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PLANNING PERMIT CENTER

June 1, 2018

Via Hand Delivery

Planning Commission
c/o Community Development Division
Application and Permit Center
30 Muir Road
Martinez, CA 94553

RE: Appeal of Approval of Development Plan for 7 Highgate Court,
Kensington, CA
County File DP17-3046

Dear Planning Commission:

I represent Respondent, Jeremy Stone. This is a response to the appeal filed by Allen Trigueiro of the issuance of an approval for Ms. Stone's Development Plan for 7 Highgate Court, Kensington. Mr. Trigueiro sets out three grounds as the basis of his appeal. Each ground is without merit, as discussed below.

1. **The 23' long Skylight.** Mr. Trigueiro claims that the 23' skylight along the south side of the roof will obstruct his view. This objection was raised by Mr. Trigueiro at the Zoning hearing that took place on March 19, 2018, before Thelma Moreira, Zoning Administrator.¹ The Zoning Staff Report prepared by Susan Johnson for that hearing noted that Ms. Stone had already reduced the height of the skylight from 36" high to 18" high. Ms. Johnson stated "the raised roof and new skylight would cut off a *sliver*" of Mr. Trigueiro's view. [Emphasis added.]

In her written decision, Ms. Moreira confirmed Ms. Johnson's opinion in the Staff report that the skylight did not impede Mr. Trigueiro's view.² Ms. Moreira wrote that "there is no substantial blockage of view on skyline, bridges, distance, cities, geologic features, terrains, or bodies of water." [Cross Transcript, 4:21-5:15; Underlining in Moreira's original written decision.]

¹ Ms. Moreira presided at the Zoning hearing that took place on March 19, 2018. She took the matter under submission, and was not available for the next hearing, which took place on April 2, 2018. Ms. Moreira issued a written decision that was read on April 2, 2018, by Zoning Administrator I. Cross.

² Respondent had prepared a certified written transcript of the April 2nd and March 19th Zoning Hearings. A copy of the April 2nd Hearing is attached as Exhibit 1, and a copy of the March 19th Hearing is Exhibit 2.

Mr. Trigueiro also claims in his appeal that there is an ambiguity regarding the measuring point of the curb height. There is no ambiguity. The 23' long skylight that is over the dining room will rise 18" above the new roof ridge. The new roof ridge is being raised 4" for new insulation, for a total of 22" above the current roof ridge. This is how the drawing depicts the height change. (The fact that the skylight's south facing curb is more than 22" is immaterial, as the relative elevation difference of the building height with this new skylight remains at 22".) The roof height at 4" higher than the current roof and the skylight at 18" high (after having been reduced from 36" to accommodate Mr. Trigueiro's concerns expressed prior to the Zoning hearing) does not change the fact that only a *sliver* of Mr. Trigueiro's view will be affected.

- 2. The color of the roof and skylights.** Mr. Trigueiro states that due to the highly visible nature of Ms. Stone's roof, the color of the gray roof and skylights are important and that Mr. Trigueiro would like to be part of that decision.

It is difficult to understand this appeal point, as the Zoning decision includes a provision that requires that the color be of low reflectivity and that gives Mr. Trigueiro an opportunity to comment to Ms. Stone as to the brightness of the color. Condition 3 of the approval provides that "the skylight curbs and metal frames shall be painted to match the roof and be of low reflectivity. The project owner may consult and provide the property owner of 65 Highgate Road an opportunity to comment on the type, texture of the skylight color material." [Cross Transcript, 8:2-9.]

While Ms. Stone has no objection to choosing a color for the roof and skylight that is of low reflectivity and to provide Mr. Trigueiro an opportunity to comment of the type and texture of the roof and skylight color material, she does object to Mr. Trigueiro's "being part of the decision" if that means his approval is needed. It is clear from the history of this project, and the concessions already made by Ms. Stone in an effort to appease Mr. Trigueiro, that it would be virtually impossible to obtain Mr. Trigueiro's approval of anything.

- 3. The roof height will be more than 4" above the existing roof.** There is nothing to suggest that the roof height will be more than 4" above the existing roof. The current roof and insulation assembly is approximately 2" thick. It is being removed and replaced with 2x6 sleeper joists, 1/2" plywood and roof membrane, for a total thickness of approximately 6". Thus the net difference is 4" higher than the current roof height.

Moreover, after careful consideration of the comments made at the March 19, 2018, hearing regarding the height of the roof and the skylights, Ms. Moreira concluded that there was no meaningful impact from the roof height on Mr. Trigueiro's view as it would only cut off a *sliver* of his view.

Conclusion

For the reasons stated above, Mr. Trigueiro's "objections" are without merit. It should be noted that Mr. Trigueiro waited until the very last day to file his appeal. Given his meritless objections, and the timing of his filing this appeal, it is apparent that the only motivation for this appeal was the desire of Mr. Trigueiro to delay Ms. Stone's project for as long as possible, and to make her jump through as many administrative hoops as possible in order to raise the economic stakes for her to continue forward. His tactics should not be rewarded. His appeal should be denied.

Sincerely,

FERGUSON & BERLAND

A handwritten signature in blue ink, appearing to read "William S. Berland", with a long horizontal line extending to the right.

William S. Berland

WSB/rr
Encl.

cc: Jeremy Stone