

**COUNTY PLANNING COMMISSION  
RESOLUTION  
18-2009**

**Resolution No. 18-2009**

**RESOLUTION OF THE COUNTY PLANNING COMMISSION OF THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, REGARDING THE APPLICATION BY ANDREW WOOLMAN (APPLICANT), AND THE CIRCLE PARTNERSHIP (OWNERS); FOR THE FOURTH AMENDMENT FOR CALENDAR YEAR 2009 TO THE CONTRA COSTA COUNTY GENERAL PLAN (2005-2020) CHANGING THE GENERAL PLAN FROM COMMERCIAL (CO) TO MIXED USE (M-) (COUNTY FILE #GP05-0006); AND TO ALLOW MODIFICATIONS TO THE APPROVED 1983 COLUSA CIRCLE FINAL DEVELOPMENT PLAN (COUNTY FILE #DP06-3026); AND TO ALLOW THE SUBDIVISION OF 4,792 SQUARE FOOT PARCEL INTO THREE PARCELS, (COUNTY FILE #MS06-0011), SUBJECT PROPERTY IS LOCATED AT 401 COLUSA AVENUE IN THE KENSINGTON AREA.**

WHEREAS, on June 28, 1983, after conducting a noticed public hearing, the Board of Supervisors of Contra Costa County rezoned three corner properties at Colusa Circle in the Kensington area of the County to the Planned Unit (P-1) District, and approved the Colusa Circle Final Development Plan, County File #3056-82 filed by Edward Y. Hammonds, allowing for retail, restaurant and office development within four defined project phased areas; and

WHEREAS, in 1985, the Colusa Circle Final Development Plan was exercised by development of the Phase I portion of the site, and thus allowing the remaining phases of this approval to be implemented at any time; and

WHEREAS, the existing General Plan designation for the property is Commercial, CO; and

WHEREAS, On March 3, 2008, Andrew Woolman filed applications with the Department of Conservation and Development for a General Plan Amendment changing the General Plan land use designation from Commercial (CO) to Mixed Use (M-) (County File #GP05-0006); and to modify the approved 1983 Colusa Circle Final Development Plan; and to subdivide the 4,792 square foot property into four parcels (County File #MS06-0011) on 401 Colusa Avenue in Kensington.

WHEREAS, for the purposes of compliance with the provisions of the California Environmental Quality Act and the State and County CEQA Guidelines, a Mitigated Negative Declaration was prepared and circulated for review and comment between June 10, 2008 and June 30, 2008; and

WHEREAS, on August 12, 2008, after notice having been lawfully given, the County Planning Commission held a public hearing at which time all persons interested were provided the opportunity to testify on the application to modify the application and that the Commission continued the open public hearing; and

WHEREAS, on October 28, 2008, after notice having been lawfully given, the County Planning Commission resumed the open public hearing at which time all persons interested were provided the opportunity to testify on the application to modify the application; and

WHEREAS, On October 28 2008 the County Planning Commission having fully considered all testimony and evidence presented in this matter;

NOW, THEREFORE BE IT RESOLVED that the County Planning Commission ("this Commission");

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1. In accordance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines and the County CEQA Guidelines (together "CEQA"), FINDS that the proposed Mitigated Negative Declaration is adequate for the purpose of compliance with CEQA and ADOPTS the Mitigated Negative Declaration for the project. In support of these actions and conclusions, this Commission ADOPTS the CEQA Findings. This Commission adopts these findings specifically for each of the approvals and entitlements it approves or recommends for approval for the project.

This Commission certifies that it has been presented with the Initial Study and that it has reviewed and considered the information contained in the Initial Study and the other information in the record prior to making the following recommendations, determinations, and findings. The Commission further certifies that the Initial Study reflects the lead agency's independent judgment and analysis, and that the Initial Study has been completed in compliance the CEQA regulations.

