

To: Planning Commission, Department of Conservation and Development, Contra Costa County

From: Catherine de Neergaard

Date: October 29, 2015

Subject: Appeal to reverse approval of building plans for 148 Highland and request for immediate remediation of dangerous and lawless conditions at 148 Highland

Dear Planning Commissioners,

I am the next door neighbor immediately to the southeast of 148 Highland Boulevard. I ask that the approval of the proposed building project for 148 Highland (County File #DP15-3011) be reversed and remanded for the reasons stated below.

1a- This property with its many additions has already significantly decreased my property values and my home's livability and enjoyment. The project would significantly decrease my property values further. It is unfair and unequal under the law to give so much to one property at the expense of the property values of surrounding properties. There is a limit to how much a residential property can expand at the expense of neighboring property.

1b - This proposal would takes away and further oppressively block solar access, light, views, spaciousness and air for my property. Please see my graphics presented at the hearings 9/29 and 10/19 showing the massive ugly 60' long solid wall facing my property created by all the additions at 148 Highland.

2- This property has already had multiple additions which make it far bulkier and more imposing that the surrounding houses, again decreasing my property's value and my home's livability.

3- This property already has a far larger bulk, footprint and envelope than the surrounding houses. Because of bulk, footprint, envelope, and additions, 148 Highland is already not in keeping with the neighborhood.

4 – This plan is a thinly disguised second unit, turning a level-in floor plan into to two flats on different floors. The substandard lot size forbids second units so in order to do the second unit they are proposing to increase the square footage of their house by adding 753 sq feet to the existing 1319 square feet [SF] (according to the county) or 1325 SF (according to the owners' application) of living space. This is an increase of 57% and larger than the surrounded houses. This huge increase is made by making a whole floor beneath the current single floor. It is easy to turn the 'mudroom' into a kitchen. The county is not doing due diligence here in protecting us from unlawful second units. It is a bureaucratic fantasy that an official permitted kitchen defines a second unit when now-a-days it is so easy to make a kitchen with plug in appliances that don't need permits.

5a – The owners have indicated that they are doing this and planning to move on. In my opinion they will in the near future after the project's completion either sell or rent out their property as a duplex. **They have repeated said that this proposal is their last project for this property.**

Dean Williams is a professional landscape designer who will be done with this property after this 'one last project' with no regard to the neighbors. A duplex would negatively impact parking noise and livability in the already crowded neighborhood of substandard lot sizes. So it will be time for Dean and Morgan to move on with fun projects on a new property, leaving me and others to pay the price.

5b The owners don't need this extra space. The existing house is fine for two people. They already have a master bedroom. Why would they want to go and sleep in a second 'master bedroom' in a dark basement with only a window in the next room? This project is a just a fun project for them to profit by and leave the real consequences to be suffered by others.

6. Kensington is a cozy community of single family homes in garden settings, many of them on substandard lot sizes. This project goes against Kensington's values and wishes to preserve Kensington's character. This property already has very little back yard in comparison with its neighbors. This property is already oversized and any addition to the envelope, footprint, or gross footage area [GFA] will only make it worse.

7 – The Kensington Combining Ordinance is supposed to protect neighbors from these oversized projects that are not in keeping with Kensington's values and character. Specifically, this plan doesn't meet four of the six relevant factors of the Ordinance, to wit:

(3) minimizing impacts upon surrounding neighbors. It severely impacts my property as described above. It impacts the neighborhood in terms of bulk, envelope, loss of green space, increased noise, and parking problems.

(4) protecting the value and enjoyment of the neighbors' property. It severely impacts me and my property as described above and below.

(5) maintaining the community's property values. It doesn't. It decreases them further. It is not in keeping with the values of Kensington to oppress one's neighbors with giant buildings.

(7) promoting the general welfare, public health, and safety. It does the opposite for me and my property. The roof, water, heater fan and vent, and the shutting off of more solar access, light, spaciousness, and views are all unhealthy.

