COMMENTS ON MITIGATED NEGATIVE DECLARATION

Rodney Paul, Chair
Colusa Circle Improvement Association
1619 Oak View Ave.
Kensington CA 94707

30 June 2008

Mr. Ryan Hernandez
Contra Costa County Community Development Dept.
651 Pine St.
Martinez CA 94553

Dear Mr. Hernandez:

I am writing to formally make a CEQA challenge to the June 10 Initial Study of mixed-use development project at 401 Colusa Ave., Kensington CA. I represent the Colusa Circle Improvement Association, a group of more than 450 citizens who live near the area and are dedicated to ensuring approved development maintains the existing character of the neighborhood and respects the rights and needs of current residents.

We have concerns about the adequacy of the environmental review and take issue with a number of the findings in the Initial Study that led to the mitigated negative declaration. We are requesting that the County investigate the concerns we are raising here and address them where appropriate.

Parking

The Initial Study fails to adequately address the cumulative shortage of parking from the proposed project and the two other recently approved projects listed on page 4. Each of those projects has been approved, although neither includes the number of off-street parking spaces required by the County Off-Street Parking Ordinance. CEQA requires an Initial Study to evaluate the incremental effects of an individual project "viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects" (CEQA Guidelines Section 15064(h)(1)). Unfortunately, the Initial Study for this project failed to do so. The 28-40 on-street parking spaces indicated by the parking study (Abrams, 2007) as typically available within one block of the proposed project will most likely not be available once those other two projects are completed.

The cumulative impact of the shortage is considerable as shown in the table below.

Project Address	Off-street parking spaces required per County Ordinance	Number of Proposed/Approved off-street Parking Spaces	Shortfall (Required minus approved)
380 Colusa Ave.	37	13 (approved)	24
385-389 Colusa Ave.	57	21(approved)	36
401 Colusa Ave.	15	8 (proposed)	7
Total Shortfall			67

The anticipated shortfall of 67 spaces will be exacerbated by the elimination of the informal parking of 5- 10 cars on the project site itself. Appropriate mitigation should be provided by the applicant.

We believe a new study should be conducted that takes into account the impacts to parking adequacy we have described. If this project is indeed contributing to a parking shortfall and not meeting County regulations, we believe the project should be reduced in scope to a point where it is able to provide enough parking to meet the County regulations. We also believe an investigation needs to be conducted on the utilization of the stacked parking devices being proposed. We question the extent to which these devices will be used and their efficacy in alleviating the parking shortage in the Colusa Circle area.

Traffic

As above, we similarly believe that the Abrams study does not adequately address the cumulative impact the recently approved projects at 380 Colusa Ave. and 385-389 Colusa Ave. will have on traffic in the area. In particularly, we are concerned that these projects will result in a substantial increase in traffic which could result in automobile and pedestrian safety hazards around the Circle.

We call attention to the point where the eastern section of Oak View Ave. intersects with the Colusa Circle. This area is where vehicles will enter and exit the proposed building at 401 Colusa Ave. It is likely to become an acute congestion point. Moreover, the project's lack of a setback will interfere with sightlines and thus make leave and entering the traffic flow of the Circle more dangerous.

We believe a new study that again takes into account the cumulative impact of the previously approved projects should be conducted. If it indicates that traffic will pose a significant impact, the best mitigating strategy in our opinion is to reduce the scope of the project.

Hazardous Materials

The Initial Study (page 30) indicates that the MTBE levels on the project site were below actionable levels. However, there is no indication that a full Phase I Environmental Assessment has been performed to evaluate the likelihood of other hazardous materials (e.g. solvents, total petroleum hydrocarbons, heavy metals, etc.) in the site soils or groundwater which might be expected given the previous site uses as a gas station and automobile repair station. A Phase I assessment should be performed, and if that assessment indicates that any hazardous materials are likely, then the applicant should be required to proceed to a Phase II evaluation, and to remediate the site to appropriate clean up levels, or develop a construction plan that avoids digging or trenching in contaminated areas, and incorporates appropriate worker safety measures. The Initial Study does not indicate whether any of this work has been performed. The foundation study referenced in the Initial Study appears to be a geo-tech study, and not an evaluation of possible contamination. Insufficient information is provided to substantiate the statements that no hazardous materials would be released into the environment from project construction.

