits or a license to operate, as applicable, by March 11, 2023, unless further extensions are available and granted prior to that date.

Administrative determinations and interpretations shall be subject to the appeal provisions of Oakland Municipal Code Chapter 17.132 (Administrative Appeal Procedure).

In addition, extended projects shall be subject to, and pursuant to your request you (as owner/developer) agree to and pay applicable development impact fees that were adopted by the City Council unless a vested right is obtained prior to the impact fee adoption date and such project is diligently pursued toward completion, as reasonably determined by the Planning Director or designee.

Please do not hesitate to contact zoning Maurice Brenyah-Addow by email at mbrenyah@oaklnadnet.com or by phone at (510) 238-6342 should you have any questions.

Sincerely,

Heather Klein Acting for Robert Merkamp
Zoning Manager

REVISED CONDITIONS OF APPROVAL
ATTACHMENT C

1. **Approved Use**

Ongoing

- a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, staff report, and revised plans dated April 14, 2009, and submitted on May 21, 2009, and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval, or use, shall require prior written approval from the Director of City Planning or designee. See also Conditions of Approval, Item #3, Scope of this Approval.
- b) This action by the **City Planning Commission** ("this Approval") includes the approvals set forth below. This Approval includes:
- I. Approval of a Major Conditional Use Permit for expansion of a community assembly civic activity (church) involving a project over one acre; under Oakland Municipal Code Section 17.134.050.
 - II. Approval of Regular Design Review for new construction under Oakland Municipal Code Section 17.136.050.
 - III. Approval of a Tentative Parcel Map to merge five lots into four under Oakland Municipal Code Section 16.08.030.
 - IV. Approval of a Category IV Creek Protection Permit for exterior work within 20'-0" of the top of creek bank under Oakland Municipal Code Section 13.16.200.

2. **Effective Date, Expiration, Extensions and Extinguishment**

Ongoing

Phase 1

This Approval shall expire **two years** from the approval date, unless necessary permits for Phase 1 construction (i.e. bridge, grading, site development and infrastructure, and tree replacement) have been issued. Necessary permits may include but are not limited to the following: the U.S. Army Corps of Engineers (Corps), Regional Water Quality Control Board (RWQCB), California Department of Fish and Game, and the City of Oakland, and shall comply with all conditions issued by applicable agencies. (See also SCA BIO-1, Regulatory Authorization). Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body.

Phase 2

Phase 2 of the Project shall expire **two years** from the completion and final inspection of Phase 1, unless a written request for extension and appropriate fees are submitted no later than the expiration date for Phase 2. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body.

3. Scope of This Approval; Major and Minor Changes

Ongoing

The project is approved pursuant to the Planning Code, Subdivision Regulations, and Creek Protection Ordinance only. Minor changes, such as changes in final exterior colors, exterior finish materials, exterior lighting, or vegetative plant selection and location, to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

4. Conformance with other Requirements

Prior to issuance of a demolition, grading, P-job, or other construction related permit

- a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval 3.
- b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

5. Conformance to Approved Plans; Modification of Conditions or Revocation

Ongoing

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, **Conditions/ Mitigation Measures** or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these **Conditions/ Mitigation Measures**, if it is found that there is violation of any of the **Conditions/ Mitigation Measures** or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. Signed Copy of the Conditions/ Mitigation Measures

With submittal of a demolition, grading, and building permit

A copy of the approval letter and **Conditions/ Mitigation Measures** shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

7. Indemnification

Ongoing

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b) Within ten (10) calendar days of the filing of any Action as specified in subsection A above, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

8. Compliance with Conditions of Approval

Ongoing

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the **Conditions of Approval and all applicable adopted Mitigation Measures** set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

9. Severability

Ongoing

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions **and/or mitigations**, and if one or more of such conditions **and/or mitigations** is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions **and/or mitigations** consistent with achieving the same purpose and intent of such Approval.

10. Job Site Plans

Ongoing throughout demolition, grading, and/or construction

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval **and/or mitigations**, shall be available for review at the job site at all times.

11. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management

Prior to issuance of a demolition, grading, and/or construction permit

The project applicant may be required to pay for on-call third-party special inspector(s)/inspections as needed during the times of extensive or specialized plancheck review or construction. The project applicant may also be required to cover the full costs of independent technical review and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

12. Landscape Maintenance.

Ongoing

All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

13. Underground Utilities

Prior to issuance of a building permit

The project applicant shall submit plans for review and approval by the Building Services Division and the Public Works Agency, and other relevant agencies as appropriate, that show all new electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities placed underground. The new facilities shall be placed underground along the project applicant's street frontage and from the project applicant's structures to the point of service. The plans shall show all electric, telephone, water service, fire water service, cable, and fire alarm facilities installed in accordance with standard specifications of the serving utilities.

14. Improvements in the Public Right-of-Way (General)

Approved prior to the issuance of a P-job or building permit

- a) The project applicant shall submit Public Improvement Plans to Building Services Division for adjacent public rights-of-way (ROW) showing all proposed improvements and compliance with the conditions **and/or mitigations** and City requirements including but not limited to curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design specifications and locations of facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking and accessibility improvements compliant with applicable standards and any other improvements or requirements for the project as provided for in this Approval. Encroachment permits shall be obtained as necessary for any applicable improvements- located within the public ROW.
- b) Review and confirmation of the street trees by the City's Tree Services Division is required as part of this condition **and/or mitigations**.
- c) The Planning and Zoning Division and the Public Works Agency will review and approve designs and specifications for the improvements. Improvements shall be completed prior to the issuance of the final building permit.
- d) The Fire Services Division will review and approve fire crew and apparatus access, water supply availability and distribution to current codes and standards.

15. Payment for Public Improvements***Prior to issuance of a final inspection of the building permit.***

The project applicant shall pay for and install public improvements made necessary by the project including damage caused by construction activity.

16. Compliance Matrix***Prior to issuance of a demolition, grading, or building permit***

The project applicant shall submit to the Planning and Zoning Division and the Building Services Division a **Conditions/ Mitigation Measures** compliance matrix that lists each condition of approval **and/or Mitigation Measure**, the City agency or division responsible for review, and how/when the project applicant has met or intends to meet the conditions **and/or mitigations**. The applicant will sign the Conditions of Approval attached to the approval letter and submit that with the compliance matrix for review and approval. The compliance matrix shall be organized per step in the plancheck/construction process unless another format is acceptable to the Planning and Zoning Division and the Building Services Division. The project applicant shall update the compliance matrix and provide it with each item submittal.

17. Construction Management Plan***Prior to issuance of a demolition, grading, or building permit***

The project applicant shall submit to the Planning and Zoning Division and the Building Services Division for review and approval a construction management plan that identifies the conditions of approval **and/or mitigation measure** related to construction impacts of the project and explains how the project applicant will comply with these construction-related conditions of approval **and/or mitigation measure**.

18. Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCAMMRP)***Ongoing***

All mitigation measures identified in the St John's Church Project EIR are included in the Standard Condition of Approval and Mitigation Monitoring Program (SCAMMRP) which is included in these conditions of approval and are incorporated herein by reference, as conditions of approval of the project. The Standard Conditions of Approval identified in the St John's Church Project EIR are also included in the SCAMMRP, and are therefore, not repeated in these conditions of approval. To the extent that there is any inconsistency between the SCAMMRP and these conditions, the more restrictive conditions shall govern; to the extent any mitigation measures and/or Standard Conditions of Approval identified in the EIR are inadvertently omitted from the SCAMMRP, they are hereby adopted and incorporated herein by reference, as if fully set forth in the SCAMMRP. The project sponsor (also referred to as the Developer or Applicant) shall be responsible for compliance with the recommendation in any submitted and approved technical reports; all applicable mitigation measures adopted and with all conditions of approval set forth herein at its sole cost and expense, unless otherwise expressly provided in a specific mitigation measure or condition of approval, and subject to the review and approval of the City of Oakland. The SCAMMRP identifies the time frame and responsible party for implementation and monitoring for each mitigation measure. Overall monitoring and compliance with the mitigation measures will be the responsibility of the Planning and Zoning Division. Adoption of the SCAMMRP will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of CEQA. Prior to the issuance of a demolition, grading, and/or construction permit, the project sponsor shall pay the applicable mitigation and monitoring fee to the City in accordance with the City's Master Fee Schedule.