8a - Overall, if this project goes through without addressing and correcting the many illegal and harmful building the current and previous owners have made, the county is not protecting my equal rights under the law and is violating my civil rights in multiple ways.

8b –The county has a process which is geared to permitting any and all buildings as long as they are to code regardless of the many negative impacts on neighbors and the community and regardless of the law. The county process, including this upcoming hearing by the planning commissioners is designed to let neighbors vent a little, and then go ahead with what it wants to do – permit construction. County employees and volunteers have been 'captured', like in the Stockholm syndrome and serve the building and constructing industries needs at the expense of everyone else. Despite good intentions or lip service, at no point in the process does anyone advocate for or defend the public. Thus this process is a farce and invalid.

8c – The particulars of this process to approve 148 Highland, including the KMAC process, the notification process, and the unresponsiveness or deliberate blocking of public participation by a county agent all made this process unacceptable and possibly unlawful.

8d – The plans must be rejected because the building plans are incomplete, deceptive, and inaccurate. The owners repeatedly misrepresented the facts at the hearings thus far.

8e – The Zoning Administrator asked the owners to re-submit the plans at the ZA hearing of 10/19/2015. So how can the ZA approve plans without seeing what the final plans are?

9 - I ask that unlawful problems at 148 Highland must be mitigated BEFORE these and any other new plans be considered or approved. The planning department of the county has been trying to separate and not consider the many illegal and unpermitted activities done to this property from this building process. By not considering the whole property and its problems and illegal building, the county is not doing its due diligence in following laws and code and equally protecting in protecting citizens, their health and their property from harm, damage, and decreased values. Although there are other unpermitted building at 148 Highland, notably the unpermitted conversion of outside windows to glass doors, below are the unpermitted and illegal building at 148 that directly affect me and my property.

A. roof and gutters

“Downspouts to the main roof were reduced to two which were then directed by flexible extensions to the property line directly at my house. The entire water of their roof flooded the soil next to my house and caused problems. The initial change was made by the previous owner, but they [the current owners], despite my repeated pleas, refused to fix it and instead had a new roof put on, leaving only the two down spouts.”

Looking at the history of permits for this property as presented by the county, I see that the previous owner, Mary Arnett, did get a re-roofing permit On 10/6/1994. It received no inspections and thus become null and void as notified by the county on 10/21/1995.

The current owners put on a new roof that increased its slope deliberately sloped to pour water at my house. The roof is bright reflective white, causing glare and heat reflection at my upper story undesirable on our many hot days.

Thus there have been two roof re-dos changing the existing roof to tar and gravel, then ?, then this white plastic stuff. **There are no permits for the re-roofings, or the removal of all but two of the downspouts. It is illegal to direct your properties water onto or at a neighbor's house.** This was done obviously to cause harm and it has caused harm.

I ask that the roof be redone immediately to slope as it was originally designed, in all directions and that the missing downspouts be restored and that the water from their roof be directed away from my house or immediately down slope of it, not toward it.

B. Unpermitted furnace exhaust vent and fan

The current owners took out that existing furnace that was in the basement on a cement floor below the kitchen area. I have a picture of it, in situ, from 2005. They say it was built in 1953. This was a period when asbestos ducts were in use. According to the plans, they re-sited a new furnace under the bedroom area hall way. They put a heater exhaust fan and vent directly across from a bedroom window and below another bedroom window, in my opinion

deliberately to cause me harm. Remember Williams is a professional designer. The exhaust fan /vent greatly harms my health, property value and quiet enjoyment of my property.

“I object to any noise making or exhaust making fans, vents or other apparatus on the south facing elevation anywhere near my bedrooms. The heater & exhaust & ? venting is located directly below my bedroom window in the plan proposal. Currently, the illegal unpermitted heater venting which isn't shown on the existing exterior elevation is located directly across the opening of a bedroom window and near my bedroom. It's engine or fan makes a high pitched whining noise sounding like a jet engine that disturbs our sleep, gives my ears Tinnitus and sends exhaust into our bedrooms.”

