

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

## **Kensington Municipal Advisory Council Minutes**

### **Meeting of November 29, 2005**

Council Members present:

Chair: Reyes Barraza

Vice Chair: Pat Tahara

Secretary: Richard Karlsson

Member: Kay Reed

Member: Pam Brown

1. The meeting commenced at 7:00 p.m.
2. The minutes of October 4, 2005 and October 25, 2005, were approved by a vote of 5 – 0. Kay Reed expressed her view that minutes of October 25<sup>th</sup> were exceptional. Ms. Reed additionally mentioned that if anyone had any further issues related to earthquake preparedness, she would be happy to address same.
3. There were no citizens' comments regarding non-agenda items.
4. **282 Grizzley Peak Blvd. (VR 051111).** Development Plan review for a new tri-level deck on the west side of the existing residence with a variance for a 12 ½ rear yard setback (15' required). Chair Barraza began the hearing by stating the three required findings to grant a variance: that in granting any variance, the applicant is not allowed a special privilege; that special circumstances in regard to the applicant's property require the granting of a variance so as to not deny him or her the same benefits as other property owners; and that any variance that is granted be found consistent with the intent of the applicable zoning ordinances.

Cynthia Kimball, the owner of the subject property, indicated that her neighbor had requested such a deck expansion in the past, and she had been supportive of that request. She further stated that the deck would enhance the value of her property and thereby that of the adjoining neighbors. The reason that the expansion was necessary to go into the setback was one of geometry, in that the deck had to be extended to make room for the stairs and allow a reasonable size deck. She further stated that due to the foliage to the rear of the residence, privacy would not be an issue and that they wanted the deck to allow them to enjoy the backyard. The architect, Ms. Grayson Malone, in response to Kay Reed's question, stated that it was necessary to go into the setback if the deck was to remain 10' to allow the steps between deck levels to meet the code

requirements for width. Chair Barraza then inquired whether there were any other decks in the area within the setback, or particular problems with this specific property that would require the requested variance. Ms. Kimball was unaware of other decks in the area within the setback, but indicated that the location of their house on the property required the variance if they were to have a 10' deck and the required width steps.

The next speaker to address KMAC was Ted Cohn, a resident of Kensington for 33 years, who resided with his wife at 283 Lake Ave. Mr. Cohn indicated that he had first learned of the deck two days before the hearing and wanted additional time to consider the impact of same. He understood that the notices were posted earlier; however, he believed that even the 10 days was insufficient notice to learn about the planned deck, which would face the rear of his property. He therefore requested additional time for a continuance.

Mr. Cohn was advised by KMAC that they could not grant additional time to consider the request, unless the applicant requested a continuance. If the applicant refused to grant a continuance, then it would have to act upon the evidence before it at the time of the noticed hearing. Ms. Kimball, when so informed, indicated that she was more than willing to request a continuance so that she could discuss the plans further with the Cohn's.

Mr. and Ms. Cohn then mutually addressed their respective concerns related to potential issues of privacy, noise, and whether the criteria for a variance had been established.

Mr. Robert Berend, 230 Cambridge, suggested that if Plexiglas were used in the railing, the noise problem would be abated.

*Thereafter KMAC considered Ms. Kimball's request for a continuance and approved same by a vote of 5 – 0.*

5. **Procedural Matters:** Due to the holidays, KMAC voted 5 – 0 to hold the December meeting on January 3, 2006.
6. **Information Reports:**
  - a. **Enforcement Report:** Discussion concerned reports that were not being received timely and how to improve this process.
  - b. KMAC's recommendations concerning 407 Berkeley Park Blvd., were not supported by Mr. Ryan Hernandez, of Contra Costa Community Development Department, in regard to the recommended requirement of two off-street parking spaces. Mr. Hernandez determined that only one parking space should be required as the second space, recommended by KMAC, did not have sufficient space. When informed of the basis for its recommendation by Chair Barraza, Mr. Hernandez indicated that he was unaware of the specific intent of KMAC and therefore suggested that the

KMAC minutes be as detailed as possible. Accordingly, in the future, Secretary Karlsson indicated that he would provide detailed minutes as to the basis for each of KMAC's recommendations.

- c. A further discussion was had concerning misleading ads in real estate ads concerning "potential in-law" units in Kensington homes. Chair Barraza wrote Dennis Barry, Community Development Director, requesting he explain the County requirements for Second Unit Conversions to real estate brokers and their staffs in the area.
- d. A date in late January, most likely the 31<sup>st</sup>, was discussed as a possible date to have KMAC's discussion on the one-year review of the Kensington Combining District Ordinance.

The meeting was adjourned at 8:08 p.m.

Minutes prepared by Secretary Karlsson