

***DRAFT, not yet adopted by KMAC***

## **Kensington Municipal Advisory Council Minutes**

**Meeting of January 3, 2006**

Council Members present:

Chair: Reyes Barraza

Vice Chair: Pat Tahara

Secretary: Richard Karlsson

Member: Kay Reed

Member: Pam Brown

Alternate Member: Chris Brydon

1. The meeting commenced at 7:00 p.m.
2. The minutes of November 29th, were approved by a vote of 5 – 0. Ms. Reed additionally mentioned that she had brochures regarding earthquake preparedness and that if anyone had any questions related to this topic, she would be happy to address same.
3. Citizen's Comments: Mr. Brian Stone, 554 Cooper Dr., Benicia had inquiries regarding the one year review of the Kensington Combining District in light of property he owned and wished to develop in Kensington. Chair Barraza advised Mr. Stone that item 8b) on the agenda was intended to address this topic, that the earliest that KMAC would address this issue would be at the February 28<sup>th</sup> meeting, and that at such a meeting, consideration would be given not only to the applicants but also to the neighbors impacted by development plans. Mr. Stone expressed his view that the process was taking too long for the applicants. Chair Barraza stated that he had a spread sheet indicating how long applicants have had to wait from the time their application was issued for comments until the matter was heard by KMAC.

Ms. Mina Edelston then spoke and expressed her view that it was good that KMAC was encouraging communication among neighbors. She expressed her concern that the 3<sup>rd</sup> Tuesday of the week is street sweeping in El Cerrito and that she has parked her car in front of vacant property and has been approached by police and advised that she cannot park her car in front of the private property without a threat of her car being towed. She was concerned that the owner of the property, rather than speaking to her directly, called police and threatened to have her car towed. Member Reed suggested that Ms. Edelston call the police board but that KMAC was without jurisdiction to direct the property owner, especially one in El Cerrito, to speak to Ms. Edelston. Chair Barraza also noted

that El Cerrito residents were fortunate to have street sweeping as this was not a service provided to Kensington residents.

**4. 1 Norwood Place (MS 050033).** Request to subdivide an existing 32,864 sq. ft. parcel into two parcels, one of which will front onto the east side of Highgate Rd. north of the existing residence at 29 Highgate Rd. Chair Barraza began by explaining the process for recommending approval of a requested subdivision. A presentation was made by the owners of the property, Cynthia Corveia and Joel Meltzer. Information was received that the lot is very stable and thus very little mitigation is needed for the subdivided site. The soils reports have been completed and the area of the Blakemont slide touched the most northern end of the property, but not the intended area of the building site for the home. The proposal is to split the lot in two and not three parcels as the prior owners had sought. The lot line was recommended by Ryan Hernandez of Contra Costa Community Development Department. Questions were asked regarding drainage; the answer was toward Blake Gardens would be the best design but it currently drains across new lot and thus, unless there is permission from U.C., drainage would be developed across parcel B. Parcel B would have a home constructed designed to be built into the hill and only the potential problem is that it may require cutting into rocks within the hill. The plan is for off-street parking and a driveway.

KMAC members suggested the following for purposes of the construction: Chair Barraza: granting a construction easement so that when a retaining wall and residence are built on Parcel "B" the construction can be done easily (applicants agreed), and Member Reed inquired about where the setback was measured from and the applicants responded from the edge of Highgate Rd.

Vice Chair Tahara inquired as to whether it was necessary to have the Blake House drainage easement approved prior to the recommendation of KMAC. He was advised that it was not required as they had alternative drainage plans in the event that they did not receive approval from the owners of Blake House.

Mr. Stone then inquired how long the process had been thus far to seek approval for a subdivision. The owners replied one year.