Particulate Matter

The Bay area is a non-attainment area for California's standard for particulate matter of 2.5 microns ($PM_{2.5}$) in addition to PM_{10} (http://www.baaqmd.gov/pln/pm/index_050608.htm). I have attached the text from this page. The Initial Study should address how emissions associated with site construction will adhere to the state air quality standard for $PM_{2.5}$. The mitigation measures incorporated into the project and discussed on pages 24-25 do not specifically address $PM_{2.5}$ emissions. Appropriate mitigation measures should be incorporated into the project.

Aesthetics

While the Initial Study mentions on page 22 that the project will have an impact on scenic views of the City and Bay from nearby residences, it does not discuss the loss of scenic views of the nearby hills from vantage points throughout the Colusa Circle business district. We maintain that these scenic vistas are an important feature of the aesthetic enjoyment of the Colusa Circle. Losing these views will depress property values of the existing businesses and decrease the enjoyment of users of the Circle. We therefore argue that this would result in a significant impact.

The large scale of the proposed development will also block light access to the Circle, creating a canyon-like effect. This loss of light will also depress property values in the business district as well as residences nearby the property. We also believe that this impact would be significant.

We believe both the view and light access of the nearby properties are protected under Contra Costa County Ordinance 2004-46 as a result of the rezoning being sought by the applicants. Our suggest mitigation of this is to reduce the height of the building from the

currently proposed 38-feet. This would greatly ameliorate the impact in the Circle business district as well as from the nearby properties.

Conclusion

We respectfully request that the CEQA issues we have raised in this letter be addressed and, where appropriate, remedied. We have suggested strategies for remediation that we hope will be duly considered. While we welcome development of the 401 Colusa Ave. parcel, we feel strongly that it should be done in a manner that respects the current character of the neighborhood and does not impact the health, safety, property values and quality of life of the existing residents.

Sincerely,

Rodney Paul
Chair, Colusa Circle Improvement Association

Attachment

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Site Search

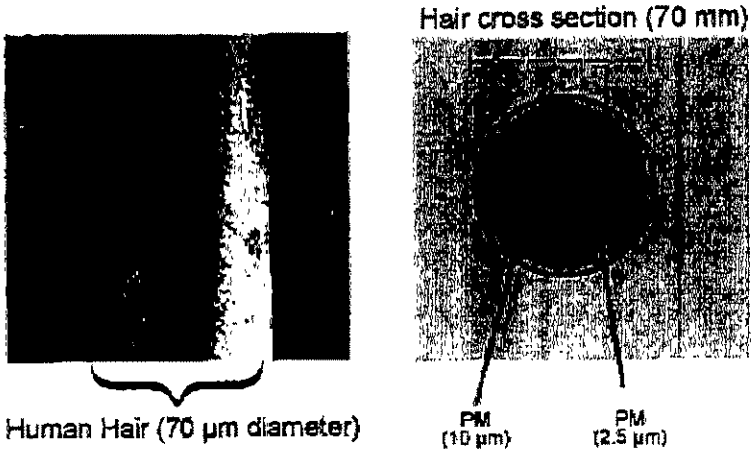
Particulate Matter

Air Quality Plans
Air Status / Technical Data
Boards/Council
Divisions/Offices
- Administration
- Compliance & Enforcement
- Engineering
- Executive
- Human Resources
- Information Systems
- Outreach & Incentives
- Division
- Planning
- Technical Services

