

**APPLICANT'S RESPONSE TO EMAILED
OPPOSITION**



Andrew Woolman
<apwool@pacbell.net>

10/21/2008 10:16 AM

To studiojvg@earthlink.net

cc Ryan A Hernandez <RAHern@cd.cccounty.us>, John Gioia
<Jgioia@bos.cccounty.us>, KRauc@bos.cccounty.us, Ed
Crowley <ejc2@pacbell.net>, Tim Kraus

bcc

Subject 401 Colusa Avenue Development

Dear Mr. Gaccione,

I am writing to provide you with some factual information about our proposal for 401 Colusa Avenue, which is located in the commercial center of your neighborhood, just a few blocks from your home. Your letter to the project planner Ryan Hernandez indicates to me that you may be forming opinions based upon inaccurate information. This is understandable given the complexity of the matter, but please allow me to correct some of this information, so that you may have clarity.

By eliminating the exit stair penthouse, and by carving a small roof deck out of the southeast corner of the building, we will indeed reduce the bulk of the building as perceived from Colusa Avenue, and also by the owners of 411 and 415 Colusa. True, it does not reduce the three-story portion of the facade presented to Colusa Avenue, but that tallest section of street-fronting structure is located appropriately toward the Circle-end of the building, toward the commercial bustle of the Circle proper, and most distant from the single family homes that lie eastward along Colusa Avenue.

We are requesting a General Plan Amendment to change the Use designation of the parcel from Commercial to Mixed-use, because this allows development with a much lighter impact upon the neighborhood, when compared with fully commercial development for which the property is currently zoned. It also extends a vitalizing upper-story residential presence into the street-level commercial area. This is a very traditional arrangement, and is regularly seen mixed in along Avenues within charming East Bay neighborhoods. Fully commercial development, as proposed and approved under the P-1, would introduce a great deal of traffic, parking pressure, and night-time noise to the surrounding neighborhood; we did not feel that to be an appropriate addition. Hence our mixed-use proposal.

The height of our proposed building does not exceed the limit set by the General Plan. Though we did not know it when initially we made the decision to propose a mixed-use development, the General Plan does not impose a height limit for Mixed-use areas. What we did know from the outset was that the approved Plan had a continuous three-story parapet at 37 feet above the Circle sidewalk, and that we would make a conscious effort to improve on that unfortunate condition. Consequently, we propose a building with a maximum height of 36 feet 4 inches above the same sidewalk. Even more importantly though, we have pulled back much of the third floor so that the street-front parapet height will be largely reduced to a height of less than 29 feet, eight feet lower than approved. Most recently, we have reduced the street-front parapet height of the east-most bay of the building to a height of just under 19 feet, to begin the transition of scale downward toward the established single family dwellings located nearby, but not immediately adjacent (411 Colusa is a Commercially-zoned property, and is in the Commercial General Plan area). Even though there is no imposed height limit, we have significantly

reduced the actual and perceived height of the building, in direct response to public comment. Many people do not believe that we have done enough, but we believe sincerely that this opinion is measurably unreasonable. We also believe, with professional conviction, that our proposed massing is very appropriate and sensible given the building's location.

There have been many unfounded statements made - by the public, by KMAC, and by one or more of the Commissioners - as to how the Approved P-1 Development Plan should no longer be viewed as relevant to this project. We have listened to these declarations, but we have all along insisted that the P-1 is in fact quite relevant. The law clearly supports our position. The intended purpose of the P-1 Zoning and the approved P-1 Development Plan stand together as the very basis for any consideration of a modification to the latter. There is no fact to suggest otherwise. We have worked in our proposal to improve on the approved Development Plan in every measure, and in specific response to public comment. We certainly understand that our efforts may not be enough for some people, but the benchmarks established by the P-1 must nevertheless be reasonably recognized.

We are proposing parking at more than double the rate of two recently approved Circle projects. We have procured a parking survey, and it finds that our parking provision will cover our newly created parking demand. If the stackers were removed from the project, thereby reducing provided parking by 4 spaces, we would still provide new parking at a par with or better than the recently approved projects. Functionally, the stackers are no more complicated than an automated garage door. You push a button, and your car lowers or raises into place (unless it's already in place) and then the door opens. You get in, and back out, just as you would from a conventional garage. It takes one minute maximum to access your car - hardly prohibitive. Given that there is no curb-side parking directly abutting our parcel on the Oakview side, residents are all the more likely to use their dedicated garage parking - people tend to park where they can either keep an eye on their car, or where they know it to be secure. In this case the latter would prevail except for very short stops at home.