*A motion was then made by Chair Barraza to move for recommendation of the tentative proposed subdivision map, dated November 21, 2005, subject to the following two conditions: (1) Record an easement from the owner of Parcel "A" to parcel "B" for temporary excavation within Parcel "A" to allow construction of a proposed residence on parcel "B" and (2) Obtain and record an easement across the adjacent property to the north as needed to allow owners of parcels "A" and "B" to install drainage facilities. The motion was seconded by Member Brown. The motion was approved by 5-0 vote.*

**5. 325 Colusa (DP 053097).** Development Plan review and Variance Request for a storage shed within one of the two required off-street parking spaces with a 4' setback (20' required). (The two off-street parking spaces were required by the previously granted Land Use Permit, #LP 022065, issued in 2002). Chair

Barraza began the hearing by stating the conditions necessary to recommend the granting of a variance. Thereafter he went over the criteria to be considered under the Kensington Combining Ordinance.

The owner of the property, Nicholas Taylor, 325 Colusa Ave., made the presentation as to what he was seeking. This matter had come to the attention of KMAC by virtue of a storage space that was constructed in the area of one of the two off-street parking spaces. Mr. Taylor explained that he was a teacher in San Leandro and commuted to work via a bicycle. Additionally, he stated that he took his children on outings using his bicycle with a trailer attachment to same, and this was the primary purpose of the storage shed: to store the bicycle and its attachment. The remaining space was used to park his vehicle but practically speaking, it was difficult to fit two cars into his driveway and a bicycle was more environmentally friendly. Additionally, he had no other means to store the bicycle and there were plenty of on-street parking spaces available on the street adjacent to Colusa, in El Cerrito.

He commented further that he believed the shed improved the look of the property from the street and that while there were two residences on the property, the back house was used by his parents when they were visiting, but was otherwise unoccupied.

Questions were then asked regarding the permanency of the shed, whether it was affixed to the house or whether it was a moveable improvement. Mr. Taylor responded that the shed is not affixed to the real property but is not readily moveable.

Chair Barraza was concerned that one of the reasons that off-street parking of two spaces was originally required was that there were two residences and potentially two couples and four cars and this request essentially was to eliminate one of the required spaces. Member Brown stated that this is an area of Kensington with a number of complaints regarding the lack of parking and to grant a variance in this instance, where such spaces were previously required as a condition of development, did not seem reasonable. Vice Chair Tahara expressed his view that the two parking spaces required were both inadequate in terms of size and that if off-street parking is to be required, the size should be sufficient to accommodate two vehicles. Secretary Karlsson stated that in his view there was no justification to grant a variance here.

Alternate member Brydon noted that while the shed in question was not readily moveable, it was not bolted to the ground and therefore may qualify as a moveable storage shed and thus not subject to the requirement for a variance. Member Reed questioned whether the County could grant a variance for only this owner and was advised that it could not. Further discussion was had as to whether the shed in question was, in fact, real property as opposed to personal property not being affixed to the house or the land and therefore subject to the Kensington Combining Ordinance. Following this discussion, and the expressed concerns about the permanency of granting a variance, especially when the

criteria for same did not appear to be met, Chair Barraza made the following motion:

*That KMAC recommend against the granting of a variance, the conditions for which were not met, and to encourage the applicant to make whatever structural changes were necessary to clearly establish that the shed is personal property as opposed to real property, such that the subject shed is not subject to the Kensington Combining Ordinance or require a variance. The motion was seconded by Member Reed and approved by 5-0 vote.*

6. **57 Richardson Rd. (VR 051118).** Variance Request and Development Plan Review to construct a fence up to 9'4" high (6' allowed under ordinance), a retaining wall up to 3'6" high (3' allowed), and a combination fence on top of retaining wall up to 9'6" high (6' allowed under ordinance) within the front, side-yard and rear-yard setbacks adjacent to the north property line. Kamal Golabi, the owner of the subject property made the presentation. He has lived in the house for 28 years and had previously had a tall bamboo fence which the neighbor asked him to remove due to improvements construction that the adjacent neighbor was undertaking on his residence.