2. RECOMMENDS that the Board of Supervisors APPROVE of the proposed General Plan Amendment (County File #GP05-0006), changing the General Plan designation from Commercial (CO) to Mixed Use (M-).
3. APPROVES the proposed modification to the 1983 Colusa Circle Final Development Pan (County File DP06-3026) allowing a commercial and residential project subject to conditions at its meeting of October 28, 2008, by a 5-1 vote, with one member absent.
4. APPROVES the vesting tentative map allowing for three condominium parcels (two residential, and one retail space), File #MS060011, subject to conditions of approval at its meeting of October 28, 2008, by a 5-1 vote, with one member absent.

BE IT FURTHER RESOLVED, that the County Planning Commission makes the following findings with respect to General Plan and ordinance provisions:

**A. Growth Management Element Performance Standards**

1. Traffic: Any cracked and displaced curb, gutter, and sidewalk shall be removed and replaced along the project frontage of Colusa Avenue/Circle and Oakview Avenue. The creation of two condo units and one retail unit will not create more than 100 peak-period trips and the applicant is not required to prepare a traffic report pursuant to the 1988 Measure C requirements.
2. Water: The County shall require new development to demonstrate that adequate water quantity and quality can be provided. The East Bay Municipal Utility District has indicated that they can adequately serve the project subject to the district's standards and conditions. The applicant shall bear all expenses associated with constructing a water system capable of meeting the fire flow and water demand and water quality

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requirements of the water district and of the fire district.

3. Sanitary Sewer: The County shall require new development to demonstrate that adequate sanitary sewer quantity and quality can be provided. The Stege Sanitary District has responded that they can service the project subject to standard fees, specifications and conditions.
4. Fire Protection: Fire stations shall be located within one and one-half miles of developments in urban, suburban and central business district areas. The nearest fire station is located approximately 0.6 miles from the site at 218 Arlington. The applicant's engineer shall design the project to the standards and regulations of the El Cerrito Fire Protection District.
5. Public Protection: The Growth Management Element Standard is 155 square feet of Sheriff's facility station per 1,000 persons. A police service mitigation fee of \$1000.00 is required for each residential unit.
6. Parks and Recreation: No neighborhood parks or playfields are proposed in the proposed mixed use. However, the residential aspect of the project, two condominium units, warrants the payment of the in-lieu fee per residential unit.
7. Flood Control and Drainage: The project must comply with the County collect and convey run-off code requirements.

**(Ref: the Growth Management Element of the General Plan)**

**B. Findings to Establish a Planned Unit (P-1) District**

In approving a request for modification to an existing approved Final Development Plan, this Board finds that the changes are consistent with the intent and purpose of the P-1 district and compatible with other uses in the vicinity, both inside and outside the district. Pursuant to that obligation, the proposed project must remain consistent with the findings required for the approval of a Planned Unit District, as follows:

1. Required Finding: The applicant intends to start construction within two and one-half years from the effective date of the zoning change and plan approval.

*Project Finding: The applicant has expressed a desire to begin construction immediately after required permits and approvals have been obtained.*

2. Required Finding: The proposed planned unit development is consistent with the County general plan.

*Project Finding: The general plan designation for the project site is recommended to be changed to Mixed Use. The Final Development Plan modification describes a development*

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*of two condominium units and two street front retail/office spaces that meets the general plan requirements.*

3. Required Finding: In the case of residential development, it will constitute a residential environment of sustained desirability and stability, and will be in harmony with the character of the surrounding neighborhood and community.

*Project Finding: Colusa Circle is characterized primarily by neighborhood retail/office surrounded by residential development. The proposed development will be of substantially higher architectural quality and is consistent with the 1983 Final Development Plan.*

*The proposed project reduces land use intensity and creates a stable and desirable development. Conditions of approval to improve the aesthetic quality are provided and will be in harmony with the surrounding Colusa Circle. The project provides for a density level consistent with the current size of the property and is consistent with the Kensington Policies in the General Plan. The addition of the streetscape/landscaping plan will increase the visual and aesthetic characteristic of the project. This use of an underutilized property helps fulfill the County Housing Element within General Plan.*

4. Required Finding: In the case of commercial development, the proposed development is needed at the proposed location to provide adequate commercial facilities of the type proposed, and that traffic congestion will not likely be created by the proposed center, or will be obviated by presently projected improvements and by demonstrable provision in the plan for proper entrance and exits, and by internal provision for traffic and parking, and that the development will be an attractive and efficient center which will fit harmoniously into and will have no adverse effects upon the adjacent or surrounding development.