PROJECT SPECIFIC CONDITIONS OF APPROVAL**19. Exterior Materials, Details, and Signage*****Prior to issuance of building permit***

The applicant shall submit all exterior details for the bridge and the sanctuary including the exterior pattern, finishes, and color samples for final review and approval by the City.

20. Architectural Details, Projections, Steeple, etc.***Prior to issuance of building permit to Phase 2***

The applicant shall submit for review and approval by the City details, material and color samples, of architectural projections, including the church steeple. The Project drawings are schematic. Refinement of the architectural drawings shall reflect that the highest point of the steeple shall not exceed forty-five (45) feet above finished grade and the ridge of the roof shall not exceed thirty (30) feet in height. The applicant shall not include a bell or install a bell or sound device in the steeple at any future date.

21. Pedestrian Safety***Prior to issuance of a final inspection of the building permit***

The project applicant shall increase the visibility of the mid-block crosswalk and driveway by developing and submitting a plan to improve sight line distances and alert drivers exiting the site to the presence of pedestrians, subject to review and approval by the City. Such a plan element may include without limitation the following: Signage, flashing beacons, mid-block crosswalk treatments, foliage trimming, and restriction of on-street parking near the driveway entrance. The applicant shall implement the approved plan.

22. Tentative Parcel Map 9327 (City Memorandum revised 5/31/12)***Prior to recordation of map, or issuance of demolition, grading, or building permit***

- a). Provide identification numbers for City of Oakland monuments
- b). Show location of existing and proposed drainage, sanitary sewer, water supply, and other utility facilities for each lot. Provide separate utilities and utility meters for each lot.
- c). Provide an emergency vehicle access easement a minimum of twenty (20) feet wide. The easement shall extend from Thornhill Drive to Alhambra Lane on New Lot 1. Note the access for fire vehicles shall extend to locations less than 150-foot walking distance from any portion of the building.¹
- d). The tentative map is unclear as to the number of existing lots and the number of proposed lots. New Parcels 2 and 4 appear to be existing lots. If they are existing lots, revise the map accordingly. Note New Parcel 2 may require an emergency access easement and a private access easement.²
- e). Show location, purpose, and width of all existing and proposed easements.

¹ The emergency vehicle access easement shall be provided from Thornhill Drive on the proposed driveway access lane, turnaround, and upper parking lane to Alhambra Lane. This access easement is necessary to provide safer ingress and egress for parishoners and parents of Thornhill school children. Furthermore, this access easement is required due to the fact that the existing Rectory (1715 Gouldin Road) is located on a land-locked parcel and the driveway to the Rectory is being accessed from the turnaround.

² Parcel 2 appears, from the assessor's parcel map, to be an existing parcel despite the fact that the Tentative Parcel Map dated October 2006 shows this as a new parcel. If Parcel 2 is an existing parcel and is not being altered, then Parcel 2 should be removed from the Tentative Map and the Map revised. The City will not require a emergency vehicle access on the existing access drive to the Rectory if this parcel is not altered. However, if Parcel 2 is a new parcel, then a emergency access and private access easement over the existing driveway may be required because this is a land-locked parcel.

- f). Provide written, photographic, or survey documentation showing that no private improvements have been built in the public right-of-way.
- g). Provide written, photographic, or survey documentation showing the location of the existing building on New Parcel 3 and 4 does not extend beyond the property lines. The proposed property lines shall be adjusted to allow development to conform with the 2013 Building Code.
- h). Note that the property lies within a seismic hazard zone with earthquake-induced liquefaction potential. A soils report may be required. If required, submit geotechnical reports meeting the guidelines of Special Publication 117 prepared by a licensed civil engineer or a registered engineering geologist to the City for review when applying for permits. A statement acknowledging the above shall be placed on the parcel map. Add a statement to the Map that says "This real property lies within the following hazardous area: A SEISMIC HAZARD ZONE – Liquefaction Zone pursuant to Section 2696 of the Public Resources Code. These hazards may limit your ability to develop the real property, to obtain insurance, or to receive assistance after a disaster. The maps on which these disclosures are based estimate where natural hazards exist. They are not definitive indicators of whether or not a property will be affected by a natural disaster. Transferee(s) and transferor(s) may wish to obtain professional advice regarding hazards and other hazards that may affect the property."
- i). Place the following statement on the Final Map:

PUBLIC ADVISORY

"This map is based on private surveys performed by licensed professionals and will not be updated or corrected by the City of Oakland after its filing. No warranty, either expressed or implied, is made by the City of Oakland that this map and the survey information on which it is based is correct, accurate, and current, nor that the City will retain for public inspection any related information which may be subsequently submitted to the City, including alleged or actual discrepancies, inaccuracies, deficiencies, and errors."

23. Fire Safety and Installation of Fire Hydrant and Sprinklers

Prior to issuance of a final inspection of the building permit

A fire hydrant shall be located within the traffic circle with the required distance to the furthest rear wall of the proposed structure, and fire sprinklers shall be included within the project site. This Recommended Measure will improve compliance with current codes for fire crew and apparatus access, water supply availability, and fire safety.

24. Shared Use Access

Ongoing during construction activity

The shared access driveway to 5928 Thornhill Drive shall not be used, blocked, or interfered with by any vehicle or equipment in connection with the Project, including, but not limited to, vehicles or equipment used for tree removal, demolition, planting, or construction. This Recommended Measure will minimize conflicts to access the parking areas of separately owned properties at 5940 Thornhill and 1675 Gouldin Road.

25. Pedestrian Safety along Thornhill Drive

Prior to issuance of a final inspection of the building permit

The Church shall submit for review and approval by the City a plan to increase pedestrian safety along Thornhill Drive from the existing mid-block Thornhill pedestrian crossing to the Project bridge pedestrian access fronting on Thornhill Drive, approximately 90 linear feet. Such a plan may include, without

limitation, the following: trimming back the vegetation, bollards, or other approved permanent physical barriers to exclude vehicles and create a refuge for pedestrians, and a pedestrian walkway. The applicant shall implement the approved plan.

26. Ombudsmen

Ongoing

The Church shall provide the name and phone number of a staff member available to field respond to complaints/inquiries during construction and all church events. Said person and contact number shall be posted prominently along the entry to the roadway on a sign at least one (1) square foot in size.

27. Bridge Design with Transparency

Prior to issuance of building permit

The Church shall explore the feasibility of designing the bridge to provide more natural light and transparency to the creek bed below, such as an open structure design with the intent to allow light beneath the bridge and reduce the shading impacts on the riparian conditions below the bridge. The results of the feasibility study, including any schematic bridge plans, shall be submitted to the City for review. The City shall determine whether it is feasible to redesign the bridge considering in part, the benefits to the creek bed and riparian corridor in relation to any cost or safety implications. If determined feasible, the revised approved bridge plans shall be implemented.

28. Memorandum of Understanding for Parking At Thornhill Elementary School Follow-up

Prior to issuance of grading, demolition, and/or building permit

At the end of the MOU term, or upon termination of MOU, that is required by Implementation of SCA TRAF-1, the Church shall make a good faith effort to negotiate an extension or a revised agreement with the District for the Church's use of the Thornhill Elementary School's blacktop for parking. The Church shall report back to Planning staff on the status of the good faith efforts to enter into an extension or revision to the MOU.

29. Special Event Parking

Ongoing

Whenever a special event is planned that may exceed the church's onsite parking capacity, the church will notify neighbors of the details of the event no less than 24 hours in advance of the special event. Notification will be made by e-mail to all neighbors on the Notification e-list. The church will notify Montclair Presbyterian Church and the principal of Thornhill Elementary School when such events are planned. A point person from the church will be identified (and a cell phone number) provided within said Notice). He or she will be responsible for managing the church's parking spaces and overseeing the overflow parking program. The point person will determine where monitors are to be stationed. Periodically, but no less than every five years, the church will review the Church Parking Policies and Plan, and prepare a status report to inform the neighborhood and the City of the effectiveness of the Parking Plan. If necessary, the Parking Policies and Plan shall be adjusted, subject to the review and approval of the City Traffic Engineer, to address any issues raised during the review that impact traffic congestion. The policy measures shall include, but not be limited to, the following:

- a. The Church shall follow all City parking regulations, and will instruct and encourage its members to comply;
- b. The approved Parking Policy and Plan, and all future updates shall be shared with surrounding neighbors by the Church. Neighbors will be asked by the Church for input during these reviews and will be notified of any changes in the policies.

