

THE BOARD OF SUPERVISORS OF CONTRA COSTA COUNTY, CALIFORNIA

Adopted this Order on June 28, 1983, by the following vote:

AYES: Supervisors Powers, Fahden, McPeak, Torlakson, Schroder.  
NOES: None.  
ABSENT: None.  
ABSTAIN: None.

SUBJECT: Rezoning Application 2539-RZ and Development Plan No. 3056-82  
Filed by Edward Y. Hammonds, Kensington Area.

The Board on June 7, 1983 having declared its intent to approve the application of Edward Y. Hammonds (2539-RZ) to rezone a 27,290 foot area consisting of three separate parcels from Retail Business District (R-8) and Single Family Residential District (R-6) to Planned Unit District (P-1) with a requested variance for property size, and for approval of Development Plan No. 3056-82 to establish retail shops, offices and a restaurant in the Kensington area, and having directed staff to prepare appropriate findings and conditions for Board consideration this day; and

Harvey Bragdon, Assistant Director of Planning, having submitted proposed findings of fact and conditions of approval;

IT IS BY THE BOARD ORDERED that rezoning application 2539-RZ and Development Plan No. 3056-82 are APPROVED subject to conditions and based on certain findings of fact (Exhibits A and B attached hereto and by reference made a part hereof).

IT IS FURTHER ORDERED that Ordinance No. 83-27 giving effect to the aforesaid rezoning is hereby INTRODUCED, READING WAIVED and July 12, 1983 fixed for ADOPTION thereof.

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: June 28, 1983

J.R. GLISSON, COUNTY CLERK  
and ex officio Clerk of the Board

By A. Joseph, Deputy

JUN 27 4 30 PM '83  
CONTRA COSTA COUNTY  
PLANNING DEPARTMENT

Orig. Dept.: Clerk of the Board  
cc: Edward Y. Hammonds  
Director of Planning  
Public Works Director  
Kensington Community Service District  
Building Inspection  
County Health Department  
County Assessor  
Alletta Belin  
396 Hayes St., San Francisco, CA 94102  
Inez Hennix  
1605 Ocean View, Kensington, CA 94707

BOARD OF SUPERVISORS  
OF  
CONTRA COSTA COUNTY, STATE OF CALIFORNIA

REZONING NO. 2539-R2            )  
                                  )  
                                  )       RESOLUTION NO. 83/880  
                                  )  
                                  )  
FINAL DEVELOPMENT PLAN        )  
NO. 3056-82                     )  
\_\_\_\_\_ )

The Board of Supervisors having fixed this time for the adoption of this Resolution containing findings and conditions, and providing for adoption of Ordinance No. 83-27 introduced on June 28, 1983, approving rezoning 2539-R2 and approving final development plan 3056-82, Edward Y. Hammonds ("Applicant"), P.E. Whitten ("Owner"); and

WHEREAS, Applicant has requested the rezoning of the subject properties from Retail Business (R-B) and Single Family Residential (R-6) Districts to Planned Unit District (P-1) (2539-R2) and for approval of a final development plan which was filed concurrently (3056-82) with the request for rezoning; and

WHEREAS, the subject properties owned by Applicant and Owner consist of Lots 1 through 7, Block N; Lot 1, Block L; and Lots 1 and 2, Block J of the amended map of Berkeley Park Subdivision located at Colusa Circle in the Kensington area, containing approximately 27,290 square feet; and

WHEREAS, the Board has reviewed and considered all materials presented to it during its consideration of this matter, including the staff report prepared for its meeting of June 7, 1983, with attachments including:

1. Staff report for April 12, 1983, Planning Commission meeting with attachments.
2. Staff report from March 22, 1983, Planning Commission meeting with attachments.
3. Traffic Study prepared by Wilbur Smith & Associates with errata sheets and inserts.
4. Kensington Property Owner's Association letter of April 8, 1983.
5. Mr. Hammond's letter on phasing of project dated January 16, 1983, and his letter of February 27, 1983, modifying the project.
6. Copy of letter and survey Mr. Hammonds sent out to Kensington residents on March 18, 1983.
7. Parking survey submitted on March 21, 1983, by the applicant.
8. April 12, 1983 letter from Kensington Police Department.
9. Fiscal study of project by Angus McDonald and Associates, Inc. received March 21, 1983.
10. Site plans and elevations as presently proposed; and,