He had discussed this issue with his neighbor and they agreed that he would build a new fence on his property to replace the bamboo. He was unaware that the fence, unlike the bamboo, would require a variance if built to the same approximate size as the bamboo.

Mr. Stone, asked Mr. Golabi if his neighbor agreed with the fence that was built. Mr. Golabi stated that the neighbor had agreed. Unfortunately, it was noted that adjacent property owners could not agree in behalf of the County to modify existing ordinances. Mr. Stone then asked Mr. Golabi how long a process this request under the ordinance had taken him thus far. The response was 8 months. It was noted by Secretary Karlsson, that Mr. Golabi and other residents of Kensington had also benefited by an ordinance that protected their respective property rights.

Chair Barraza noted that the plans submitted indicated an exterior light fixture mounted 7'4" above grade on the fence, and that such a fixture requires a Use Permit from the County. It was suggested that the Applicant either apply for the required Use Permit or install the fixture at or below 7'0" so it would not require a Use Permit.

KMAC members thereafter had questions regarding the necessity for the height and length of the concrete wall. Member Reed was concerned regarding the wisdom of approving a structure that had already been built, especially a concrete fence of that great of height that would effectively block sunlight in the same manner as a concrete building. Alternate Member Brydon was concerned that the plans submitted were incomplete and that it was unknown how high the trellis might be built. In light of the concerns expressed, the applicant was asked if he desired a continuance for the purpose of submitting more detailed site plans

and to allow KMAC members who desire to do so to visit the property. Mr. Golabi agreed that he would like to request a continuance.

*A motion was made by Chair Barraza and seconded by member Brown that the matter be continued to allow the submission of detailed information on (1) a trellis proposed to be installed on top of part of the wall and (2) existing grade elevations on the north side (51 Richardson) of the wall to Community Development, by not later than April 1<sup>st</sup>, at the request of the applicant. The motion was approved 5-0.*

## **7. Procedural Matters:**

- a) Election of Officers for 2006:** Member Reed made a motion, seconded by Member Brown, that the current slate of officers remain in place for 2006. After discussion and some reservations expressed by the current secretary, the motion was unanimously approved.
- b) Budget for 2006:** Chair Barraza stated that KMAC met its 2005 Budget and proposed a Budget of \$400 for 2006. The council approved the 2006 Budget. The Chair will request funding from KPOA and KIC.
- c) Entry onto private property for KMAC purposes:** A brief discussion ensued regarding whether KMAC members should enter private property for purposes of inspection without the property owner's permission. Chair Barraza stated he would review applications, and if he felt entry was needed for proper understanding of an application, he would seek permission from the owners or arrange for tours of inspection.
- d) Site for public inspection of documents for KMAC agendas:** Chair Barraza stated that the Kensington Library agreed that they would keep proposed plans of pending KMAC matters in the staff area of the library and same would be available for viewing by members of the public.
- e) Participation by Alternate KMAC Members in regular KMAC meetings:** Supervisor Gioia suggested that it would be useful to have the alternate member(s) participate in KMAC meetings so that they would be familiar with the issues in the event a regular member was unavailable. The Supervisor's recommendation is that the Alternate members vote only when all regular members are not present. KMAC agreed with the suggestion and will implement it.

## **8. Information Reports:**

- a. Enforcement Report:** Chair Barraza reported that there were nine pending enforcement matters and reported briefly upon three of them: 57 Richardson, 89 Kensington and 285 Los Altos.

- b. **Review of Combining District Ordinance:** As set forth above, it was agreed to discuss and propose comment on the Kensington Combining Ordinance at the February 28<sup>th</sup> meeting. .
- c. **Updates on Pending Applications:** 31 Kenilworth, which had a pending development plan for two stories, has decided to return with only a one-story development plan. 282 Grizzly Peak, which had a pending application for a variance regarding a deck addition, has decided to redesign the deck so that a variance would not be needed. However, the Development Plan will still be required.

The meeting was adjourned at 9:35 p.m.

Minutes prepared by Secretary Karlsson