- c. The Church will prepare a legal parking map of the neighborhood of the church. It will be distributed by the Church to the neighbors when complete;
- d. The Church shall make a good faith effort to estimate the number of attendees for special events. If expected attendance cannot reasonably be accommodated by the existing Church parking lots and legal parking, the Church shall notify neighbors of the details of the event.
- e. The Church shall use parking ushers who will supervise the parking at Montclair Presbyterian Church and Thornhill Elementary School. A lead user shall be identified, and he or she will be the point person for managing parking spaces, as well as overseeing the over flow parking program;
- f. The Church shall encourage members to car pool, whenever possible;
- g. On any day when usage is expected to exceed parking capacity, the Church shall establish a neighborhood hot line. Any neighbor, who has a reasonable concern may call the hot line, and discuss that concern with a contact person, or ombudsmen;
- h. The Church will appoint a contact for the neighbors. The contact person will be the official point of contact for the church concerning any issue which arises as they are related to parking.

30. Parking Lot Security

Prior to issuance of a demolition, grading, and/or construction permit

Final plans for Phase 1 of the project shall include an access control system to be installed at the Thornhill Drive entrance to the new parking lot before the lot is opened for use. The access control system shall be designed to resist tampering or unauthorized actuation, operate independently of humans, be permanently maintained in good condition and, whenever necessary, repaired or replaced in a timely manner. This system will physically limit access by unauthorized users, and except as provided below, will operate during the hours of 10:00 p.m. to 7:00 a.m. If a church authorized event lasts later than 10:00 p.m., or begins earlier than 8:00 a.m., the access system will be activated no later than 11:00 p.m. or no earlier than 7:00 a.m., and that such events that last later than 10:00 p.m. or begin earlier than 8:00 a.m. shall be limited to six authorized events per year. The access control system will be in effect starting at 4:00 p.m. each Saturday. The church will also include in their final plans for Phase 1 a security device that will prevent unauthorized users from driving the wrong way up the exit lane on Alhambra Lane in order to enter the parking lot. The device shall be designed to resist tampering or unauthorized actuation, be permanently maintained in good condition, and, whenever necessary, repaired or replaced in a timely manner. The security device will be installed prior to opening the new parking lot for use. The access control system shall be accessible to emergency medical vehicles and fire apparatus vehicles as necessary in case of emergencies. The location of the access control gate/system shall provide a minimum vehicle cueing distance of 20 feet from the Thornhill Drive pavement edge. Said access control system shall be subject to Small Project Design Review.

31. Access from Alhambra Lane

Ongoing

Applicant shall permanently restrict access from the cul-de-sac off Alhambra Lane to the Church, including, but not limited to Thornhill One (currently identified as 5928 Thornhill Drive). A fence for this purpose shall replace the existing locked gate.

32. Use of Church Facilities

Ongoing

In circumstances where the Church deems it appropriate to rent space in the facility, the Church shall enforce and require prospective users to agree to the following in an approved written agreement with the Church:

- a) User shall be subject to the standards identified in Standards Conditions of Approval, SCA Noise-5 Operational Noise (Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code.
- b) Users shall implement waste reduction standards and utilize compostable or recyclable materials to the extent practicable, and use on-site recycling bins for trash, recycling, and compostable materials;
- c) Use of the facility is limited between the hours of 8:00 a.m. and 10:00 p.m.;
- d) All user groups shall park in one of the designated parking areas. If a group needs more parking spaces than are available, then the group must coordinate with the church administrator to review and implement compliance with Church Parking Policies and Plans.
- e) User shall obtain any applicable local, state, and federal permits required for the intended use on the Premises, including without limitation any permits required for the sale of food or alcoholic beverages on the Premises.
- f) Said users shall also be subject to Special Event Parking standards, Condition #29, identified above.

33. Limited Use of Space Currently Assigned to Sanctuary Building
Ongoing

Applicant will use the space on its property that is designated in its current submitted plans for the sanctuary (DEIR Figure 3-6), for this purpose only. No change in facility (sanctuary building) nor change in use (normal church related services) shall be permitted unless prior application and approval is made through the City of Oakland.

ORIGINAL APPROVED BY:

City Planning Commission: June 6, 2012 (original date) 4 ayes - 0 noes (vote)

REVISED APPROVAL

Zoning Manager _____ (date)

Applicant and/or Contractor Statement

I have read and accept responsibility for the Conditions of Approval, as revised and approved by Zoning Administrator action on _____. I agree to abide by and conform to these conditions, as well as to all provisions of the Oakland Zoning Code and Municipal Code pertaining to the project.

Signature of Owner/Applicant: _____ (date)

~~REVISED AND APPROVED BY PLANNING~~
~~COMMISSION~~ CONDITIONS OF APPROVAL

ATTACHMENT C

NOTE: Revisions to the original June 6, 2012 Conditions of Approval are shown below in ~~strike-out~~ (deletion) and underscore (addition)

1. Approved Use

Ongoing

- a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, staff report, and revised plans dated April 14, 2009, and submitted on May 21, 2009, and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval, or use, shall ~~required~~ require prior written approval from the Director of City Planning or designee. See also Conditions of Approval, Item #3, Scope of this Approval.
- b) This action by the **City Planning Commission** ("this Approval") includes the approvals set forth below. This Approval includes:
- I. ~~I.~~ Approval of a Major Conditional Use Permit for expansion of a community assembly civic activity (church) involving a project over one acre; under Oakland Municipal Code Section 17.134.050.
 - II. ~~II.~~ Approval of Regular Design Review for new construction under Oakland Municipal Code Section 17.136.050.
 - III. ~~III.~~ Approval of a Tentative Parcel Map to merge five lots into four under Oakland Municipal Code Section 16.08.030.
 - IV. ~~IV.~~ Approval of a Category IV Creek Protection Permit for exterior work within 20'-0" of the top of creek bank under Oakland Municipal Code Section 13.16.200.

2. Effective Date, Expiration, Extensions and Extinguishment

Ongoing

Phase 1

This Approval shall expire **two years** from the approval date, unless necessary permits for Phase 1 construction (i.e. bridge, grading, site development and infrastructure, and tree replacement) have been issued. Necessary permits may include but are not limited to the following: the U.S. Army Corps of Engineers (Corps), Regional Water Quality Control Board (RWQCB), California Department of Fish and Game, and the City of Oakland, and shall comply with all conditions issued by applicable agencies. (See also SCA BIO-1, Regulatory Authorization-). Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body.

- a) ~~At the time Phase 1 is submitted to the City for building permit review, the building permit plans shall be completed and submitted to Planning staff for Phase 2 for review demonstrating the effort to complete the construction of the sanctuary building.~~

Phase 2

Phase 2 of the Project shall expire **two years** from the completion and final inspection of Phase 1, unless a written request for extension and appropriate fees are submitted no later than the expiration date for Phase 2. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body.

3. **Scope of This Approval; Major and Minor Changes**

Ongoing

The project is approved pursuant to the Planning Code, Subdivision Regulations, and Creek Protection Ordinance only. Minor changes, such as changes in final exterior colors, exterior finish materials, exterior lighting, or vegetative plant selection and location, to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

4. **Conformance with other Requirements**

Prior to issuance of a demolition, grading, P-job, or other construction related permit

- a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval 3.
- b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

5. **Conformance to Approved Plans; Modification of Conditions or Revocation**

Ongoing

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.

c) Violation of any term, **Conditions/ Mitigation Measures** or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings; or after notice and public hearing, to revoke the Approvals or alter these **Conditions/ Mitigation Measures**, if it is found that there is violation of any of the **Conditions/ Mitigation Measures** or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. **Signed Copy of the Conditions/ Mitigation Measures**

With submittal of a demolition, grading, and building permit

A copy of the approval letter and **Conditions/ Mitigation Measures** shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

7. **Indemnification**

Ongoing

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b) Within ten (10) calendar days of the filing of any Action as specified in subsection A above, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

8. **Compliance with Conditions of Approval**

Ongoing

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval **and all applicable adopted Mitigation Measures** set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

9. **Severability**

Ongoing

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions **and/or mitigations**, and if one or more of such conditions **and/or mitigations** is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions **and/or mitigations** consistent with achieving the same purpose and intent of such Approval.

10. Job Site Plans***Ongoing throughout demolition, grading, and/or construction***

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval **and/or mitigations**, shall be available for review at the job site at all times.

11. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management***Prior to issuance of a demolition, grading, and/or construction permit***

The project applicant may be required to pay for on-call third-party special inspector(s)/inspections as needed during the times of extensive or specialized plancheck review or construction. The project applicant may also be required to cover the full costs of independent technical review and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

12. Landscape Maintenance.***Ongoing***

All required planting shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with applicable landscaping requirements. All required irrigation systems shall be permanently maintained in good condition and, whenever necessary, repaired or replaced.

13. Underground Utilities***Prior to issuance of a building permit***

The project applicant shall submit plans for review and approval by the Building Services Division and the Public Works Agency, and other relevant agencies as appropriate, that show all new electric and telephone facilities; fire alarm conduits; street light wiring; and other wiring, conduits, and similar facilities placed underground. The new facilities shall be placed underground along the project applicant's street frontage and from the project applicant's structures to the point of service. The plans shall show all electric, telephone, water service, fire water service, cable, and fire alarm facilities installed in accordance with standard specifications of the serving utilities.

14. Improvements in the Public Right-of-Way (General)***Approved prior to the issuance of a P-job or building permit***

a) The project applicant shall submit Public Improvement Plans to Building Services Division for adjacent public rights-of-way (ROW) showing all proposed improvements and compliance with the

conditions **and/or mitigations** and City requirements including but not limited to curbs, gutters, sewer laterals, storm drains, street trees, paving details, locations of transformers and other above ground utility structures, the design specifications and locations of facilities required by the East Bay Municipal Utility District (EBMUD), street lighting, on-street parking and accessibility improvements compliant with applicable standards and any other improvements or requirements for the project as provided for in this Approval. Encroachment permits shall be obtained as necessary for any applicable improvements- located within the public ROW.

- b) Review and confirmation of the street trees by the City's Tree Services Division is required as part of this condition **and/or mitigations**.
- c) The Planning and Zoning Division and the Public Works Agency will review and approve designs and specifications for the improvements. Improvements shall be completed prior to the issuance of the final building permit.
- d) The Fire Services Division will review and approve fire crew and apparatus access, water supply availability and distribution to current codes and standards.

15. Payment for Public Improvements

Prior to issuance of a final inspection of the building permit.

The project applicant shall pay for and install public improvements made necessary by the project including damage caused by construction activity.

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The project applicant shall submit to the Planning and Zoning Division and the Building Services Division a **Conditions/ Mitigation Measures** compliance matrix that lists each condition of approval **and/or Mitigation Measure**, the City agency or division responsible for review, and how/when the project applicant has met or intends to meet the conditions **and/or mitigations**. The applicant will sign the Conditions of Approval attached to the approval letter and submit that with the compliance matrix for review and approval. The compliance matrix shall be organized per step in the plancheck/construction process unless another format is acceptable to the Planning and Zoning Division and the Building Services Division. The project applicant shall update the compliance matrix and provide it with each item submittal.

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Prior to issuance of a demolition, grading, or building permit

The project applicant shall submit to the Planning and Zoning Division and the Building Services Division for review and approval a construction management plan that identifies the conditions of approval **and/or mitigation measure** related to construction impacts of the project and explains how the project applicant will comply with these construction-related conditions of approval **and/or mitigation measure**.

18. Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCAMMRP)

Ongoing

All mitigation measures identified in the St John's Church Project EIR are included in the Standard Condition of Approval and Mitigation Monitoring Program (SCAMMRP) which is included in these conditions of approval and are incorporated herein by reference, as conditions of approval of the project. The Standard Conditions of Approval identified in the St John's Church Project EIR are also included in

the SCAMMRP, and are therefore, not repeated in these conditions of approval. To the extent that there is any inconsistency between the SCAMMRP and these conditions, the more restrictive conditions shall govern; to the extent any mitigation measures and/or Standard Conditions of Approval indentified in the EIR are inadvertently omitted from the SCAMMRP, they are hereby adopted and incorporated herein by reference, as if fully set forth in the SCAMMRP. The project sponsor (also referred to as the Developer or Applicant) shall be responsible for compliance with the recommendation in any submitted and approved technical reports, all applicable mitigation measures adopted and with all conditions of approval set forth herein at its sole cost and expense, unless otherwise expressly provided in a specific mitigation measure or condition of approval, and subject to the review and approval of the City of Oakland. The SCAMMRP identifies the time frame and responsible party for implementation and monitoring for each mitigation measure. Overall monitoring and compliance with the mitigation measures will be the responsibility of the Planning and Zoning Division. Adoption of the SCAMMRP will constitute fulfillment of the CEQA monitoring and/or reporting requirement set forth in Section 21081.6 of CEQA. Prior to the issuance of a demolition, grading, and/or construction permit, the project sponsor shall pay the applicable mitigation and monitoring fee to the City in accordance with the City's Master Fee Schedule.

PROJECT SPECIFIC CONDITIONS OF APPROVAL

19. Exterior Materials, Details, and Signage

Prior to issuance of building permit

The applicant shall submit all exterior details for the bridge and the sanctuary including the exterior pattern, finishes, and color samples for final review and approval by the City.

20. Architectural Details, Projections, Steeple, etc.

Prior to issuance of building permit to Phase 2

The applicant shall submit for review and approval by the City details, material and color samples, of architectural projections, including the church steeple. The Project drawings are schematic. Refinement of the architectural drawings shall reflect that the highest point of the steeple shall not exceed forty-five (45) feet above finished grade and the ridge of the roof shall not exceed thirty (30) feet in height. The applicant shall not include a bell or install a bell or sound device in the steeple at any future date.

21. Pedestrian Safety

Prior to issuance of a final inspection of the building permit

The project applicant shall increase the visibility of the mid-block crosswalk and driveway by developing and submitting a plan to improve sight line distances and alert drivers exiting the site to the presence of pedestrians, subject to review and approval by the City. Such a plan element may include without limitation the following: Signage, flashing beacons, mid-block crosswalk treatments, foliage trimming, and restriction of on-street parking near the driveway entrance. The applicant shall implement the approved plan.

22. Tentative Parcel Map 9327 (City Memorandum revised 5/31/12)

Prior to recordation of map, or issuance of demolition, grading, or building permit

- a). Provide identification numbers for City of Oakland monuments

- b). Show location of existing and proposed drainage, sanitary sewer, water supply, and other utility facilities for each lot. Provide separate utilities and utility meters for each lot.
- c). Provide an emergency vehicle access easement a minimum of twenty (20) feet wide. The easement shall extend from Thornhill Drive to Alhambra Lane on New Lot 1. Note the access for fire vehicles shall extend to locations less than 150-foot walking distance from any portion of the building.¹
- d). The tentative map is unclear as to the number of existing lots and the number of proposed lots. New Parcels 2 and 4 appear to be existing lots. If they are existing lots, revise the map accordingly. Note New Parcel 2 may require an emergency access easement and a private access easement.²
- e). Show location, purpose, and width of all existing and proposed easements.
- f). Provide written, photographic, and/or survey documentation showing that no private improvements have been built in the public right-of-way.
- g). Provide written, photographic, and/or survey documentation showing the location of the existing building on New Parcel 3 and 4 does not extend beyond the property lines. If the buildings or portions of the buildings are less than 3 feet from the proposed property line, the lines shall be adjusted to meet the 2011 California allow development to conform with the 2013 Building Code.
- h). Note that the property lies within a seismic hazard zone with earthquake-induced liquefaction potential. A soils report may be required. If required, submit geotechnical reports meeting the guidelines of Special Publication 117 prepared by a licensed civil engineer or a registered engineering geologist to the City for review when applying for permits. A statement acknowledging the above shall be placed on the parcel map. Add a statement to the Map that says "This real property lies within the following hazardous area: A SEISMIC HAZARD ZONE – Liquefaction Zone pursuant to Section 2696 of the Public Resources Code. These hazards may limit your ability to develop the real property, to obtain insurance, or to receive assistance after a disaster. The maps on which these disclosures are based estimate where natural hazards exist. They are not definitive indicators of whether or not a property will be affected by a natural disaster. Transferee(s) and transferor(s) may wish to obtain professional advice regarding hazards and other hazards that may affect the property."
- i). Place the following statement on the Final Map:

PUBLIC ADVISORY

"This map is based on private surveys performed by licensed professionals and will not be updated or corrected by the City of Oakland after its filing. No warranty, either expressed or implied, is made by the City of Oakland that this map and the survey information on which it is based is correct, accurate, and current, nor that the City will retain for public inspection any related information which may be subsequently submitted to the City, including alleged or actual discrepancies, inaccuracies, deficiencies, and errors."