WHEREAS, a public hearing by the Board was held on June 7, 1983, and all notice required by law was given in a timely manner; and

WHEREAS, at the hearing the Board received oral and written testimony and

WHEREAS, at the conclusion of said hearing, the Board voted unanimously to approve, tentatively, subject to the adoption of these findings, the rezoning and final development plan, subject to conditions; and

WHEREAS, Ordinance No. 83-22 was introduced before the Board at its meeting of June 28, 1983; and

WHEREAS, an Initial Study of Environmental Significance was prepared for each proposed action on February 14, 1983 and a combined Notice of Preparation of a Negative Declaration dated February 15, 1983 was circulated to appropriate persons and a conditional Negative Declaration was posted for both applications on February 15, 1983; and

WHEREAS, the Planning Commission has previously considered and denied an appeal of the negative declaration and a request that an environmental impact report be prepared; and the Board having reviewed and considered the negative declaration and having determined that the Board concurs in and ratifies the decision to prepare a negative declaration; and

WHEREAS, the Board hereby certifies that the negative declaration was completed in compliance with CEQA, state and local guidelines and that the Board has reviewed and considered the information contained in the initial study and in the negative declaration prior to approval of the proposed project; and

WHEREAS, based upon the evidence submitted to it, and being fully informed about the proposed project, the Board determines that the project is necessary and desirable and in the best interests of the community and the citizens thereof and that the planned unit district will ensure substantial compliance with the general plan and that the proposed conditions of approval require adequate standards necessary to satisfy the requirements of the public health, safety and general welfare;

NOW, THEREFORE, IT IS BY THE BOARD RESOLVED, that the Board makes the following findings:

1. The planned unit district and final development plan (sometimes collectively referred to herein as "the plan") approved by this Resolution is in substantial compliance with the Kensington General Plan in that the General Plan designates the subject properties in the Neighborhood Business category which allows "retail and office uses and is intended to provide for neighborhood and limited community oriented commercial uses and services"; and the Commercial-office uses included in the final development plan are such as would be permitted in the Neighborhood Business category. The proposed uses in the final development plan will provide for neighborhood and limited community oriented commercial uses and services and thus the approximate 30,000 sq. ft. of new and remodeled retail-office-restaurant area with its various uses and services as proposed will further the policies of the Neighborhood Business Category of the Kensington area General Plan. As a result, it is consistent with the existing General Plan for the subject properties.

Insofar as the plan affects a single lot (411 Colusa) which arguably is within the single family residential category of the general plan and previously zoned R-6, the planned unit district is also consistent with the General Plan in that the boundaries of the General Plan are intended to be general, and it appears that a portion of the lot may be included within the area designated for neighborhood business and, furthermore, because parking for commercial businesses is an allowed use within the R-6 district, a zoning district consistent with a single family residential General Plan district, under certain conditions and circumstances which the Board finds are present in this instance. In particular, the Board finds and conditions its approval as follows:

- A. The lot in question adjoins a zoning district allowing business uses.
- B. The parking areas are limited to an area within one thousand feet of the boundary of a zoning district allowing business uses.

- C. The parking area shall be used for private passenger vehicle parking only.
- D. No commercial repair work or sale of any kind will be allowed.
- E. No signs will be permitted other than those, approved by the zoning administrator, to guide traffic, to identify the parking lot or to state the condition of use.
- F. The parking area is designed and developed in the manner and with the conditions deemed proper and adequate to protect residences in the vicinity. In this regard the zoning administrator shall review the plans for the parking area and shall impose conditions to comply with the following standards.
  - (1) The plans shall require proper planting and screening to protect nearby residences from noise, light and other detrimental effects; the entrance/exits shall be designed and located to minimize conflict with both existing and reasonably foreseeable vehicular and pedestrian traffic; and the area used for drives and parking shall be suitably paved to prevent dust and mud.
  - (2) Proper provisions shall be made, as deemed necessary, for adequate lighting of entrances, exits and parking areas with measures to shield adjacent residential areas from lights.
  - (3) A detailed plot plan shall be submitted and approved by the zoning administrator depicting and delineating the requirements of section 82-16.020 of the Contra Costa County Code and all necessary elements to constitute a proper parking area.