True, the stackers have height limits. The lesser height of 4'-11" accepts a VW beetle. It will also accommodate, among others, a Dodge Charger, a Chevy Impala, or a Ford Crown Victoria. The greater height of 5'-9" will support a Cadillac SRX, a Chrysler Town & Country, or a Jeep Grand Cherokee, as only a few examples. Certainly someone could own a vehicle that would not fit into the lift, but people are likely either to purchase a vehicle that will fit, or to choose to live elsewhere. In the off case that someone will park from time to time on the street, this is no different than how the current neighbors use the on-street parking; sometimes people bother to pull into their garage, sometimes they park on the street. Some people always park on the street.

Our program of only three new dwellings, each with a secure two-car garage, will not create a parking problem. Our two small retail units will have their parking covered by both a dedicated two-car garage lift, and by the newly created on-street spaces. The parking study describes this as adequate, using professionally current analytic methods. We are improving significantly both on the raw parking demand generated, and on the parking-provision ratio that were approved with the P-1 Plan; no Variance is required or requested. I hope that the above can help you to understand that

there will not be a parking problem associated with our project, and that we have made a good-faith effort to provide parking at a level beyond that which is required.

We do understand why people would prefer to have a two-story, rather than a three-story, building on the site. The question is not whether or not it would be nicer that way, but whether or not an expectation of two stories is reasonable in this circumstance, in light of the law. We have made and continue to make sincere and extensive efforts to reduce the impact of our third story upon our neighbors, but we do retain the right to have it. We truly believe that, should our proposal be approved, our neighbors will come to see that the building is in fact a thoughtfully conceived asset to the community. We also believe that neighbor input such as yours has been invaluable in shaping a better development plan. Thank you for your interest, and know that I am happy to respond to your future questions and comments. I expect that you will want to circulate this letter to your concerned neighbors, and I welcome that.

Sincerely,
Andrew Woolman
architect for 401 Colusa Avenue



Andrew Woolman
<apwool@pacbell.net>

10/20/2008 03:24 PM

To tfoley.wid@gmail.com, Ryan A Hernandez
<rahern@cd.cccounty.us>, John Gioia
<Jgioia@bos.cccounty.us>, Rodney Paul
cc Ed Crowley <ejc2@pacbell.net>, Carol Chisholm
<pyewackett20@sbcglobal.net>, Tim Kraus
<thk1@pacbell.net>

bcc

Subject 401 Colusa Avenue

History: This message has been forwarded.

Dear Mr. Foley,

I learned by way of your letter to planner Ryan Hernandez that I have offended you. My sincerest apologies for that. My written comment to Rodney Paul regarding your blindness was not intended to be at all disrespectful toward you, but rather was an expression of disgust toward Mr. Paul's willingness to exploit you and your disability.

So far as I believe, your living room has a water view that is aligned across the Circle, and not across the 401 parcel. One of your secondary rooms may have a limited view to some tower(s) of the Bay Bridge, but I think that view would be blocked by even a two story structure on 401. Mr. Paul, as chair of the CCIA, has a responsibility to present facts fairly. It is my firm belief that, were you a fully sighted person, Mr. Paul would not be making vague or inaccurate claims about the impact of our project on your property's view.

I hope you will understand that, just as you are interested in retaining value in your property, so are my clients looking to retain value in theirs. Toward that pursuit, I have insisted, and will continue to insist, on an honest dialog, and an honest presentation to the Planning Commission. If you were offended by my frank expression, then I am very sorry. It was certainly not my intent to hurt your feelings.