¹ The emergency vehicle access easement shall be provided from Thornhill Drive on the proposed driveway access lane, turnaround, and upper parking lane to Alhambra Lane. This access easement is necessary to provide safer ingress and egress for parishoners and parents of Thornhill school children. Furthermore, this access easement is required due to the fact that the existing Rectory (1715 Gouldin Road) is located on a land-locked parcel and the driveway to the Rectory is being accessed from the turnaround.

² Parcel 2 appears, from the assessor's parcel map, to be an existing parcel despite the fact that the Tentative Parcel Map dated October 2006 shows this as a new parcel. If Parcel 2 is an existing parcel and is not being altered, then Parcel 2 should be removed from the Tentative Map and the Map revised. The City will not require a emergency vehicle access on the existing access drive to the Rectory if this parcel is not altered. However, if Parcel 2 is a new parcel, then a emergency access and private access easement over the existing driveway may be required because this is a land-locked parcel.

23. Fire Safety and Installation of Fire Hydrant and Sprinklers***Prior to issuance of a final inspection of the building permit***

A fire hydrant shall be located within the traffic circle with the required distance to the furthest rear wall of the proposed structure, and fire sprinklers shall be included within the project site. This Recommended Measure will improve compliance with current codes for fire crew and apparatus access, water supply availability, and fire safety.

24. Shared Use Access***Ongoing during construction activity***

The shared use-access driveway to 5928 Thornhill Drive shall not be unreasonably used, blocked, or interfered with during project by any vehicle or equipment in connection with the Project, including, but not limited to, vehicles or equipment used for tree removal, demolition, planting, or construction. This Recommended Measure will minimize conflicts to access the parking areas of separately owned properties at 5940 Thornhill and 1675 Gouldin Road.

25. Pedestrian Safety along Thornhill Drive***Prior to issuance of a final inspection of the building permit***

~~The Church shall make a reasonable good faith effort to install a pedestrian sidewalk and submit for review and approval by the City. The sidewalk improvement shall be located to connect a plan to increase pedestrian safety along Thornhill Drive from the existing mid-block Thornhill pedestrian crossing and to the Project bridge pedestrian access fronting on Thornhill Drive, approximately 90 linear feet. In determining feasibility, consideration shall be given to topography, slope stability, construction adjacent. Such a plan may include, without limitation, the creek, and public safety. If determined following: trimming back the sidewalk is feasible, vegetation, bollards, or other approved permanent physical barriers to exclude vehicles and create a refuge for pedestrians, and a pedestrian walkway. The applicant shall implement the sidewalk construction shall meet City standards. This Recommended Measure will increase pedestrian safety along the Project street frontage on Thornhill Drive.~~ approved plan.

26. Ombudsmen***Ongoing***

The Church shall provide the name and phone number of a staff member available to field respond to complaints/inquiries during construction and all church events. Said person and contact number shall be posted prominently along the entry to the roadway on a sign at least one (1) square foot in size.

27. Bridge Design with Transparency***Prior to issuance of building permit***

The Church shall explore the feasibility of designing the bridge to provide more natural light and transparency to the creek bed below, such as an open structure design with the intent to allow light beneath the bridge and reduce the shading impacts on the riparian conditions below the bridge. The results of the feasibility study, including any schematic bridge plans, shall be submitted to the City for review. The City shall determine whether it is feasible to redesign the revised bridge plans shall be utilized, after considering in part, the benefits to the creek bed and riparian corridor in relation to any cost or safety implications. If determined feasible, the revised approved bridge plans shall be implemented.

28. Memorandum of Understanding for Parking At Thornhill Elementary School Follow-up***Prior to issuance of grading, demolition, and/or building permit***

At the end of the MOU term, or upon termination of MOU, that is required by Implementation of SCA TRAF-1, the Church shall make a good faith effort to negotiate an extension or a revised agreement with the District for the Church's use of the Thornhill Elementary School's blacktop for parking. The Church shall report back to Planning staff on the status of the good faith efforts to enter into an extension or revision to the MOU.

29. Special Event Parking

Ongoing

Whenever a special event is planned that may exceed the church's onsite parking capacity, the church will notify neighbors of the details of the event no less than 24 hours in advance of the special event. Notification will be made by e-mail to all neighbors on the Notification e-list. The church will notify Montclair Presbyterian Church and the principal of Thornhill Elementary School when such events are planned. A point person from the church will be identified (and a cell phone number) provided within said Notice). He or she will be responsible for managing the church's parking spaces and overseeing the overflow parking program. The point person will determine where monitors are to be stationed. Periodically, but no less than every five years, the church will review the Church Parking Policies and Plan, and prepare a status report to inform the neighborhood and the City of the effectiveness of the Parking Plan. If necessary, the Parking Policies and Plan shall be adjusted, subject to the review and approval of the City Traffic Engineer, to address any issues raised during the review that impact traffic congestion. The policy measures shall include, but not be limited to, the following:

- a. The Church shall follow all City parking regulations, and will instruct and encourage its members to comply;
- b. The approved Parking Policy and Plan, and all future updates shall be shared with surrounding neighbors by the Church. Neighbors will be asked by the Church for input during these reviews and will be notified of any changes in the policies.
- c. The Church will prepare a legal parking map of the neighborhood of the church. It will be distributed by the Church to the neighbors when complete;
- d. The Church shall make a good faith effort to estimate the number of attendees for special events. If expected attendance cannot reasonably be accommodated by the existing Church parking lots and legal parking, the Church shall notify neighbors of the details of the event.
- e. The Church shall use parking ushers who will supervise the parking at Montclair Presbyterian Church and Thornhill Elementary School. A lead user shall be identified, and he or she will be the point person for managing parking spaces, as well as overseeing the over flow parking program;
- f. The Church shall encourage members to car pool, whenever possible;
- g. On any day when usage is expected to exceed parking capacity, the Church shall establish a neighborhood hot line. Any neighbor, who has a reasonable concern may call the hot line, and discuss that concern with a contact person, or ombudsmen;
- h. The Church will appoint a contact for the neighbors. The contact person will be the official point of contact for the church concerning any issue which arises as they are related to parking.

30. Parking Lot Security

Prior to issuance of a demolition, grading, and/or construction permit

Final plans for Phase I of the project shall include an access control system to be installed at the Thornhill Drive entrance to the new parking lot before the lot is opened for use. The access control system shall be designed to resist tampering or unauthorized actuation, operate independently of humans, be permanently maintained in good condition and, whenever necessary, repaired or replaced in a timely manner. This system will physically limit access by unauthorized users, and except as provided below, will operate during the hours of 10:00 p.m. to 7:00 a.m. If a church authorized event lasts later than 10:00 p.m., or

begins earlier than 8:00 a.m., the access system will be activated no later than 11:00 p.m. or no earlier than 7:00 a.m., and that such events that last later than 10:00 p.m. or begin earlier than 8:00 a.m. shall be limited to six authorized events per year. The access control system will be in effect starting at 4:00 p.m. each Saturday. The church will also include in their final plans for Phase 1 a security device that will prevent unauthorized users from driving the wrong way up the exit lane on Alhambra Lane in order to enter the parking lot. The device shall be designed to resist tampering or unauthorized actuation, be permanently maintained in good condition, and, whenever necessary, repaired or replaced in a timely manner. The security device will be installed prior to opening the new parking lot for use. The access control system shall be accessible to emergency medical vehicles and fire apparatus vehicles as necessary in case of emergencies. The location of the access control gate/system shall provide a minimum vehicle cueing distance of 20 feet from the Thornhill Drive pavement edge. Said access control system shall be subject to Small Project Design Review.

31. Access from Alhambra Lane

Ongoing

Applicant shall permanently restrict access from the cul-de-sac off Alhambra Lane to the Church, including, but not limited to Thornhill One (currently identified as 5928 Thornhill Drive). A fence for this purpose shall replace the existing locked gate.

32. Use of Church Facilities

Ongoing

In circumstances where the Church deems it appropriate to rent space in the facility, the Church shall enforce and require prospective users to agree to the following in an approved written agreement with the Church:

- a) User shall be subject to the standards identified in Standards Conditions of Approval, SCA Noise-5 Operational Noise (Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code.
- b) Users shall implement waste reduction standards and utilize compostable or recyclable materials to the extent practicable, and use on-site recycling bins for trash, recycling, and compostable materials;
- c) Use of the facility is limited between the hours of 8:00 a.m. and 10:00 p.m.;
- d) All user groups shall park in one of the designated parking areas. If a group needs more parking spaces than are available, then the group must coordinate with the church administrator to review and implement compliance with Church Parking Policies and Plans.
- e) User shall obtain any applicable local, state, and federal permits required for the intended use on the Premises, including without limitation any permits required for the sale of food or alcoholic beverages on the Premises.
- f) Said users shall also be subject to Special Event Parking standards, Condition #29, identified above.

