

DRAFT

**Kensington Municipal Advisory Council
Minutes**

Meeting of August 31, 2004

Council Members present:

Chair: Reyes Barraza

Vice Chair: Jim Carman

Secretary: Richard Karlsson

Council Member: Kay Reed

Council Member: Patrick Tahara

1. The meeting commenced at 7:05 p.m. All members were present.
2. The Council approved the minutes of July 27, 2004, with no changes, 5-0.
3. The citizen comments at the beginning of the meeting were addressed to two issues: the noise ordinance and the question of an easement at 1 Eagle Hill Road. Chair Reyes Barraza indicated that he would look into the issue surrounding the potential easement. Additionally, it was noted that on October 30th, at 10:00 a.m., Kensington Improvement Club will hold its annual meeting and Senator Torlakson will speak. KMAC will also be allocated additional time to speak at the meeting. Later in the meeting, Vice Chair Carman asked Mr. Masoud Vafaei, 392 Coventry Road to report on any progress he was making getting Public Works to respond to any progress he was making in getting Public Works to respond to the inadequate storm water drainage system at the corner of Ocean View and Coventry. Mr. Vafaei reported he was waiting for a specific response from Public Works and intended to contact Supervisor Gioia to see if he could expedite action before the rainy season begins.
4. **Enforcement Report:** This item was taken out of order as it was anticipated that there would be speakers regarding item 4 on the agenda regarding 401 Colusa, which was deferred until later in the meeting.
 - a. A report was given by Vice Chair Carman regarding the extension of the existing building moratorium ordinance until June of 2005.
 - b. The Council was advised that Keith Marks was the new enforcement officer for Kensington.
 - c. 300 Coventry Rd. The applicant had a hearing as to whether he could proceed with the design of his residence as approved by KMAC following a hearing with the zoning administrator and the impacted neighbors. A neighbor at 1511 Valley Rd had complained that he had not received

notice of the KMAC meeting, and Vice Chair Carman said he had some good suggestions as to how the project might be improved. Community Development Staff, despite the recommendation of KMAC, recommended against the permit and Vice Chair Carman was asked to mediate between neighbor's interests and the owner. The problem is a lengthy wall along Valley Rd. side of the house. They have been given until Sept. 20th to make changes, prior to the next scheduled hearing. Two neighbors in the area, not immediately impacted by the project, are apparently also opposed to the proposed improvements.

- d. 163 Arlington. A Building permit was issued and later extended to widen and make useable one garage space. This was special condition lot approval.

5. **401 Colusa Ave (a portion of the proposed Colusa Circle Commercial Development)** Andrew Woolman, architect, made the presentation on behalf of the owners. The lot is currently undeveloped and is very small. He stated that the owners are aware that the community is very concerned about potential development and that they were coming to KMAC to receive feedback as to the alternative development proposals. Carol Chisholm, the owner of the property, then spoke and stated that in 1982 a planned unit development ("PUD") was approved for the Colusa Circle area. Phase I (currently the veterinarian office) was developed at that time as required by the PUD approval. In the 22 years since, nothing additional has happened because of the economy. She purchased the lot in question from Ed Hammonds, who had the PUD approved in 1982. There is some doubt as to the validity of the PUD approval if changes are made to the 1982 approved plan. She admits this is a problematic lot, but believes that there is promise for commercial development. Note that under the original design, there was a plan for shared parking among the entire Colusa Circle PUD, but this was now problematic because there were separate owners who have different development plans.

Mr. Woolman presented their preferred plan and three alternative plans. The problem that Chair Barraza believed existed regarding the preferred plan for 401 Colusa was that there were 3 residential units and 2865 sq. ft. of retail and only parking adequate to partially cover the parking needs of the development, including parking on the street, where now none exists. According to Contra Costa County's parking requirements, only 40% of the parking needs were met under the proposed development. Additionally, the parking spaces on the street, are located in the current AC Transit bus stop.

Mr. Woolman continued with the other proposed site plans. Proposed site plan C had additional parking stalls and 1800 sq. ft. less of retail. Less than 50% would be frontage on Colusa Ave and there would be screened area for parking. The building above the parking would be 2370 sq. ft. of residential or office space.

Scheme B was for a three-story building, with 2 residential units in conjunction with retail space. The greatest number of parking spaces that could be

reasonably included was seven parking spaces. Scheme A provides for 2 story structure, facing toward Colusa, with six parking spaces including an open area with trees to soften the appearance from Oak View. It has no residential and is all retail and office spaces.