Thus, this heater vent is a severe health hazard by reason of exhaust fumes and by reason of unreasonable noise to the point of ear damage. This is totally unacceptable.

Co-owner Darryl Morgan claimed at the ZA hearing on 10/19/2015 that they had had a permit to remove the asbestos and to put in the heater exhaust fan and vent across from my bedrooms' windows. I looked at the permit file provided by the county for this property. **There was only a permit issued on 7/1/2011 to 'replace furnace 95%AFUE'. There was no mention of moving the furnace, putting in a new vent fan in an exterior wall, or removing the asbestos.** So, these activities were unpermitted. The latter two are also uninspected and are dangerous. Should workers on their new plan be exposed to asbestos dust? **There must be testing for asbestos dust immediately. The unpermitted heater fan vent which is unhealthy for me and my property on several counts must be removed immediately and no new vents or fans placed near my house.**

C. The current owners of 148 Highland built the wall and closet on the carport which cut off light, spaciousness, views, and air circulation, especially to my middle floor bedroom. The county building department told me they didn't need a permit to do this because it is adding a second wall to an existing carport. The owners said they got a permit to do this. The file the county gave me shows that they got a permit to put closets against the wall, once the wall itself was built. I ask that no further oppressive structures, such as the current plan, be built that shut out more light, air, view, and space.

D. The current owners wish to push out their envelope under the flying room. The current owners did additional fill and built a retaining wall around the uprights holding up the flying room which put yet more soil and weight above my property. My family was promised that the addition would not harm our views and it has greatly harmed our views from our bottom and middle floors and greatly decreased the property's value. If the flying room if it is less than safe, I ask that it be torn down.

10. I ask that studies be made of existing hazardous materials, soil, and water before this plan is considered for approval. See above for an outline of the asbestos problem.

The houses are built on fairly steep slopes. There was a marsh area and an all year spring directly across and upslope of 148 Highland, now suppressed. 148 Highland has already dug into the slope (probably unpermitted) to make a storage area. The current plans call for extensive additional digging under the house, possibly destabilizing the hillside, and causing spring water and hillside drainage water to be redirected. With heavy rains expected this winter and in

general in this era of Anthropocentric Climate Disruption [ACD], excavating could be very dangerous to 148 and surrounding houses.

The lower half of the 148 Highland House is built on fill. The flying room addition (currently used I believe as a dining room) at 148 is entirely on fill which is significantly higher than the natural slope as can be seen in comparison with neighboring properties. The flying room rests on two uprights that sit on fill upon fill. Would the additional weight proposed on the fill push out the existing retaining walls and fill onto my property?

11. I ask that should this 148 Highland proposal be permitted by passing muster in all of the hearing and law courts, before beginning construction, the current owners build a solid six foot fence on their side of the property line from 3 feet east of the eastern edge of their carport zoning to within 23 feet of their south western corner, to give me privacy and relief from the massive bulk of their house. The design should be by mutual agreement. At the conclusion of ZA hearing of 10/19/2015, applicant Darryl Morgan stated when asked that there was already a fence in the area of the proposed addition. This is not the case in one area. Thus, the Zoning Administrator went ahead without considering asking for a privacy fence.

For all of the above reasons and the additional reasons and explications in my letters to the Zoning Administrator of September 21, 2015 and October 19, 2015, **please overrule the Zoning Administrator and send this proposal and the many needed mitigations of the unlawful building on the property back to the relevant departments in the county.** Please consider my two letters of September 21, 2015 and October 19, 2015 and the letters and emails from my similarly distressed neighbors along with this letter of appeal. I reserve the right to present further arguments and reasons at this and future hearings should those arguments and reasons be uncovered.

Thank you in advance for your consideration of this matter.

Sincerely,



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