33. Limited Use of Space Currently Assigned to Sanctuary Building

Ongoing

Applicant will use the space on its property that is designated in its current submitted plans for the sanctuary (DEIR Figure 3-6), for this purpose only. No change in facility (sanctuary building) nor change in use (normal church related services) shall be permitted unless prior application and approval is made through the City of Oakland.

ORIGINAL APPROVED BY:

City Planning Commission: _____ (: June 6, 2012 (original date) _____) 4 ayes -
0 noes (vote) _____

City Council: _____ (date) _____ (vote)

REVISED APPROVAL

Zoning Manager _____ (date)

Applicant and/or Contractor Statement

I have read and accept responsibility for the Conditions of Approval, as revised and approved by Planning Commission/Zoning Administrator action on _____. I agree to abide by and conform to these conditions, as well as to all provisions of the Oakland Zoning Code and Municipal Code pertaining to the project.

Signature of Owner/Applicant: _____ (date)

Signature of Contractor: _____ (date)

FINDINGS FOR APPROVAL:

The proposed project meets the required findings under Planning Code Section 17.134.050 (Conditional Use Permit); Planning Code Section 17.136.050 (Non-Residential Design Review); O.M.C Section 16.24.040 (Lot Design Standards); O.M.C. Section 16.08.030 (Tentative Map); and O.M.C. Section 13.16.200 (Creek Protection Ordinance Findings). Required findings are shown in bold type; explanations as to why these findings can be made are in normal type. In addition, findings have been developed pursuant to California Environmental Quality Act (Pub. Res. Code section 21000 et seq; "CEQA") and the CEQA Guidelines (Cal. Code Regs. Title 14, section 15000 et seq.). . The basis to approve the permits are not limited to the findings contained herein, but also includes the information contained in the June 6, 2012 Staff Report to the Planning Commission, the conditions of approval and the Standard Conditions of Approval and Mitigation Measures,, the EIR prepared for the project, and the entire administrative record, hereby incorporated by reference.

SECTION 17.134.050 – MAJOR CONDITIONAL USE PERMIT FINDINGS:

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with, and will not adversely affect, the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

This existing Community Assembly Civic Activity, surrounded by predominantly single-family residential development, has been at its present location continuously since 1952 as St John's Episcopal Church. The church started out as a converted residence and the main sanctuary completed construction in 1954; the education building was completed in 1964; and through land acquisitions in 1957, 1997, and 1998, St John's property totals 3.13 acres. With the proposal to expand and build a new sanctuary on the existing site, consolidate five parcels into four, and reconfigure circulation and parking, the Church would remain compatible as a civic activity in the surrounding neighborhood context. The activity would not adversely affect the appropriate development of abutting properties as an established residential neighborhood.

The proposed development would change operating characteristics and alter the appearance of the facility. However, the proposed Project would also not substantially affect the livability of abutting properties. In terms of the generation of traffic and the capacity of surrounding streets, traffic analysis indicates potential conflicts between pedestrian and vehicle can be reduced with the implementation of standard conditions of approval and mitigation measures to decrease congestion and reduce single occupancy vehicle travel through a Traffic Demand Management Plan, scheduling assembly events further apart, providing increased safety for pedestrians, and through cooperative shared parking facilities.

The biggest change will be to the visual appearance and the potential changes to the biology and hydrology of the site with the construction of the bridge and parking grove. However, the scale and bulk of the development would be minimized through a compact building and site design and use of compatible exterior materials. The existing three acre site already devotes more than an acre to impervious surface area and hardscape surfaces. The proposed

development would reduce impervious area by one-third and enhance opportunities for stormwater treatment and biotreatment measures to manage conservation of the existing creek. A series of measures identified in the Standard Conditions of Approval Mitigation Monitoring Report Program (SCAMMRP) would result in reducing potential affects to a less than significant level.

In order to service the expanded facility, new parking, new site improvements, and a new entrance bridge over Temescal Creek are proposed. The location, size, design, and operating characteristics of the proposed development will, with implementation of Standard Conditions of Approval and Mitigation Measures identified in the EIR, result in a development compatible with existing surrounding uses, and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood.

B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.

The Project objectives to to (1) construct a new sanctuary with functional connectivity between the new sanctuary and old sanctuary, (2) provide safer ingress and egress for emergency apparatus vehicles, parishoners, and visitors by constructing a bridge to an improved parking lot, (3) improve traffic conditions along Alhambra Lane and Gouldin Road, and (4) provide ADA compliant access facilities, results in a comprehensive development plan that will provide a convenient and functional environment as a community assembly civic activity. By design, the new sanctuary is located to a form a compact building footprint with the existing sanctuary around an existing landscape patio courtyard. The proposed sanctuary building is sited below the level of Gouldin Road to reduce bulk and massing. The proposed building increases seating capacity to 259 persons, or an increase of 34 seats. The site design for the new parking lot considered retaining as many significant mature trees as possible, provides compliant emergency vehicle access, incorporates stormwater treatment measures, reduces overall impervious area, adds vegetation planting for screening and privacy, and introduces a tree-lined parking grove to form a visual line of axis to the turnaround circle. With the implementation of Standard Conditions of Approval and Mitigation Measures as described in th EIR, the effects of the bridge construction, loss of riparian habitat, loss of existing trees, drainage, and the circulation and parking reconfiguration, will be reduced to a less than significant level. Therefore, the location, design, and site planning of the proposed development will provide an environment as attractive as the nature of the use, its location, and its setting warrant.

C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region

In terms of identifying basic community functions provided by the proposed development, the facility accommodates a community assembly civic activity contributing to the diversity of the area consistent with General Plan policies; provides for an alternative access accommodating emergency vehicles, parishoners, and for visitors who use the parking for drop-off and pick-up of children attending Thornhill Elementary; and through vegetative management, native plant restoration, and tree replacement planting, as required in the implementation of Standard Conditions of Approval and Mitigation Measures for Phase 1,

the Project comprehensively modifies and enhances the natural setting of the surrounding area. The proposed Project improves access, improves visual orientation, and enhances operation of the existing facility and property, and would maintain the livability of the surrounding residential area.

D. That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE of Chapter 17.136 of the Oakland Planning Code.

See Section 17.136 Design Review Criteria below, incorporated herein by reference.

E. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable plan or development control map which has been adopted by the City Council.

As stated in the General Plan analysis section of the Staff Report to the Planning Commission, incorporated herein by reference, the Project is consistent with several Oakland General Plan policies and objectives.

Among the General Plan Land Use and Transportation Element policies the Project meets relate to quality and variety in building and landscape design, and compatibility of use and form. With respect to the Land Use and Transportation Element (LUTE), Policy N-2.1, Design and Maintain Institutions, in a manner that is sensitive to surrounding residential uses; the Project is designed to maintain a compact building form relating to structures and topography around it. With respect to LUTE Policy N-2.5, Balance City and Local Benefits of Institutions, taking into account the institutions overall benefit to the entire Oakland, the Project contributes towards serving a diverse population as a community assembly civic activity. Additionally, the Project makes a good faith effort to adequately support expanded use of the church, and reduce potential conflicts due to traffic, circulation and parking consistent with Policy N-2.3, Support Institutional Facilities, where they are compatible with surrounding activities and where the facility site adequately supports the proposed uses. The Project would provide a convenient and functional civic environment and be as attractive as the use and setting warrant to create a compatible development consistent with Policy N-9.7, Create Compatible but Diverse Development, to create diversity in Oakland's built environment.

Additionally, the Project meets Open Space Conservation and Recreation Element (OSCAR) policies. The Project is designed to incorporate stormwater treatment measures, reduce the overall impervious surface area, and minimize impacts on the creek hydrology, consistent with Policy CO-5.3, Control of Urban Runoff. The Project would restore and encourage native plant communities consistent with Policy CO-7.2, Native Plant Restoration. The Project would utilize biotreatment engineering measures to control creek bank erosion, and vegetative management to enhance the survival of existing significant trees, Policy CO-6.1 and CO-6.2, Creek Management, and Creek Maintenance and Safety, respectively. Moreover, through implementation of Standard Conditions of Approval and Mitigation Measures, the Project would contribute toward the off-site restoration of creeks and watercourse outside the Project Site consistent with Policy OS-8, Creek Conservation, to restore and enhance creeks where feasible.

