

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

## **Kensington Municipal Advisory Council Minutes**

### **Meeting of July 31, 2007**

Council Members present:

Chair: Reyes Barraza

Vice Chair: Patrick Tahara, excused

Secretary: Richard Karlsson

Member: Kay Reed, excused

Member: Pam Brown

Alternate Member: Chris Brydon

Alternate Member: Gordon Becker

1. The meeting commenced at 7:00 p.m.
2. The minutes of May 29th, were approved by a vote of 5 – 0.
3. There were no Citizen's Comments.
4. Consent Items: There were no consent items.
5. **215 Amherst Ave. (DP 073032).** Development Plan review for a 515 sq. ft. additional story over the SE part of existing residence. Request a variance for a third story (2.5 allowed) where the new story is directly above an existing storage area behind a garage.

Chair Barraza opened the hearing by stating the considerations under which KMAC would review the application under the Kensington Combining Ordinance and the required findings under State law for granting of a variance. Andus Brandt, the architect, made the presentation. Mr. Brandt stated that this was not the first design; other prior designs were considered, but this one would have the least impact upon the neighbors. The location of the addition was altered so it covers only one-third of the roof. He noted that there were a number of other two-story homes within the immediate area, and the changes were necessary so the owners, the Eldridge's, could meet the demands of their growing family. KMAC members then asked questions regarding their contact with neighbors and discussions they had regarding alterations to meet their concerns. Simon Eldridge stated that they had spoken to neighbors, and the ones they had spoken to said that the changes didn't seem too bad or that they never got back to them about any proposed changes. Member Karlsson asked the reason for the third story and was advised that there was an existing basement, below grade, and that was for a water heater, heater and access to same.

The first speaker, Martin Molkenbuhr, 205 Amherst Ave. spoke in favor of the addition, and stated that the family needed to expand their house for their family; that the addition was designed to minimize impact and they were good neighbors. The next speaker in support was Robyne Eldridge, applicant/owner, who stated that they would like to stay in the neighborhood and Kensington, but they needed to expand the house.

The first speaker in opposition was Anna Martinez-Rivero, 206 Amherst Ave. and she was concerned about the impact on views. Some houses on Yale Ave. would lose their views as a result and she had considered doing adding a second story years before, but she had decided against it due to the impact upon her neighbors on Yale Ave and therefore she was opposed. She believes that if third stories were allowed, it would undermine the ordinance.

The next speaker was Amanuel Haile, 214 Yale, who made a presentation. He lives directly behind the applicants and he is concerned about the impact upon his view. He purchased the home for the views and this addition would have a dramatic impact upon his views, and he presented pictures of the proposed addition superimposed upon the existing views. The impact would mean loss of skyline and views of San Francisco. He had been advised that the view ordinance would protect them and he wanted it enforced and urged KMAC not to recommend approval.

The next speaker in opposition was Angela Archie who was present with her husband. They live at 216 Yale and she read a prepared statement which she handed out to members of KMAC. She argued that all of the work regarding the tree ordinance and the overlay ordinance would be overturned if this proposal was approved. They, too, had considered an addition and decided against it due to the impact upon the neighbors. Instead of going up, they excavated at greater expense to protect the property values of the neighbors. She presented a copy of a judgment in a law suit from 1994 that they and the Sluiters brought to protect their views from the former owners of the subject property under the Tree Obstruction of View Ordinance.

The next speaker was Celia Concus, 218 Yale Ave., who stated that this improvement completely took her and her husband by surprise. They have lived in their house since 1964 and bought the house because of the view. In the past they have paid to have tree limbs trimmed to avoid the loss of view. They would lose the view of Mt. Tamalpais and instead look at the rear and side of a building. Given the angle of the proposed structure, they will have a significant loss of views. In her opinion, the ordinance will be undermined by the approval of the proposed development.

The next speaker was Nancy Sluiter, formerly of 214 Yale Ave. She explained the history of the disputes with the prior owner to get her to trim her trees and now the proposed development would have negative impacts upon 212, 214 and 216 Yale that would be permanent impacts.

The next speaker was Robert Matoye, 234 Yale, who stated he would make every effort to negotiate with his neighbors but they should not be able to move ahead with the project that the neighbors so strongly object. David Bergen, 670 Oberlin Ave., stated that he was not impacted by this project but his parents bought their house for the view and any project that is approved by KMAC not within the bounds of the ordinance impacts his property.

Chair Barraza then read two other letters from homeowners opposed to the project that were unable to attend the KMAC meeting. Andus Brandt, the architect, then stated that trees, rooftops and buildings were part of the view, that they had tried to minimize the impact, and that, like Barcelona, Spain, part of the joy of the view is the rooftops and houses. He also stated that the area in which they placed the improvement minimized the view impacts and that the neighbors, to the extent that they have objections, should speak directly to him or the owners in advance and not 'lie in wait' until KMAC to voice their objections. Member Brown stated her own experiences and how she and her partner decided to move, rather than make an improvement that would be detrimental to her neighbors, and she stated Member Reed's refrain that one is only an applicant once or twice, but a neighbor forever. She stated that the issue was to build down, not up. Secretary Karlsson stated that the improvement in question was clearly the type that was intended to be protected by the ordinance.