*Project Finding: The proposed modification to the previously approved planned commercial development is designed to serve the needs of the surrounding residents with two modest sized retail/office spaces. This new proposal includes residential units lessening the intensity of use on the property and is more in character with the surrounding neighborhood.*

5. The development of a harmonious integrated plan justifies exceptions from the normal application of this code.

Project Finding: While there are exceptions from the normal regulations of the RB district and R-6 district, the design of subject project is unique in that it creates a place of both residential and retail/office use. These uses are not substantially different from a project that could be allowed in the RB or R-6 zoning district. The exceptions from the zoning districts include reduced setbacks, limiting the range of retail and office uses, and a reduced number of off-street parking spaces. These exceptions are compatible with the goal of achieving a harmonious integrated plan in that a larger project with a more substantial decrease in off-street parking could be built under the un-expired prior approval.

**C. Finding to Modify a Final Development Plan.**

In approving the modification application, the County shall find that it is consistent with the intent and purpose of the P-1 district and compatible with other uses in the vicinity, both inside and outside the district.

*Project Finding: The planned unit district is intended to allow diversification in the relationship of various uses, buildings, structures, lot sizes and open spaces while insuring substantial compliance with the general plan and the intent of the county code in requiring adequate standards necessary to satisfy the requirements of the public health, safety and general welfare. The subject project allows for the combination of residential and retail/office use. The diversity of the proposed uses creates a relationship between the fronting streets and the proposed building that will exhibit attractive elevations toward all street frontages. Additionally, a streetscape/landscaping plan that mirrors the previously approved projects will create pedestrian and customer amenities.*

**D. Approval of Tentative Map**

- Required Finding: The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision, together with the provisions for its design and improvement, is consistent with the applicable general and specific plans required by law.

*Project Finding: The project is consistent with the various elements of the General Plan. The land use designation is mixed use, (M-) which allows flexibility for the development's density. The tentative map provides for two residential condo units and one retail unit, consisting of two spaces, on a 4,792 square foot parcel. The project, as conditioned, is consistent with the policies for the Kensington area.*

- Required Finding: The County Planning Agency shall not approve a tentative map unless it shall find that the proposed subdivision fulfills construction requirements.

*Project Finding: An existing public street provides access to the site and offsite drainage infrastructure is already in place. The project is conditioned to require construction of onsite driveway and drainage facilities in accordance with County standards.*

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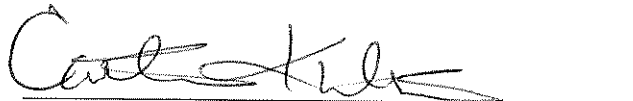
BE IT FURTHER RESOLVED that the Secretary of the County Planning Commission of Contra Costa County shall sign and attest the certified copy of this resolution and deliver the same to the Board of Supervisors, all in accordance with the Government Code of the State of California,

AYES: Commissioners - Terrell, Clark, Battaglia, Snyder and Wong  
NOES: Commissioners - Murray  
ABSENT: Commissioners - Gaddis  
ABSTAIN: Commissioners - None

MICHAEL MURRAY,  
Chairman of the Planning Commission,  
County of Contra Costa, State of California

I, Catherine Kutsuris, Secretary of the County Planning Commission, certify that the foregoing was duly called and approved on October 28, 2008.

ATTEST:



Catherine Kutsuris, Secretary  
County Planning Commission  
County of Contra Costa  
State of California