17.136.050(B) NON-RESIDENTIAL DESIGN REVIEW CRITERIA

1. **That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060;**

To review the Project relative to the Design Review Criteria, the Project must be seen in its site context, and particularly with the existing site features. The site lacks a clear visual orientation to the major physical attributes and components of the site including the creek, existing giant redwood trees, the church sanctuary, or even where 55 cars are to park.

Surveys done of the site indicate there are 155 trees representing 32 species, and at various stages of maturity and decline, distributed across the site; an open stretch of Temescal creek runs parallel with, and below the Thornhill Drive roadway level; a concave topography describes the area where the main vehicle parking and church sanctuary are located, and over an acre of impervious surface area presently exists on the three acres of Church property. There are areas of broad asphalt paving, next to islands of giant coast redwood trees, clusters of coast live oak trees compete for open space, and an orchard tree grove is located on the low terrace area of a natural drainage basin. Vehicle circulation is one way through the site and the points of ingress and egress are marked by steep sections of narrow driveway. Entry into the site off of Gouldin is marked by a small sign placard and a steep driveway. The education building is partially screened by street trees fronting on Gouldin Road and the Church becomes visible only upon arriving via the driveway into the existing parking lot. Current views of the church are predominantly from above Gouldin Road or from the parking lot. There is no visual indication of the creek upon entering the site and a thick vegetative screen obscures and filters views into the site from Thornhill Drive.

The Project proposal to construct an access bridge over Temescal Creek, provide new parking and circulation, and build a new 5,000 square foot sanctuary will help achieve and maintain a group of facilities that are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors, and appurtenances. With respect to this finding; the Project reorganizes and realigns the site to accommodate not only a new structure, but improves parking and circulation orientation, enables good management practices to maintain the survival of the majority of the predominant trees on site and preserves 90 existing trees. The Project will complement this total with replacement tree planting of native species removed. Additional replacement tree planting is proposed in the pervious surface parking grove. With regard to visual form, the parking grove tree planting reduces the visual expanse of pavement and the tree alignment provides a strong visual axis into the sight. The Project also enhances views and awareness of the existing creek through biotreatment to the banks of the creek to protect the proposed bridge and immediate areas upstream and downstream of the crossing. Standard Conditions of Approval and Mitigation Measures to protect Biological Resources, and Hydrology/Water Quality referenced in the FEIR are incorporated into the Project. With regard to visual building form, and visual quality, the bulk of the proposed sanctuary is sited below the Gouldin roadway elevation to reduce building mass, height, and lessen visual impact. The materials for the proposed building will be compatible with the existing church and consistent with the residential character of the neighborhood. The new sanctuary footprint would replace views of an existing open parking lot and provide a

compact building footprint focused around an open space courtyard and meditation garden. Additionally, the compact building footprint and courtyard configuration will relate with the existing neighborhood scale and surrounding structures. Therefore, the Project will result in a well-composed design that relates to other facilities in the vicinity; and to the total setting as seen from key points in the surrounding area.

2. That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area;

The Project design incorporates landscape design planting to maintain privacy between neighbors and minimize glare from parking; maintains a majority of the predominant trees, and provides a compact building footprint to relate to the residential scale and character of the area. The Project parking grove design alignment minimizes the number of trees removed to the extent possible. The Project bridge design incorporates biotreatment measures to protect the banks of the creek and the support columns of the bridge. With regard to visual form, the parking grove tree planting reduces the visual expanse of pavement. The bulk of the proposed sanctuary is sited below the Gouldin roadway elevation to reduce building mass, height, and lessen visual impact. The materials for the proposed building will be compatible with the existing church and consistent with the residential character of the neighborhood. Additionally, the compact building footprint and courtyard configuration will relate with the existing neighborhood scale and surrounding structures. Additional Standard Conditions of Approval and Mitigation Measures incorporated into the project will protect the value of, private and public investments in the area including the implementation of a Traffic Demand Management Plan.

3. That the proposed design conforms in all significant respects with the Oakland General Plan and with any applicable design review guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

The project conforms to all applicable design requirements. See discussion in Section 17.134.050 Major Conditional Use Permit Criteria "D" above., incorporated herein by reference.

SECTION 16.24.040 LOT DESIGN STANDARDS

A No lot shall be created without frontage on a public street, as defined by Section 16.04.030, except:

- 1. Lots created in conjunction with approved private access easements;**
- 2. A single lot with frontage on a public street by means of a vehicular access corridor provided that in all cases the corridor shall have a minimum width of twenty (20) feet and shall not exceed three hundred (300) feet in length. Provided further, the corridor shall be a portion of the lot it serves, except that its area (square footage) shall not be included in computing the minimum lot area requirements of the zoning district.**

The existing lots are consistent with the goals and policies of the Oakland General Plan with respect to Policy N2.10: Upkeep and maintenance of institutional uses with frontage

on two public streets as defined by Section 16.04.030. The site is located in the Hillside Residential Oakland General Plan Land-Use classification.

B. The side lines of lots shall run at right angles or radially to the street upon which the lot fronts, except where impractical by reason of unusual topography.

The property lines enclose rectangular shaped parcels and therefore is consistent with the above standard.

C. All applicable requirements of the zoning regulations shall be met.

Applicable requirements of the zoning regulations including minimum lot width and lot frontage, and building height are met. With respect to the RH4 Zone's minimum 5,000 square foot lot size, the parcels meet minimum requirements. New construction will be subject to separate application approval for Design Review. See discussion in Zoning Section of Staff Report to the Planning Commission, incorporated herein by reference.

D. Lots shall be equal or larger in measure than the prevalent size of existing lots in the surrounding area except:

1. Where the area is still considered acreage;
2. Where a deliberate change in the character of the area has been initiated by the adoption of 3 specific plan, a change in zone, a development control map, or a planned unit development.

Prevalent lot size information is not required for parcel mergers.

E. Lots shall be designed in a manner to preserve and enhance natural out-croppings of rock, specimen trees or group of trees, creeks or other amenities.

The proposed lot merger preserves to the extent possible trees, creeks and other site amenities, as discussed elsewhere in these findings and in the Staff Report to the Planning Commission, incorporated herein by reference.

16.08.030 - TENTATIVE MAP FINDINGS (Pursuant also to California Government Code §66474)

The Advisory Agency shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it makes any of the following findings:

A. That the proposed map is not consistent with applicable general and specific plans as specified in the State Government Code Section 65451.

The proposed map is consistent with the General Plan Land Use Classification for Hillside Residential as discussed in Section 17.134 Major Conditional Use Permit Criteria "D" above, incorporated herein by reference.

B. That the design or improvement of the proposed subdivision is not consistent with applicable general and specific plans.

The proposed map is consistent with the General Plan Land Use Classification for Hillside Residential. See discussion in Section 17.134 Major Conditional Use Permit Criteria "D" above., incorporated herein by reference.

C. That the site is not physically suitable for the type of development.

The site is suitable for construction of a new sanctuary for a compatible Community Assembly Civic facility, as discussed elsewhere in these findings and in the Staff Report to the Planning Commission, incorporated herein by reference..

D. That the site is not physically suitable for the proposed density of development.

The Church is existing facility and the proposed improvements are suitable for the proposed density of development under the Oakland General Plan where the maximum floor area ratio (F.A.R.) is 0.20 and the maximum lot coverage is 15% where the lot area exceeds one-acre, as discussed elsewhere in these findings and in the Staff Report to the Planning Commission, incorporated herein by reference.

E. That the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The parcel merger is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat, with incorporation of Standard Conditions of Approval and Mitigation Measures, as analyzed in the EIR and discussed elsewhere in these findings and in the Staff Report to the Planning Commission, incorporated herein by reference.

F. That the design of the subdivision or type of improvements is likely to cause serious public health problems.

The project is not likely to cause serious public health problems, as analyzed in the EIR and discussed elsewhere in these findings and in the Staff Report to the Planning Commission, incorporated herein by reference.

G. That the design of the subdivision or the type of improvements will conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the governing body may approve a map if it finds that alternate easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public. (This subsection shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to a legislative body to determine that the public at large has acquired easements for access through or use of property within the proposed subdivision.)