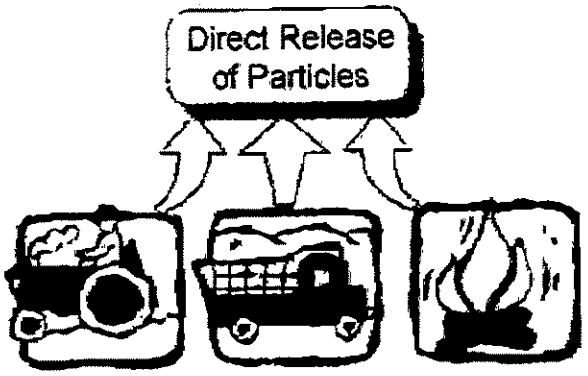
Grants & Incentives
Opportunities
Permits
Pollution Prevention
Programs
Public Notices
Rules & Regulations
Site Archives

PM Implementation Schedule Adopted November 2005
· SB 656 Particulate Matter Implementation Schedule and Response to Comments

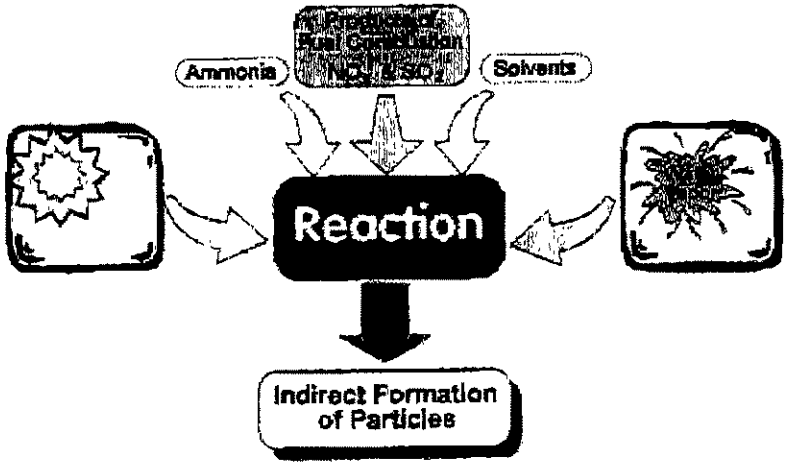
What Is Particulate Matter (PM)?
Particulate matter (referred to as PM) consists of very small liquid and solid particles suspe air, and includes particles smaller than 10 microns in diameter (PM 10) as well as finer pa smaller than 2.5 microns in diameter (PM 2.5). Particles with a diameter between 2.5 and are sometimes referred to as "coarse particles". The following figures illustrate how very s particles are.



Ambient PM is made up of particles that are emitted directly, such as soot and fugitive dus secondary particles that are formed in the atmosphere from reactions involving precursor such as oxides of nitrogen, sulfur oxides, volatile organic compounds, (NOx, SOx, and VOC ammonia. Secondary PM and combustion soot tend to be fine particles (PM 2.5), whereas is mostly coarse particles.



Directly-emitted particles come from a variety of sources such as cars, trucks, buses, indu facilities, power plants, construction sites, tilled fields, unpaved roads, stone crushing, and wood.



Other particles are formed indirectly when gases from burning fuels react with sunlight a vapor. These particles are an indirect product from fuel combustion in motor vehicles, at plants, and in other industrial processes. Many combustion sources, such as motor vehic power plants, both emit PM directly and emit pollutants that form secondary PM.

What Problems Does PM Cause?
PM causes adverse impacts in terms of public health, visibility, atmospheric deposition, an damage.

Human Health
When we inhale, we breathe in particles that are in the air. The air and the particles travel respiratory system (the airway and lungs). The particles can stick to the sides of the airwa deeper into the lungs. The deeper particles go, the worse the effect. Smaller particles can deepest and therefore cause the greatest harm. Particles vary in terms of their size, chemi composition, and source. Some types of PM, such as diesel PM (emissions of particulate m diesel engines), are especially harmful.