2. The planned unit district and final development plan approved by this Resolution contain adequate standards and safeguards, as detailed herein and in the conditions of approval, necessary to satisfy the requirements of the public health, safety and general welfare, and the approval of the planned unit district and the final development plan is consistent with, and in the interest of, the public health, safety and general welfare.

3. The Conditional Negative Declaration which was posted constitutes a mitigated Negative Declaration based upon the initial study which found that there were significant environmental effects of the project, but that such effects could be mitigated as set forth in the traffic and parking study and by preparation of a soils/geologic report prior to construction and by requirement of any identified special construction measures. Said environmental effects have been clearly mitigated, as set forth in detail below, by revisions to the project plans made by the applicant and by enforceable conditions of approval binding the Applicant to include mitigation measures in the project. With such mitigation, the project as approved will not have a significant effect on the environment. The specific mitigation measures are:

- A. The current parallel parking scheme shall be maintained, and diagonal parking is not provided, on the west side of Santa Fe Avenue. The northbound lane of Santa Fe Avenue shall be a minimum of 15 feet wide, the southbound lane shall be 14 feet wide and a 9 foot west side curb parallel parking lane shall be provided all as required by Condition of Approval 17.
- B. Condition of Approval number 17 is an adequate provision for delivery access.
- C. Condition of Approval number 18.B.2 provides for a 15 foot traffic lane and a 9 foot curb parking lane on Oak View Avenue.

- D. The proposed rotary circle at Colusa Circle has been eliminated. The final configuration of Colusa Circle shall be reviewed by the Zoning Administrator prior to approval of phase III and construction of required improvements is a condition to construction of Phase III, as particularly set forth in Condition of Approval 16.
- E. Diagonal parking is provided on Santa Fe and Oak View Avenues thereby increasing the on-street parking supply.
- F. A soils/geologic report shall be prepared and submitted as required in the attached Condition of Approval number 12. Any special construction measures identified shall be included as a condition or requirement in necessary building permits or other appropriate construction approvals or permits.

4. Pursuant to Section 84-66.2002, a variance from the provisions contained in Article 84-66.6, and specifically in Section 84-66.602(2), requiring a minimum area of 10 acres for nonresidential P-1 districts is consistent with the General Plan in that the uses proposed further the policies of the Neighborhood Business Category of the Kensington Area General Plan as indicated in Finding 1 above and is granted in accordance with chapters 26-2 and 82-6 of the County Code. In particular, the ten acre limitation is modified because of special circumstances applicable to the subject properties because of their location and surroundings; and the variance in size authorized hereby does not constitute a grant of a special privilege inconsistent with the limitations on other properties in the vicinity or in the land use district in which the subject properties are located; and the variance authorized hereby substantially meets the intent and purpose of the land use district in which the subject properties are located; and the strict applications of the zoning regulations would deprive the subject properties of rights enjoyed by other properties in the vicinity or within the identical land use district. In particular, the rezoning to P-1 is necessary and desirable, and in the public interest, even though the size of the area rezoned is less than that permitted without a variance because of the relatively small size of the Colusa Circle business area and the proximity of residential uses and the resulting need to (a) accumulate parcels for zoning and development control purposes; (b) provide control and flexibility; and (c) provide for review of individual proposed uses by the Zoning Administrator, all of which would be impossible or more difficult or less effective under the pre-existing, or any, standard zoning district and all of which are in the interest of the public generally and of the residents and owners of properties in the vicinity of Colusa Circle and the subject properties.

5. The land uses permitted by the final development plans are in harmony with each other, serve to fulfill the function of the planned unit development and are consistent with the Kensington General Plan.