Ed Crawley, Ms. Chisholm's partner, then commented that the building site is so small that after one includes space for the parking required, the building is too small to be commercially viable. The only other option is to have residential units over the parking, which raised the question as to whether the community would rather have more residential or more commercial space.

Member Reed then asked why commercial space was preferable to residential. Ms. Chisholm indicated that the reason businesses were having difficulty in the area was that there were insufficient residents to support the businesses currently in the area. Mr. Crawley also indicated that more parking was required to support commercial use than residential under the County requirements. Ms. Reed then inquired as to what type of retail was envisioned under this plan and Ms. Chisholm responded that a bistro was under consideration - places that did more business at noon or during the day than in the evening.

Chair Barraza noted that the size of the residential units were quite large and, given no yard, wondered why they were of such a large size. Ms. Chisholm responded that she envisioned a "live-work" unit, rather than units for families. Ms. Reed commented that she was not in favor of multiple family residential units. She also was opposed to a three story unit that went 'straight up' from the street and wondered what, if anything, could be undertaken to break up the building. Mr. Woolman indicated, in response, that the 3rd floor would be pulled back, with a slope from the front façade and the unit masses would be of varying heights. Ms. Reed also noted that the AC Transit stop was proposed for onstreet parking on the first of the design schemes but not on others, and asked why. In response she was advised that Scheme B would not be able to incorporate the bus stop, as it was a 'drive-thru' design.

Mr. Carman then had questions concerning the design of the curb cut in drawing A.2.1 and questioned whether it was adequate as drawn for existing traffic and bus stop. He also questioned whether parking in Scheme A would be approved. Mr. Carman also noted that if the PUD did not apply, then every residential unit would require two parking spaces, and thus the designs proposed were already short. Mr. Carman then stated his preference for design B or C, with fewer residential or commercial units, which would make the financial viability of the plan questionable. Thus, Mr. Carman believed that the proposed plan did not meet the parking requirements. Mr. Crawley responded that plans B and C did have problems and that if two residential parking spaces were required for each residential unit, it would be hard to share the parking during the day with the commercial units. Mr. Carman responded that the retail lessees would have parking spaces, in the gated area, just as residents would.

A question was then asked regarding the planned uses of the proposed courtyard. It was responded that the courtyard was intended for the residential and not the commercial residents. Ms. Chisholm was asked if she had considered opening the courtyard to the commercial users and she responded that she had not thought about that possibility but noted it was impractical, given the second floor location.

Chair Barraza then added his comments. He had a chance to park in the area for 30 minutes and observe traffic in the area. He believed that the area is fairly congested currently and that with large apartments proposed, 2000 sq. ft. at minimum, two off-street parking spaces would be necessary - and with the proposed commercial development, that would be 19 required spaces ... not counting the bus stop, *where a bus* picked up a passenger during his 30 minute stay. The Chair was also concerned about retail establishments and where their employees would park, as they would be discouraged from parking in the relatively few spaces near Colusa Circle, and his concern was that they would further congest the residential areas nearby. He was also concerned about the impact of a large building next to 411 Colusa. Ms. Chisholm stated that in her view 411 Colusa should have been reserved for parking and, regardless, under the PUD, there were no requirements for setback. The architect indicated that one of the required characteristics of the building, given the space, was to have a steep change between the residential property and this development, but that said, they were looking at ideas to mitigate the impact. Chair Barraza suggested that they consider the existing character of the commercial buildings in the area, which currently were no higher than two stories.

Ms. Reed then wanted to know what was the preferred proposal, was it a two or three story structure. Secretary Karlsson stated his preference for design B or C. Mr. Tahara also requested to know whether it was proposed to be residential or retail and was advised that at this stage, it was 'either/or.' Mr. Tahara noted that if it is to be office, a higher number of parking spaces would be required. Mr. Tahara also suggested smaller residential units, and stated that if they made each one 971 sq ft, that would leave enough parking for 1.5 for each and one guest. If, on the other hand, retail was the desire, under Plan C, then for 1071 sq ft, nine parking spaces would be required. Mr. Tahara then asked the owner if residential units were planned as rentals or owner occupied. Ms. Chisholm indicated that the current plan was owner occupied, but that may change based upon the housing/rental market.

