

**DRAFT**

# Kensington Municipal Advisory Council Minutes Meeting of July 26, 2005

Council Members present:

Chair: excused absence

Vice Chair: Patrick Tahara

Secretary: Richard Karlsson

Council Member: Pam Brown

Council Member: Kay Reed

First Alternate Member: Christopher Brydon

1. The meeting commenced at 7:00 p.m. All members were present.
1. The Council approved the minutes of June 22<sup>nd</sup> and June 28<sup>th</sup> , by a vote of 5-0, with the following changes with respect to June 22<sup>nd</sup>: the minutes should reflect that Estelle Kent stated that “[I]t (the presence of the amphitheater at 500 Coventry) might affect property values in a different market.”
2. There were no citizen comments at the beginning of the meeting; all those in attendance stated that they were present to address or observe the matters on the agenda before the Council.
3. **244 Lake Dr. (DP05034)**. Request for to construct a two story addition to the rear of the northwest corner of an existing residence with the new second story extending over the rear portion of the existing garage. Continued public hearing at the request of the applicants. Vice Chair Tahara introduced the item and the process by which the speakers should address themselves to the new items raised by the revised application. The applicant, homeowner began by describing the efforts that they had made to their plans to minimize the impact to their neighbor to the north, 240 Lake Dr., owned by Betsy Worster. The applicant had indicated that they had pulled back the entire second story and made further revisions to the windows and pulled back the second story in the area of Ms. Worster’s window area. The Worster’s, Ms. Betsy Worster and her son indicated that they were very pleased with the revisions and the efforts of the applicants to meet their concerns.

Mr. Beach, of 250 Lake Drive, voiced his continued concerns that the land use permit that they have with EBMUD may not be to his liking in regard to the current hedge and screening. He wanted to review the landscaping plans to determine if their privacy and landscaping would be impacted. He therefore requested that the matter be delayed until after their mediation on these issues.

Secretary Karlsson expressed his views that the issues raised were not those of KMAC. Vice Chair concurred in those views, that this was beyond the role of KMAC and the issues of disturbance and noise were issues for the planning department.

*A motion was thereafter made that the plans dated July 14, 2005, be recommended for approved, subject to the following conditions: that the first floor roofline be no higher than 20'1" to the north and that the described condition "as the little notch" on the second floor to the north be at minimum 12' from the property line to the north and the remainder of the roofline to the north be not greater than 7'6". The motion was seconded by member Brown and approved 5 – 0.*

4. **17 Ardmore Rd. (VR 051054).** Variance and development plan reviews to (1) add a new wood deck on top of the existing garage with no side yard and 4' set back (5' and 20' required, respectively) and to (2) replace existing retaining wall with no front setback (20' required). The applicant made the presentation and provided photographs of the subject property. The applicant, John McKenna, stated that the subject property would change minimally and that the primary change would be that the retaining wall would be raised by 6', from 36" to 42", which would make the front yard more useable, due to the current slope of the property. Thereafter the discussion focused upon the deck above the garage and the setback of the deck from the street and the planter box railings. The applicant indicated that the garage would continue as a garage and that he was meeting code requirements insofar as the railing requirements for the deck.

*After questions of the applicant, no objections from the neighbors and KMAC being satisfied that the garage was going to be continued to be used as a garage, KMAC made the following motion by Pam Brown which recommended: 1) that the variances sought were not a special privilege in that they were already in existence and the 6" sought for the retaining wall was directly related to the topography of the land, which was not a burden on the surrounding community and 2) that the railings and deck be built according to code, and 3) that the construction be in accord with the plans dated June 8<sup>th</sup>, 2005 and that 4) the deck be set back 6' from the front of the garage (planter box 4' back) as indicated in the submitted drawings. The motion was approved 5 – 0.*

5. **15 Kerr Ave. (DP 053046).** Development plan review for proposed addition of a Bay Window on front of existing residence. The applicant, through their contractor, Pella Windows, made the presentation regarding the installation of a bay window that faced the street and would have no impact upon neighbors. The reason this matter was before KMAC was that the home was already beyond the recommended square footage for the house for the size of the lot. Much discussion followed by KMAC as to the wisdom of whether such mundane matters should come before KMAC. No one appeared in opposition to the request. At the end of the presentation, Secretary Karlsson made a motion for approval, based upon the fact that the addition of a window did not have a negative impact upon the square footage of the structure, in comparison to the

land. Discussion thereafter followed as to whether this was the type of matter that should come before KMAC, as part of the combining ordinance. Vice-Chair Tahara recommended that such routine matters be approved by County staff. Member Reed expressed her views that she questioned the qualifications of staff to routinely approve such matters, without the prior presentation and approval by KMAC. Secretary Karlsson suggested that perhaps such matters could proceed on a consent calendar, if there was no opposition by the community or KMAC. The applicant's representative thereafter wanted to express his concerns that the cost of advancing an application should be considered.

*Member Brown thereafter made a motion to recommend approval of the plans dated June 20<sup>th</sup>, 2005 for the bay window proposed. The motion passed 5 – 0.*

6. **285 Los Altos Dr. (VR 051063).** Variance request for a 2' setback (20' required) for off-street parking to allow conversion of an existing garage into a bedroom. The owner applicant made the presentation by stating that the area intended to be remodeled was in fact a garage but had not been used for that purpose since he had replaced the driveway to the garage with a garden. He now sought to further replace the garage with a bedroom and recreate the drive-way and use this for parking instead of a garage. He further indicated that there were relatively few houses in his immediate neighborhood and therefore, the reason for the required off-street parking should not be applicable in this instance. He also presented evidence of other residences that did not have garages for parking.

Concern was expressed by KMAC members that the residence in question did originally meet code requirements but now a proposal was before it for a variance which was only necessitated due to the actions of the owners. Accordingly there were no special conditions that warranted a variance, beyond those that were intentionally created by the owners. A neighbor spoke in favor of the application and another generally spoke in objection to granting variances for reduced parking. Under the conditions of this application, it was difficult to envision why this was not a grant of a special privilege. The subject property at one time met the requirements of the building code and only due to the owners actions were no longer in compliance. Discussion then followed as to alternatives that may be available to create a bedroom that would not require the elimination of the garage for the subject property. KMAC discussed the issue at length and determined that it was not inclined to recommend the request but was willing to reconsider alternative plans and provided the opportunity to the applicant to request a continuance. The applicant considered his options and decided to request a continuance of the hearing.

*A motion was made to recommend the applicants request to continue the subject hearing and was approved 5 – 0.*

## **7. Information/Enforcement Reports**

- a. Enforcement Report. 325 Colusa. Constructed shed without permit.
  - b. Planning Commission meeting of July 12, 2005. The Ordinance presented to the Commission incorporated items #10 and #11 (editing changes) from KMAC's 6/22 letter and also clarified the exemptions for schools and religious entities. It was passed with a minor change by a 4-3 vote (Chair Mehlman and Commissioners Gaddis and Wong dissenting).
  - c. Response to East Bay Coalition Against Urban Casinos. KMAC determined that no matter how valid it considered this movement against urban casinos, KMAC was not organized for the purpose of commenting upon such issues and accordingly declined to comment.
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8. The meeting was adjourned at 9:30 p.m.

Richard Karlsson  
Secretary