Respectfully,
Andrew Woolman
architect, 401 Colusa Avenue

Andrew Woolman
Woolman Architecture
1231-D Solano Avenue
Albany CA 94706

Ph. (510) 527-9940
Fax (510) 527-9941
cell: (510) 684-8219

apwool@pacbell.net



"Thomas Foley"
<tfoley.wid@gmail.com>
10/21/2008 11:15 AM

To "Andrew Woolman" <apwool@pacbell.net>, "Ryan A Hernandez" <rahern@cd.cccounty.us>, "John Gioia" <Jgioia@bos.cccounty.us>, "Rodney Paul" <Ed Crowley" <ejc2@pacbell.net>, "Carol Chisholm" <pyewackett20@sbcglobal.net>, "Tim Kraus" <thk1@pacbell.net>

bcc

Subject RE: 401 Colusa Avenue

History:

This message has been forwarded.

Dear Sir,

In my opinion, suggesting that I am being exploited because I am blind, only illustrates your own ignorant prejudice.

You said, "It is my firm belief that, were you a fully sighted person, Mr. Paul would not be making vague or inaccurate claims about the impact of our project on your property's view."

1. Contrary to your belief, at no time have I relied on Mr. Paul's assessment of the view from my home. Actually, he has been unwilling to offer an opinion on this particular issue do to a potential conflict of interest. Rather, I have relied on the opinion of two independent realtors, a host of industry friends, and several contractors with whom I have worked.

2. In point of fact, I have over twenty years of residential real estate investment experience, have bought and sold 10 buildings, and represented clients in over 100 real estate transactions.

3. I am glad that we agree the third story of the proposed structure at 401 Colusa will block part of my view.

4. I truly understand your clients interest in developing there property. However, you have repeatedly tried to justify the first floor commercial level by saying it was "economically necessary to make the numbers work". It is not my or the neighbors responsibility to sacrifice our property values, view or quality of life because your clients paid too much for the land or have a less than desirable cash flow situation.

Thomas Foley J.D.

-----Original Message-----

From: Andrew Woolman [mailto:apwool@pacbell.net]
Sent: Monday, October 20, 2008 3:24 PM
To: tfoley.wid@gmail.com; Ryan A Hernandez; John Gioia; Rodney Paul
Cc: Ed Crowley; Carol Chisholm; Tim Kraus
Subject: 401 Colusa Avenue

Dear Mr. Foley,

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toward Mr. Paul's willingness to exploit you and your disability.

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apwool@pacbell.net



Andrew Woolman
<apwool@pacbell.net>
10/21/2008 01:08 PM

To "Thomas Foley" <tfoley.wid@gmail.com>
cc ""Ryan A Hernandez"" <rahern@cd.cccounty.us>, ""John Gioia"" <Jgioia@bos.cccounty.us>, ""Rodney Paul"" <rodney.paul510@gmail.com>, ""Ed Crowley""
bcc

Subject Re: 401 Colusa Avenue

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Mr. Foley,

I will be as succinct as I can in addressing your comments:

1. You have twisted my words, and cynically abused my efforts toward a sincere apology. Never once did I say that you had relied on Mr. Paul's assessment, but rather I said that he had made statements about your property suggesting falsely that our third story would block your view. Some of these statements were made in your presence, and you offered no correction. I guess I have misinterpreted the situation after all.
2. Very well; facts noted.
3. I do not agree that a third story will block part of your secondary view; unfortunately, a second story will do that. Your primary bay view will be unimpeded by our project, as I stated in a previous message.
4. When asked, we have offered that operational information as background to our application, but we do not seek to justify our proposal based upon it. We justify our proposal on nothing less than the law, which the CCIA willfully ignores when it insists on limiting the project to two stories with no view impacts. Just as it is not your responsibility to sacrifice property value, neither is it ours to do so. Only by the intellectually dishonest construct of discrediting the P-1 are you even able to claim lost property rights. Being so involved as you are in real estate, certainly you understand that what we propose is a vast improvement over the site design approved and looming under the original P-1 Development Plan, and that thusly our proposal will enhance your property value. We have taken efforts all along not to "max-out" the project as did the P-1, but to do something that is respectful to and appropriate for the neighborhood while also retaining our clients' property rights. These are rights that quite a few people are all too quick to dismiss.

It's unfortunate that you have seen fit to tilt toward personal insults, when what is necessary is an honest discussion of our various interests. When you are prepared to engage in such, then I am your willing counterpart.

Sincerely,
Andrew Woolman
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On Oct 21, 2008, at 11:15 AM, Thomas Foley wrote:

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