No conflict with public easements currently exist.

H. That the design of the subdivision does not provide to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision

It is feasible that passive natural heating or cooling can be incorporated in the future.

SECTION 13.16.200 CREEK PROTECTION ORDINANCE CRITERIA

A. Will the proposed activity (during construction and after project is complete) (directly or indirectly) cause a substantial adverse impact on the creek?

Based on detailed analysis in the EIR, including without limitation the St John's Church Scour Analysis at Temescal Creek in the FEIR, and implementation of Standard Conditions of Approval and Mitigation Measures, the Project would **not**:

- Discharge a substantial amount of pollutants into the creek;
- Result in substantial modifications to the natural flow of water in the creek;
- Deposit a substantial amount of new material into the creek or cause substantial bank erosion or instability;
- Result in substantial alteration of the capacity of the creek;
- Adversely affect the creek;
- Substantially adversely affect the riparian corridor, including riparian vegetation, animal wildlife; and
- Degrade the visual quality and natural appearance of the riparian corridor.

Standard Conditions of Approval require that protective measures during the construction and post construction shall be installed and implemented to prevent discharge of pollutants into the creek, prevent sedimentation into the creek, and prevent erosion of the creek bank and additional mitigation measures have been imposed.

The proposed Project incorporates design bioengineering treatments of the creek banks to stabilize the slope, provide erosion protection, and prevent scour of the bridge support structure. The bioengineering treatments include the installation of a live crib wall and vegetative soil lifts. The proposed channel modifications associated with the bridge design increase the channel cross section to facilitate channel water flow and the bioengineering treatments protect the bridge from potential scour from projected channel velocities at and in the vicinity of the bridge. As analyzed in the hydrology study and the additional Scour analysis (FEIR Response to Comments, Appendix B, Scour Analysis), the proposed bridge design and associated channel modifications including the bioengineering treatment are sufficient to preclude bridge abutment scour at the location most vulnerable to erosion, and result in a less than significant impact to hydrology.

Additionally, implementation of Standard Conditions of Approval HYD-1 Stormwater Pollution Prevention Plan; HYD-2 Drainage Plan for Project on Slopes Greater than 20%; HYD-3 Post-Construction Stormwater Pollution Management Plan; HYD-4 Maintenance Agreement for Stormwater Treatment Measures; HYD-5 Erosion, Sedimentation, and Debris Control Measures; HYD-6 Creek Protection Plan; HYD-7 Creek Monitoring; HYD-8 Creek Landscaping Plan; HYD-9 Creek Dewatering and Aquatic Life; HYD-10 Creek Dewatering and Diversion; HYD-11 Hazards Best Management Practices; and HYD-12 Lead-based Paint Remediation would result in a less than significant impact on hydrology and water quality. These Standard Conditions require practices to reduce erosion and pollutants during construction and pollutant discharge during Project operation; and preparation of a post-construction Stormwater Pollution Management Plan.

In making the above finding, the following factors must be considered:

- 1. Will the proposed activity discharge a substantial amount of pollutants into the creek?**

With implementation of Standard Conditions of Approval and Mitigation Measures, the Project will not likely discharge a substantial amount of pollutants into the creek.

- 2. Will the proposed activity result in substantial modifications to the natural flow of water in the creek?**

With implementation of Standard Conditions of Approval and Mitigation Measures, the Project will not likely result in substantial modifications to the natural flow of the creek.

3. Will the proposed activity deposit a substantial amount of new material into the creek or cause substantial bank erosion or instability?

Based upon the detailed analysis in the EIR, including the “St John’s Church Scour Analysis at Temescal Creek” by Kamman Hydrology & Engineering, Inc, May 1, 2012, the proposed bridge design and associated channel modifications, including the bioengineering treatment, are sufficient to preclude bridge abutment scour and prevent erosion of the channel banks at the location most vulnerable to erosion, and therefore result in a less than significant impact to hydrology. The proposed design will not deposit a substantial amount of new material into the creek or cause erosion or instability of the creek bank due to implementation of best management practices both during construction and afterwards during post construction. There is little likelihood that new material will be deposited into the creek because of the proposed protection measures including the silt fence, protected staging areas, proposed revegetation. Therefore, with implementation of Standard Conditions of Approval and Mitigation Measures, the Project will not likely result in substantial amount of new material into the creek or cause substantial bank erosion or instability.

4. Will the proposed activity result in substantial alteration of the capacity of the creek?

Based upon the detailed analysis in the EIR, including the “St John’s Church Scour Analysis at Temescal Creek” by Kamman Hydrology & Engineering, Inc, May 1, 2012, the proposed bridge design and associated channel modifications, including the bioengineering treatment, are sufficient to preclude bridge abutment scour and prevent erosion of the channel banks at the location most vulnerable to erosion, and therefore result in a less than significant impact to hydrology. The project is designed so as to minimize any alteration to the capacity of the creek by its location of supports and in the implementation of best management practices to maintain the stability of the slopes and to minimize disturbance within the creek. Therefore, with implementation of Standard Conditions of Approval and Mitigation Measures, the Project will not likely result in substantial alteration of the capacity of the creek.

5. Are there any other factors which would indicate that the proposed activity will adversely affect the creek?

Based upon the detailed analysis in the EIR, including the “St John’s Church Scour Analysis at Temescal Creek” by Kamman Hydrology & Engineering, Inc, May 1, 2012, the proposed bridge design, and associated channel modifications, including the bioengineering treatment, are sufficient to preclude bridge abutment scour and prevent erosion of the channel banks at the location most vulnerable to erosion, and therefore result in a less than significant impact to hydrology. Additionally the implementation of Standard Conditions of Approval and Mitigation Measures, potential impacts on hydrology, water quality, and biology within the Project riparian corridor will be reduced to a less than significant level. Therefore, the Project will not adversely affect the creek.

6. Will the proposed activity substantially adversely affect the riparian corridor, including riparian vegetation, animal wildlife or result in loss of wildlife habitat?

With the implementation of Standard Conditions of Approval and Mitigation Measures, potential impacts on the riparian corridor will be reduced to a less than significant level. Protection measures include biological monitoring of the riparian corridor to minimize impacts to biological resources and habitat both at pre-construction and during construction, best management practices during construction, and vegetative replanting of disturbed areas with appropriate with native and riparian plants. An off-site restoration of at least 952 square feet to be paid by the applicant will provide an appropriate mitigation for the loss of habitat. Therefore, the Project will not substantially adversely affect the riparian corridor, including riparian vegetation, animal wildlife or result in loss of wildlife habitat.

B. Will the proposed activity substantially degrade the visual quality and natural appearance of the riparian corridor?

The Project will improve the visual quality and natural appearance surrounding the creek in terms of new vegetation and vegetation management, improved channel bank stability, access to views of the riparian corridor, and increased access to natural light for riparian vegetation surrounding the bridge.

C. Is the proposed activity inconsistent with the intent and purposes of OMC Chapter 13.16?

The proposed activity is consistent with the intent and purposes of the Creek Protection Ordinance because the related water resources are protected and the visual quality of the surrounding area is enhanced through Project design and implementation of protection measures. Project design would incorporate biotreatment of the channel banks under the proposed bridge and immediately upstream and downstream of the crossing, and the implementation of Standard Conditions of Approval and Mitigation Measures, would promote the purposes of the Creek Protection Ordinance. Potential impacts, including but limited to, biological resources, hydrology/water quality, and hazards and hazardous materials are reduced to a less than significant level. Additionally, the project will promote and enhance opportunities for stormwater treatment and at least 952 square feet of creek restoration to be located off-site is consistent with the purposes of Chapter 13.16. See also Creek Protection Permit discussion in the Staff Report to the Planning Commission, incorporated herein by reference.

D. Will the proposed activity substantially endanger public or private property?

The proposed activity will not endanger public or private property because the capacity of the creek is maintained to channel water and prevent flooding. The detailed analysis in the EIR, including the "St John's Church Scour Analysis at Temescal Creek" by Kamman Hydrology & Engineering, Inc, May 1, 2012, has determined the proposed bridge design and associated channel modifications including the bioengineering treatment are sufficient to preclude bridge abutment scour and prevent erosion of the channel banks at the location most vulnerable to erosion, and therefore result in a less than significant impact to hydrology.

E. Will the proposed activity (directly or indirectly) substantially threaten the public's health or safety?

With the implementation of Standard Conditions of Approval and Mitigation Measures, the Project will not threaten the public's health or safety.