

**APPLICANT APPEAL
LETTER
11/6/2008**

Andrew
Payne
Woolman

architect

license:
C 25752

06 NOV 08

CONTRA COSTA

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APPLICATION & PERMIT CENTER

Ryan Hernandez, Senior Planner
Department of Conservation and Development
651 Pine Street
2nd Floor -- North Wing
Martinez, CA 94553-1295



re: Appeal - County Files GP05-0006, MS06-0011, DP06-3026
401 Colusa Avenue, Kensington

Dear Mr. Hernandez,

I am writing to file an appeal of the 10/28 decision of the County Planning Commission on the above-noted County Files, pertaining to 401 Colusa Avenue in Kensington.

We the applicants are unwavering in our conviction that this Application warrants approval as filed, based upon its merits, and the law. We intend that the Board of Supervisors will overrule the Commission's adoption of Staff recommendation, to remove the third dwelling unit.

Enclosed find a check made out to the County in the amount of \$125.00.

Thank You,

A handwritten signature in black ink, appearing to read "Andrew Woolman", with a horizontal line extending to the right.

Andrew Woolman.

cc: none

CONTRA COSTA

08 NOV -7 AM 11:17

07 NOV 08

DEPARTMENT OF CONSERVATION
AND DEVELOPMENT

Ryan Hernandez, Senior Planner
Department of Conservation and Development
651 Pine Street
2nd Floor -- North Wing
Martinez, CA 94553-1295

re: Appeal - County Files GP05-0006, MS06-0011, DP06-3026
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I am writing to file an appeal of the 10/28 decision of the County Planning Commission on the above-noted County Files, pertaining to 401 Colusa Avenue in Kensington.

We the applicants are unwavering in our conviction that this Application warrants approval as filed, based upon its merits, and the law. We intend that the Board of Supervisors will overrule the Commission's adoption of Staff recommendation, to remove the third dwelling unit.

Our appeal is based upon, but not necessarily limited to, the following grounds:

- a.) The decision to adopt Staff's recommendation to remove one dwelling unit adversely affects our property rights and property value as established and traded under the parcel's P-1 Zoning, and the decision does not comply with the County General Plan. The recommendation is based upon the notion that our building, as submitted, and in light of the Kensington Policies of the General Plan, is not compatible with nearby development. This is a distortion. Our proposal is proved to be compatible with currently confronting development, with abutting development, and with nearby non-confronting development both existing and approved. It is proved, and by reason is found to be - like the approved P-1 Development Plan for the parcel - "harmonious with its surroundings" (i.e. compatible).
- b.) Staff's recommendation is inconsistent with its own finding that the project is more compatible than the P-1 Plan. The terms "harmonious" and "compatible" are reasonably interchangeable. If the P-1 is found to be "harmonious with its surroundings", and our proposal is found to be more compatible than the P-1 Plan, then it must follow that our proposal is "compatible with nearby development". To impose conditions based on the contrary is to unlawfully rescind the approved P-1 findings and zoning, without due process.

Furthermore, the Kensington Policies provide for "reasonable" consideration of compatibility. It is not "reasonable" to ignore other nearby three- and four-story buildings on Colusa Avenue and the Circle, that are in more immediate proximity to single family dwellings than is ours; nor is it "reasonable" to completely discount the approved P-1 massing for the parcel, particularly when it is already found to be "harmonious".

- c.) The specified limitations of a greatly reduced third floor AND the removal of one dwelling unit are unreasonable, based upon the above (a) + (b), upon a fundamental understanding of vested property rights, and upon the fact that our parking provision is superior to any other building on the Circle – and particularly to those recently approved.

Enclosed find a check made out to the County in the amount of \$125.00.

Thank You,

Andrew Woolman.

cc: none