Health effects can result from both short-term and long-term exposure to PM pollution. Ex particulate pollution is linked to increased frequency and severity of asthma attacks and e premature death in people with pre-existing cardiac or respiratory disease. Those most se particulate pollution include infants and children, the elderly, and persons with heart and l

Many scientific studies have linked short-term exposure to PM to a series of significant hea including:
- aggravated asthma

- increases in respiratory symptoms like coughing and difficult or painful breathing
- chronic bronchitis
- decreased lung function
- heart attack
- premature death

In 1998 the Air Resources Board took action to classify diesel PM as a toxic air contaminan estimates that diesel PM emissions are responsible for about 70 percent of the total risk fr air toxics. Increased incidence of lung cancer is among the risks associated with long-term diesel PM.

Visibility impairment
PM is the major cause of reduced visibility (haze) in the United States , including both ur rural areas. PM reduction programs are underway in cities as well as places like the Gran and the Great Smokey Mountains National Parks where millions of tourists come every y in the views.

Atmospheric deposition
The smaller particles are lighter; they stay in the air longer and travel farther. PM 10 parti remain in the air for minutes or hours while PM 2.5 particles can stay in the air for days or before settling as deposition on surfaces. PM 10 particles can travel as little as a hundred much as 30 miles. PM 2.5 particles may travel hundreds of miles before settling out. The e deposition include:

- making lakes and streams acidic
- changing the nutrient balance in coastal waters and large river basins
- depleting the nutrients in soil
- damaging sensitive forests and farm crops

Aesthetic damage
Certain types of PM, such as soot, can stain and damage stone and other materials, incl culturally important objects such as historic buildings, monuments, and statues. Cleanin landmarks is expensive and time-consuming.

PM and Climate Change
Particulate matter may also play an important role climate change. Some types of PM may atmosphere, while other particles may have a cooling effect, as described below. Climatolc working to try to better understand the sum of the effects of the varying types of PM on gl change.

PM containing black carbon (often referred to as "soot") is created by incomplete combusti fuels or biomass. Black carbon is a major component of diesel PM, which is a recognized al contaminant, and may have a warming effect on the atmosphere.

According to the **Intergovernmental Panel on Climate Change's (IPCC)** Fourth Asses *(Climate Change 2007: The Physical Science Basis...)*, black carbon absorbs solar radiatior effectively, and may contribute to climate change. When black carbon accumulates on sno it may decrease the ability of the surface to reflect sunlight and increase the rate of snowr

The IPCC's Fourth Assessment Report states that overall, man-made particulates together excluding the effect of black carbon on snow or ice) create a net cooling effect. Some of th particulates, such as those containing sulfate, scatter sunlight back to space, thus cooling atmosphere. Regardless of their impact on the climate, however, man-made particulates a harmful to human health.

PM conditions in the Bay Area
The U.S. Environmental Protection Agency (U.S. EPA) and the California Air Resources B have both adopted ambient air quality standards for PM 10 and PM 2.5 (Table 1). Califor standards are the most health-protective standards in the nation and are designed to pr additional protection for the most sensitive groups of people. According to ARB, attainm

California 's standards will prevent premature deaths, reduce the incidence of asthma, a millions of lost work-days per year.

	California Standard ($\mu g/m^3$)	National Standard ($\mu g/m^3$)
PM_{10} - Annual	20	--
PM_{10} - 24-hour	50	150
$PM_{2.5}$ - Annual	12	15
$PM_{2.5}$ - 24-hour	--	35

Table 1: State and National particulate matter ambient air quality standards. The levels of the standards are expressed in micrograms per cubic meter ($\mu g/m^3$).