*.At the end of the hearing, the Eldridge's were asked if they wanted KMAC to vote on a recommendation based upon the present plan or to seek a continuance. The Eldridge's requested a continuance, which was approved by KMAC 5 – 0.*

6. **384 Coventry Ave. (VR 071037)** Development Plan review for a 680 sq. ft. additional story. Request for variance for third story (2.5 allowed) where new story is directly above a basement. Andrew Spear was the owner and applicant and spoke in behalf of the project. He explained that the present house was one story, the area for the planned second story was over an unimproved basement and they need a variance to have what is considered a third story. They needed the improvement for a bedroom for new child. They had presented the plans to neighbors and there were no objections. He also stated most homes in his area do not have views and those that do were not impacted by his planned improvement. He stated that his improvement would not put them over the land to improvement or FAR ratios established by the County Planning Department. He also stated that others in the neighborhood had second stories and that due to the condition of the lot and the existing development of his home he required a variance to allow him to have the same conditions as his neighbors. No neighbors spoke in opposition to the project. *The matter was submitted and the conditions for granting a variance were found to exist and the plans of May 11, 2007 were recommended for approval by KMAC, 5 – 0.*

- 7. 350 Berkeley Park Blvd./385 Colusa Ave. (DP 073041)** Request for land use permit/development plan for a mixed used establishment with alcohol sales. Scope includes an additional apartment and change of use from a restaurant to optometrist and fitness consulting business. Narsi M. David was the applicant owner and stated that he was not presenting his plan at this time for approval, but instead to receive feedback from KMAC and the neighbors. His application is not yet complete and the Contra Costa County Community Development Department is still in the review process. Much of the present space he plans to renovate is vacant and the footprint of the buildings would remain the same. The present location of the restaurant, Porto Brazil, now closed, is 5000 sq. feet and is thus too large and no one has an interest in a restaurant that large. Mr. Hernandez, of CoCoCounty Community Development, has suggested modification of the restaurant and he is considering same. There is a minor plan to make changes to Kensington Circus (they need it for a sink), but otherwise there are no plans to change that restaurant. He did place drawings for the remodel of Porto Brazil on the window of the restaurant. Mr. David was asked questions regarding the proposed plans by Chair Barraza regarding the existing apartments (minor addition is planned with same footprint) and whether he would be doing parking and traffic study. Pam Brown explained that a parking study was required of Mr. Hammond and that KMAC would expect the same for his plans. Mr. David explained that he could not create more than already existed, which was 23 parking spaces. Gordon Becker was asked about the school next to Porto Brazil's parking lot and Mr. David said that the school went out of business and it was now vacant as well. That property was owned by Mr. David and was to be part of the plan.

The first speaker was Rodney Paul, 1619 Oak View Ave and was speaking on behalf of the Colusa Circle Improvement Association. He wanted to know more about the planned development and if the 23 parking spaces are all legal parking spaces. He also wanted to know if there were plans for more street trees, as was the plan for Mr. Hammond's development. Mr. David indicated in response that it was his plan to have lampposts, like the one in front of Porto Brazil, rather than more trees. Mr. Paul then inquired about the type of tenants for whom Mr. David would develop his property, and stated that the Association would prefer to see one development plan at once, rather than three brought for review piecemeal. James Shinn, 20 Highgate Ct. was the next speaker and he stated that he has lived in the area for a year, but not near Colusa Circle, but he would like to see the area developed much like a European Village, something that is good and cohesive for the entire Colusa Circle area. Jim, 15 Anson Way, was the next speaker and he wanted to know if there would be a third apartment. Mr. David explained that it was his plan to add one more one bedroom apartment, above one of the existing one story apartments.

Janet Hittle, 1612 Oakview Ave. stated that she would like to see improvement to the area, but not expansion of the existing buildings. She would also like to see more landscaping and covering of some of the parking. Bob Giusti, 112 Willow Lane, likes the iron work and the existing front door of Kensington Circus but his greatest interest is to fix the façade of Porto Brazil and to make it classy as it was

before. Mr. David responded that he was committed to classy. He went on to say that he believes he has consistently made improvements to Kensington, and that his restaurant was the one to put Kensington 'on the map'. However, the kind of tenant he can get is restricted by the type and design of existing structure and thus the planned development. Ellen Mills, 1648 Oak View, supports comments of Mr. Paul. She was dissatisfied with the parking study, as she did not find it objective, and mentioned that there has been no traffic study. She feels that a rigorous traffic study of the area is needed. She believes that the project has to be considered in its entirety for both parking and traffic. Chair Barraza responded that if a traffic study is stamped by a traffic engineer as valid, then KMAC has to give it credibility. An unidentified woman in the audience stated that she walked around the area during the day and noted plenty of vacant spaces. Mr. David noted that his plan was dealing with existing buildings and, apart from the addition of one new apartment that would have parking, it was not a new development per se. Mr. Paul then stated that the email for his group was [ColusaCircle@gmail.com](mailto:ColusaCircle@gmail.com). Mr. David thanked KMAC and those attending the meeting for their feedback and comments.

- 8. 600 Wellesley Ave. (VR 061075)** Development review to remove the existing deck on the east side of the residence and replace it with a new larger deck on the same side of the house. Request a variance for a 10' secondary frontage where a 15' is required. Dan Dommer, the owner stated that they have very small corner lot and one side, the east side, is over a canyon. Thus the backyard on the east side is not useful without a deck. The backyard in same area has water in the winter. He wants to build a deck and have a setback to have more off street parking. There were no speakers in opposition.

*Secretary Karlsson stated that in his view the applicant had met the required findings for a variance and the improvement was good for the neighbors in that it added parking spaces. A motion to approve the plans dated June 15<sup>th</sup> was approved 5 – 0.*

**9 Procedural Matters:** None.

**10 Information Reports:**

- a. **Enforcement Report:** Chair Barraza briefly summarized the status of outstanding Building Inspection Dept. Enforcement Items for the Kensington area.

The meeting was adjourned at 9:30 p.m.

Minutes prepared by Secretary Karlsson