6. The design objectives of section 84-66.1402 of the Contra Costa County Code have been met by the final development plan and are subject to final review and approval by the Zoning Administrator.

7. From the evidence submitted, the Board is satisfied, and finds that:

- A. The applicant intends to start construction within two and one-half years from the effective date of the zoning change and plan approval;
- B. The proposed planned unit development and final development plan are each consistent with the county general plan for the reasons contained above. (Finding 1)
- C. The commercial development proposed by applicant is needed at this location to provide adequate commercial facilities of the type proposed; and traffic congestion will not likely be created by the proposed project or will be obviated by presently projected improvements and by demonstrable provisions

in the plan for proper entrances and exits, and by intended provisions for traffic and parking; and 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;

- D. The development of a harmonious, integrated plan as proposed which meets the intent and purposes of the General Plan and gives control to the County on the design and occupancy to ensure compatibility with the goals of the General Plan and justifies exceptions from the normal application of the county code. (§ 84-66.1406).
- E. Community need has been demonstrated for the uses proposed by, among other things, (1) the Kensington General Plan, heretofore adopted by the Board after thorough and careful study and after receipt of substantial public input, which Plan designates the subject properties and adjacent properties as one of only two small commercial areas in the Kensington area; and (2) the testimony in favor of this proposal including, but not limited to, testimony that the Colusa Circle area needs to be redeveloped and revitalized.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors grants the rezoning request of Edward Y. Hammonds (Applicant) and P.E. Whitten (Owner) (2539-RE) and approves the final development plan no. 3056-82 and adopts Ordinance No. 83-27 introduced on June 28, 1983, rezoning the subject property from R-8 and R-6 to P-1, subject to the conditions which are included in the body of this Resolution and those attached hereto and made a part hereof, and as is indicated on the findings map entitled: PAGE N-6 OF THE COUNTY'S 1978 ZONING MAP, which is attached hereto and made a part hereof.

PASSED AND ADOPTED by the Board on \_\_\_\_\_ on the following vote:

AYES:

NOES:

ABSENT:

Orig. Dept.: Planning

ORDINANCE NO. 83-27  
(Re-Zoning Land in the  
Kensington Area)

The Contra Costa County Board of Supervisors ordains as follows:

SECTION I. Page N-6 of the County's 1978 Zoning Map (Ord. No. 78-93) is amended by re-zoning the land in the above area shown shaded on the map(s) attached hereto and incorporated herein (see also County Planning Department File No. 2539-RZ)

FROM: Land Use District R-B (Retail Business)  
R-6 (Single Family Residential)

TO: Land Use District P-1 (Planned Unit Development)

and the Planning Director shall change the Zoning Map accordingly, pursuant to Ordinance Code Sec. 84-2.003.





CONDITIONS OF APPROVAL OF 2539-RZ

1. This approval is based upon the exhibits received by the Planning Department and listed as follows:
  - A. Exhibit "A" - Development plan entitled "Colusa Circle Master Development Plan", received November 3, 1982, together with floor plans and elevations.
  - B. Exhibit "B" - Development plan revisions for part of project entitled "Colusa Circle Master Development Plan" received March 7, 1983 together with revised floor plans and elevations.
  - C. Exhibit 'C' letters dated November 9, 1982, and February 22, 1983, from the applicant listing the specific square footages and uses for each parcel. The total building square footage and uses shall not exceed those shown in the letters unless specifically allowed in these conditions or conditions of the final development plan.
2. The development shall be developed in four phases as follows:

Phase I: Site between Colusa Circle and Berkeley Park Boulevard, together with sidewalk treatment and landscaping on site.

Phase II: Site at corner of Colusa Avenue and Oak View Avenues, and sidewalk treatment and landscaping on the rest of Colusa Circle.

Phase III: Site at corner of Santa Fe, Oak View and Colusa Avenue, infill addition on Colusa Avenue and conversion of garages on Oak View Avenue together with diagonal parking on Santa Fe, oak View Avenues and sidewalk treatment and landscaping on Santa Fe, Colusa and Oak View Avenues.