The Bay Area's attainment status is shown in Table 2 below. Currently the Bay Area, like of California, is classified as nonattainment for the State PM 10 standard. The Bay Area, urban areas and the Central Valley, is also classified as nonattainment for the State PM 2

The Bay Area is currently in attainment of the national 24-hour PM 10 standard, as well national annual average PM 2.5 standard of 15 μg /m^3. The Bay Area is currently unclas national 24-hour PM 2.5 standard, which was reduced from 65 μg /m^3 to 35 μg /m^3 In 2 EPA will make final designations for the new 35 μg /m^3 standard by December 2009. Bas air monitoring data, we expect that the Bay Area will be designated as non-attainment for national 24-hour PM 2.5 standard. Areas that do not attain the 24-hour PM 2.5 standard w required to submit attainment plans (SIPs) by April 2013 and to attain the standard by Ap

	California Standard ($\mu g/m^3$)	National Standard ($\mu g/m^3$)
PM_{10} - Annual	Nonattainment	--
PM_{10} - 24-hour	Nonattainment	Attainment
$PM_{2.5}$ - Annual	Nonattainment	Attainment
$PM_{2.5}$ - 24-hour	--	Unclassified

Table 2: Status of Bay Area Region with respect to the State and National particulate matter standards. Based on air monitoring data available as of June 2007.

Efforts to reduce PM in the Bay Area

The District implements a number of regulations and programs to reduce PM emissions. Th rules limiting direct PM emissions from open burning of agricultural and non-agricultural w controlling dust from earthmoving and construction/demolition operations, limiting emissic various combustion sources such as cement kilns and furnaces, and reducing PM from acti generate dust or smoke. In addition, the District also enforces rules that limit indirect PM emissions such as NOx and SO2 from power plants, industrial facilities, and other combust and volatile organic compounds (VOCs) from petroleum refineries, coatings and solvents, manufacturing, fuel storage, transfer and dispensing activities, and many other industrial commercial facilities. The District is currently working to enhance its efforts to reduce PM from a variety of sources, including wood smoke (see below), charbroilers, and stationary combustion engines. For further information on proposed District regulatory activities, see Development page.

Reducing Wood-Burning

The District also administers programs that deal specifically with emissions from wood-bur appliances such as fireplaces, wood stoves and heaters. These programs include the Spar

Tonight campaign that advises Bay Area residents not to burn wood on cold, stagnant wint that create conditions for increased PM levels. The District has also developed a model woo ordinance that cities and counties could adopt to further reduce wood smoke impacts in th community. In addition, the District provides financial incentives in specific locations withir Area for residents to remove non-EPA certified wood-burning devices and install EPA certif and to replace wood-burning fireplaces with natural gas fireplaces.

The District has worked to improve its inventory for wood smoke emissions. The District co annual wintertime survey on the days after a Spare the Air Tonight advisory in order to be understand the public's attitudes and behavior with respect to wood-burning. The 2005 Wi Survey was expanded to gather additional information about wood-burning activities, such quantities of wood burned, type of material burned, type of appliances used, and burning i The emissions inventory was updated based on information derived from this survey.

The District will continue to examine programs in other regions for their applicability in the such as enhanced incentive programs and regulatory limits to wood-burning.

Reducing PM Emissions from Mobile Sources

Motor vehicles are a major source of PM emissions, especially diesel PM which has been cla the Air Resources Board as a toxic air contaminant. The Air Resources Board adopted a Di Reduction Plan (DRRP) in October 2000. To implement the DRRP, ARB has adopted a serie regulations to require cleaner diesel fuel, to restrict idling of diesel engines, and to reduce from both old and new on-road and off-road diesel engines.

To reduce PM emissions from mobile sources, the Air District implements a variety of incer programs that help fleet operators offset the cost of purchasing low-emission vehicles, re-p polluting heavy duty diesel engines with cleaner, lower-emission engines, and installing em control devices that reduce particulates and NOx. These incentives are available for a wide on-road and off-road equipment. In addition, one program focuses specifically on school bu District also operates a vehicle buy-back program to provide financial incentives to remove most polluting light-duty ehicles from our roadways.