Member Reed then asked about multiple cars parked in single spaces, using machinery much like she has viewed in Berkeley. Mr. Carman indicated that this is allowed in Contra Costa, but the parking must be indoors enclosed parking. Mr. Carman then asked for clarification as to whether Plans B and C were two or three story. He was advised that B is three stories and C was two. Jim indicated his concern about any plan to develop a three-story structure, given the current neighborhood.

Members of the audience then expressed their concerns. Cynthia Podren, of 483 Berkeley Park asked whether the schemes infringed upon 411 Colusa. She was advised that it did not. She then stated that she was glad that KMAC had provided a forum for community input and that she was concerned with this area of Kensington. She also stated that the purchaser of the property was aware, in her view, that the property might not be able to be developed when it was acquired. Masoud Vafaei, of 392 Coventry then suggested that they should consider underground parking. Ms. Chisholm responded that they did consider it, but it was too expensive. She also noted that when she purchased the property, 411 Colusa was to be a parking structure and therefore it was a viable lot for development at the time of purchase. Jan Dedrich who lives at Santa Fe and Oak View expressed a different opinion, which was that the area needed more neighbors and she therefore was in favor of more residential development. She believed that some of the businesses in Colusa Circle left due to lack of customers. Janet Hittle of 1612 Oak View was concerned that the PUD is more than 20 years old and it should not be developed as originally planned without a new parking study. She was also concerned about the lack of a setback for the adjoining properties if this property is developed. She was advised that commercial development goes to the property line, that is one of the advantages/disadvantages of a commercial development permit.

Vice Chair Carman stated that the original concept of PUD parking was an evening restaurant and now he is concerned about rumors that Narsai is planning on splitting up Porto Brazil into three different businesses. Jim further stated this was one of the reasons for KMAC's prior request for a traffic/parking study of the area, which Contra Costa Community Development indicated they were planning to undertake, but the cost was \$8000 and Ed Hammond was not interested in paying for same.

The architect, Mr. Woolman was advised he should contact Mike Henn at (925) 335-1204 who was now in charge of the review of the PUD. Mr. Woolman then inquired as to whether the traffic study needs to be completed before this project could proceed and was advised that the answer to his question was yes.

6. **309 Berkeley Park Blvd. (VR041096)** This matter concerned a request for a 30 square foot addition to a bedroom, which allowed a 3'6" setback, rather than the required 5'. Mr. Douglas Gostlin, the owner, made the presentation. The improvement called *for building a new exterior stairway* and an extension out of a wall for the extension of a back bedroom by 3'. Mr. Gostlin advised the KMAC that he had spoken to the neighbors (the Johnsons) immediately adjacent to the improvement and they had no objections after reviewing the drawings. Mr. Gostlin was asked questions regarding why he did not build the improvement in a different manner so no impact to the setback was required (impossible without impacted back setback), whether a setback in the rear yard was required (not with this improvement), and the height of the ceiling under the area of the improvement (7').

Following the presentation and Mr. Gostlin's responses to KMAC's questions, Mr. Carman offered the following motion:

- a. That the granting of the variance in this case would not be a special privilege as it was necessary based upon the size and configuration of the house and because other houses in the immediate area were within the area of the setback;
- b. That given the size of the lot and the size of the house and the configuration of the lot, the property in question met the conditions for the variance; and
- c. That the bedroom in question was so small that without the improvement it was not practical to be used and thus it met the requirements for a variance under the small lot ordinance and there were no negative impacts regarding height, bulk, size or design and therefore the application met the requirements for a small lot ordinance.

The motion to recommend approval for the variance and small lot review were approved 5-0.

7. Radio Transmission Towers: A radio transmission tower has been installed at a residence on 136 Highland Blvd, on the downhill side of the street. The tower has been bolted onto the chimney of the residence and is used for ham radio. Alex Zettl complained about the tower due to impacts upon his view. It would appear that the tower is exempt from the Contra Costa Planning ordinances and the height of the tower is determined by FCC regulations. Mr. Zettl advised KMAC that El Cerrito resolved a similar problem by requiring the owner to have a tower that was retractable. This one does not and has a deleterious impact upon his view. The owner purportedly wanted a higher tower so that he could receive and transmit radio signals to Sacramento. Ray Barraza indicated that he would look into the issue with Kensington Amateur Radio Operators. It would appear that if declaring the radio to be a commercial operation, a retractable antenna was the best option for all concerned.

8. The meeting was adjourned at 10:00 p.m.

Minutes prepared by Secretary Karlsson