Phase IV: The rest of the triangular building at the corner of Oak View and Santa Fe Avenues together with any additional street or traffic changes required.
3. Approval of this proposal is based on the plans and statements submitted as modified by these conditions. However, each segment of the proposed development shall be subject to further review by the Zoning Administrator. It may be that additional requirements, conditions and/or modifications may be specified during such review.
4. Prior to commencement of construction on Phase III of the project, there shall be a review of anticipated impacts of Phases III and IV by the Zoning Administrator.

EXHIBIT B



CONDITIONS OF APPROVAL FOR DEVELOPMENT PLAN 3056-82

1. This approval is based upon the exhibits received by the Planning Department and listed as follows:
  - A. Exhibit "A": Development plan entitled "Colusa Circle Master Development Plan" received November 3, 1982, together with floor plans and elevations.
  - B. Exhibit "B": Development Plan revisions for part of project entitled "Colusa Circle Master Development Plan" received March 7, 1983, together with revised floor plans and elevations.
  - C. Exhibit 'C' letters dated November 9, 1982, and February 22, 1983, from the applicant listing the specific square footages and uses for each parcel. The total building square footage and uses shall not exceed those shown in the letters unless specifically allowed in these conditions or conditions of the final development plan.
2. The total number of businesses within the complex shall not exceed 30.
3. This approval is subject to adoption of an Ordinance for the rezoning of the subject property under application 2539-RZ. The final number and layout of buildings shall reflect the Board's approval.
4. The proposed buildings shall be similar to that shown on submitted plans. Prior to the issuance of a building permit elevations and architectural design of the building and building roofing material shall be submitted for final review and approval by the County Zoning Administrator. The roofs and exterior walls of the building shall be free of such objects as air-conditioning or utility equipment, television aerials, etc., or they shall be screened from view.
5. Comply with landscaping, sidewalk treatment and lighting requirements as follows:
  - A. A landscaping program for street trees shall be submitted for review and approval of the Zoning Administrator at least 30 days prior to issuance of building permits. A cost estimate shall be submitted with the landscaping program plan. A means for the maintenance of street trees shall be established. Street trees along Colusa Avenue shall be planted on 20' centers subject to ZA review.
  - B. All trees shall be 15 gallon size. Trees should be of a drought-tolerant type and all of the same species.
  - C. At least 30 days prior to issuance of building permits a sidewalk plan and street lighting plan will be submitted to the County Zoning Administrator for review and approval.
6. Phasing of the development is approved for four phases subject to review and modification of the ZA. The phases are to be as follows:

EXHIBIT B

- A. Phase I: Development of the one-story building between Colusa Avenue and Berkeley Park Boulevard along with 3 off-street parking spaces along with sidewalk improvements and street tree planting on site's frontage.
  - B. Phase II: Development of the site between Colusa and Oak View Avenue which may include a 120-seat restaurant and retail shops. The 36-space, two-level parking structure shall be constructed at this time.
  - C. Phase III: Development of the two-story building at the corner of Colusa and Santa Fe Avenues, the infilling of a building along Colusa Avenue and the first floor of 1537 Oak View Avenue along with sidewalk improvements and street tree planting along Colusa and Santa Fe Avenues and diagonal parking on Santa Fe and Oak View Avenues.
  - D. Phase IV: Development of the rest of the site between Santa Fe and Oak View Avenues together with any other street, sidewalk or landscaping improvements required.
7. Prior to commencement of construction on Phase III of the project, there shall be a review of anticipated impacts of Phases III and IV by the Zoning Administrator.
  8. At least 60 days prior to issuance of building permits a sign program for the project shall be submitted for the Zoning Administrator's review and approval.
  9. If deemed necessary by the Zoning Administrator and at the request of the neighborhood the developer shall apply for the establishment of a permit parking zone within 300 feet of the development. This includes the area within the unincorporated area. The developer shall pay to have the required signs erected if the zone is established.
  10. Parking and driveway areas shall be paved so as to prevent ponding of water or the creation of dust.
  11. Uses such as video game arcades, bars, pool halls, card rooms and fast-food take-out establishments shall not be allowed in this complex with the exception of one take-out ice cream store and one take-out bakery.
  12. Soils-geologic reports shall be submitted for the review and approval of the Zoning Administrator at least 60 days prior to issuance of any building permits. This report can be done phase by phase or all at once.
  13. Means to reduce the odor of cooking from the restaurant shall be taken if feasible.
  14. The restaurant shall remain primarily a restaurant. It shall not be converted to a night club or cocktail lounge without amendment to this final development plan.
  15. The Zoning Administrator shall review and approve all uses within the project prior to their establishment.
  16. The matter of the final configuration of Colusa Circle or intersection shall be reviewed by the Zoning Administrator prior to approval of Phase III. Required improvements shall be constructed as part of Phase III.