SB 656 / PM Implementation Schedule

In 2003 the California Legislature enacted Senate Bill 656 (SB 656, Sher), codified as He Safety Code (H&SC) section 39614. SB 656 seeks to reduce public exposure to PM 10 a and to make progress toward attainment of State and national PM 10 and PM 2.5 standa required ARB, in consultation with local air quality management districts (air districts), to and adopt a list of the most readily available, feasible, and cost-effective control measur be used by ARB and air districts to reduce particulate matter. The bill requires the ARB a districts to adopt implementation schedules for appropriate ARB and air district measure later than January 1, 2009, the ARB must prepare a report describing actions taken to fu requirements of the legislation as well as recommendations for further actions to assist i the State PM standards. The bill requirements sunset on January 1, 2011, unless extend information about SB 656 and to view related documents, see www.arb.ca.gov/pm/pmmeasures/pmmeasures.htm.

To comply with SB 656, the Air District reviewed the list of 103 potential PM control mea prepared by the Air Resources Board and developed a Particulate Matter Implementatior which was adopted by the District's Board of Directors on November 16, 2005.

WHAT YOU CAN DO

Here are a few things individuals, businesses, and other organizations can do immediately to reduce PM emissions and the potential impacts of particulate matte

- Reduce motor vehicle use on days with poor air quality.
- Avoid using your wood stove and fireplace on days that have poor air quali
- Avoid using leaf blowers and other dust-producing equipment.
- Drive slowly on unpaved roads and other dirt surfaces.
- Get involved with air quality improvement programs in your community.
- Avoid vigorous outdoor physical activity on days that have poor air quality.
- If you own or operate an industrial source of PM_{10}, comply with local rules apply to your operation. Work with local agencies, like the Bay Area Air Qu Management District, to develop strategies that will further reduce PM_{10} emissions.

For more information about particulate matter, please see these additional websi

- Information on SB 656
- EPA's PM standard attainment designations for the Western U.S.
- California's PM studies
- California's PM monitoring programs
- General particulate matter information at ARB
- General particulate matter information at EPA
- Health effects of PM
- CARB SB656 factsheet (pdf)
- SB 656 Particulate Matter Implementation Schedule (pdf)
- SB 656 Appendix B Response to Comments (pdf)

Contact: Ana Sandoval, Principal Envir. Planner: (415) 749-4667 asandoval@baaqmd.gov

Updated Jan. 4, 2007

Disclaimer Email comments

Contra Costa County
Flood Control
& Water Conservation District

Interoffice Memo

TO: Ryan Hernandez, Senior Planner

DATE: June 26, 2008

FROM: Craig Standafer, Civil Engineer

SUBJECT: 401 Colusa Ave, MS 06-0011, CEQA

FILE: 1003-06-0011

We have reviewed the Initial Study report for the mixed-use development located at 401 Colusa Avenue in Kensington, which we received on June 12, 2008. We submit the following comments:

1. The proposed project is located in Drainage Area 50, an unformed drainage area. Therefore, there are no drainage area fees due at this time.

2. The developer should be conditioned to design and construct storm drain facilities to adequately collect and convey stormwater entering or originating within the development to the nearest adequate man-made drainage facility or natural watercourse, without diversion of the watershed, per Title 9 of the County Ordinance Code.

3. The developer should be required to submit hydrology and hydraulic calculations to the Engineering Services Division of the Public Works Department that prove the adequacy of the in-tract drainage system and the downstream drainage system. We defer review of the local drainage to Engineering Services. However, the Contra Costa County Flood Control & Water Conservation District (FC District) is available to provide technical review under our Fee-for-Service program.

4. The developer should be conditioned to contact the appropriate environmental regulatory agencies, such as the U.S. Army Corps of Engineers, State Department of Fish and Game, and State Regional Water Quality Control Board to obtain all the necessary permits for this project, or show that such permits are not necessary.

255 Glacier Drive Martinez, CA 94553-4825
TEL: (925) 313-2000 • FAX: (925) 313-2333
www.cccpublicworks.org

5. The applicant should be required to comply with the current National Pollutant Discharge Elimination System (NPDES) requirements under the County Stormwater Management and Discharge Control Ordinances and the C.3 Guidebook. We support the State's goal of providing best management practices to achieve the permanent reduction or elimination of stormwater pollutants and downstream erosion from new development. The FC District is available to provide technical assistance for meeting these requirements under our Fee-for-Service program.

If you have any questions, please contact me by e-mail at cstan@pw.cccounty.us or by phone at (925) 313-2018; alternatively, you can reach Teri Rie at trie@pw.cccounty.us or (925) 313-2363.

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c: Greg Connaughton, Flood Control
Tim Jensen, Flood Control
Teri Rie, Flood Control
Monish Sen, Engineering Services

EAST BAY
MUNICIPAL UTILITY DISTRICT

June 20, 2008

Ryan Hernandez, Senior Planner
Community Development Department
Contra Costa County
651 Pine Street, North Wing, 2nd Floor
Martinez, CA 94553

Re: Notice of Public Review and Intent to Adopt a Proposed Mitigated Negative Declaration – Colusa Avenue Mixed Use Project - 401 Colusa Avenue, Kensington

Dear Mr. Hernandez:

East Bay Municipal Utility District (EBMUD) appreciates the opportunity to comment on the Mitigated Negative Declaration for the Colusa Avenue Mixed Use Development Project located at 401 Colusa Avenue in Kensington. EBMUD has the following comments.

WATER SERVICE

EBMUD's Aqueduct Pressure Zone, with a service elevation between 100 and 200 feet, will serve the proposed development. When the development plans are finalized, the project sponsor should contact EBMUD's New Business Office and request a water service estimate to determine costs and conditions for providing water service to the proposed development. Engineering and installation of water services requires substantial lead-time, which should be provided for in the project sponsor's development schedule.

WATER CONSERVATION

The proposed project presents an opportunity to incorporate water conservation measures. EBMUD would request that Contra Costa County include in its conditions of approval a requirement that the project sponsor comply with the Landscape Water Conservation Section of the Contra Costa County Code.

If you have any questions concerning this response, please contact David J. Rehnstrom, Senior Civil Engineer, Water Service Planning at (510) 287-1365.

Sincerely,

FOR William R. Kirkpatrick
Manager of Water Distribution Planning

WRK:LAT:sb
sb08_170.doc

"Michael Bond"
<mib@ci.el-cerrito.ca.us>
07/06/2008 07:32 AM

To <rahern@cd.cccounty.us>
cc
bcc
Subject 401 Colusa initial Planning Study

Ryan, thank you for your considerations

EL CERRITO FIRE DEPARTMENT
10900 San Pablo Avenue
El Cerrito, CA 94530
(510) 215-4450
FAX (510) 232-4917

To: CCC Community Development
Ryan Hernandez

From: Michael J. Bond, Fire Marshal

Subject: Planning Memo for: 401 Colusa, Initial Planning Study

Date: July 5, 2008

Background: The Kensington Fire Protection District has contracted fire protection with the City of El Cerrito. This portion of our response area is one of the most remote areas within the joint Kensington Fire Protection District/El Cerrito Fire Department operating areas. Emergency response into this area can be extended with normal traffic and parking congestion.

The Fire Department disagrees with the findings presented in the initial Study for 401 Colusa, section: XV Transportation and Traffic section "e". This current property is used extensively as an off-street parking area for local business and commuters. Eliminating this off-street parking area will significantly impact emergency response in the area by causing people to use on-street parking in the immediate area.

The major impact to emergency fire operations will be the inability to conduct effective firefighting operations. This impact is caused by increased on-street parking that will restrict fire apparatus maneuverability and further restrict access to firefighting water supplies (fire hydrants).

These significant impacts can be resolved by requiring three mitigation strategies: additional fire hydrant(s) and requiring new construction to be equipped with Automatic Fire Sprinkler Systems and Automatic Fire Alarm Systems throughout.

Michael J. Bond

Michael J. Bond
Fire Marshal
El Cerrito/Kensington Fire Department
(510) 215-4450


image001.emz

mbond@ci.el-cerrito.ca.us