17. One on-street delivery space shall be provided. Its location shall be approved by the Zoning Administrator the space shall be clearly signed as parking for delivery vehicles.
18. Comply with the requirements of the Public Works Department as follows:
  - A. In accordance with Section 82-2.014 of the County Ordinance Code, this development shall conform to the requirements of Division 914 (Drainage) of the Subdivision Ordinance.
  - B. Mitigate the impacts of traffic and additional parking demand generated by this development by:
    1. Providing six additional feet of pavement on the east side of Santa Fe Avenue in order to provide for a minimum 15-foot wide northbound travel lane, a 14-foot wide southbound lane, a 9-foot parking lane on the west side of Santa Fe Avenue and 60 degrees diagonal parking on the east side of Santa Fe Avenue.
    2. Converting Oak View Avenue to one-way, westbound, and construct adequate pavement widening in order to provide for 60 degrees diagonal parking on the north side of Oak View Avenue, a 15-foot travelled way, a 9-foot parking lane on the south side, and an adequate sidewalk on the north side of Oak View Avenue.
    3. Constructing curb and sidewalk along the frontages of the above properties.
  - C. Prior to the issuance of any building permits involving the use of floor overhangs over the public right of way, resolve to the satisfaction of the Public Works Department, the legal terms so that the use of proposed overhangs will not constitute a grant of public funds.
  - D. Prevent storm drainage, originating on the property and conveyed in a concentrated manner, from draining across the sidewalk or on driveways.
  - E. Furnish proof to the Public Works Department, Land Development Division, of the acquisition of all necessary rights of entry, permits and/or easements for the construction of off-site, temporary or permanent, road and drainage improvements. This shall include any necessary permits and/or approvals for construction of any necessary improvements within City limits.
  - F. Install all new utility distribution services underground.
  - G. Install street lights on Santa Fe Avenue, Oak View Road, and Berkeley Park Boulevard. The final number and location will be determined by the utility company and approved by the Traffic Engineer and Zoning Administrator.

- H. Submit improvement plans prepared by a registered civil engineer to the Public Works Department, Land Development Division, for review; pay the inspection, plan review and applicable lighting fees. These plans shall include any necessary traffic signing and striping plans for review by the County Traffic Engineer. The improvement plans shall be submitted to the Public Works Department, Land Development Division, prior to the issuance of any building permit. The review of improvement plans and payment of all fees shall be completed prior to the clearance of any building for occupancy by the Public Works Department. If occupancy is requested prior to construction of improvements, the applicant shall execute a road improvement agreement with Contra Costa County and post the bonds required by the agreement to guarantee completion of the work.
- I. Obtain an encroachment permit from the Public Works Department, Land Development Division, for construction of driveways or other improvements within the right of way of Colusa Avenue, Santa Fe Avenue, Oak View Road, and Berkeley Park Boulevard.
- J. Submit a phase construction plan subject to the approval of the Public Works Department with the improvement plans.

TB:jal  
3056.82.315.t3  
cc: Edward Hammonds  
ELS Design Group

The following are not conditions of approval; but, the developer should be aware of them prior to applying for building permits:

- a. Comply with the requirements of the County Building Inspection Department.
- b. Comply with the requirements of the Stege Sanitary District.
- c. Comply with the requirements of the Health Department in regard to the food establishments.
- d. Comply with the requirements of the Kensington Fire District.

EXHIBIT B