

DRAFT

Kensington Municipal Advisory Council Minutes Meeting of May 25, 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 7:00 p.m. All members were present.
2. The Council approved the minutes of April 27, 2004, with one change. On page 1, section 3, the name of "David Narsi" should read "Narsi David."
3. Secretary Richard Karlsson requested information about the undergrounding of PG&E utility lines and was advised about the background of same by Chair Ray Barraza. Member Kay Reed noted that she had heard from a citizen regarding the Council's decision regarding 113 Kenyon Ave., and it was requested that information be provided by KMAC as to what sort of evidence might be relied upon by KMAC if one is in opposition to a variance being granted. After a discussion among the members, the topic was taken under submission regarding the means to present persuasive evidence to KMAC.
4. **3 Kenyon Ave. (VR041034).** Variance request for 9'6" primary setback (20' required) for a residence addition. (Rescheduled Hearing) The owner of the property, Omer Yilmaz, appeared with architectural drawings of the improvement. Mr. Yilmaz indicated that he had abandoned prior approval of a project for his property as that project expanded his house by a second story addition on the north, which he had decided was not in his best interest and had decided instead to make improvements to the property to the western and southern parts of his house. After explaining the nature of the improvements, as set forth in the plans dated April 13, 2004, Member Reed questioned the owner about why the extensions were necessary to the western part of his property, which were within the setback area. Mr. Yilmaz indicated that the purpose was to avoid one flat wall to the west and provide character to the property. He also indicated that, in response to Ms. Reed's inquiry, that he wanted the northern extension for purposes of improving his dining area but was not aware of why the architect extended the wall on the southern extension. Vice Chair Jim Carman then asked if the owner had advance notice of the hearing set for this review on April 27th,

and he indicated that he had not been informed of that hearing date. In response to a question from Vice Chair Carman regarding whether he had retained a soils engineer about the improvements, Mr. Yilmaz indicated he had not, but that he had consulted with a structural engineer. The structural engineer indicated to the owner that it was advisable to build toward the south of the house, as that area needed more work, and that with such a design, Mr. Yilmaz would save money and take care of two problems. Mr. Carman then noted that there were errors on the plans, and that the proposed setback was actually 9'6" and not 10'8", with which Mr. Yilmaz agreed. Mr. Carman then noted that KMAC could not grant variances simply to avoid having a "flat wall" and therefore asked why the design could not make an indentation to the east, rather than an extension to the west, which would reduce the requested variance, rather than increase the existing one. Member Patrick Tahara then asked about page A3.1 of the drawings, which illustrated a long flat wall with two small windows. Member Tahara asked if the owner had considered another design to make it more interesting. Mr. Yilmaz indicated that there were trees in the area and the only purpose of the windows was for closets. Member Tahara asked if the windows in question were not for the bathroom, and the owner seemed uncertain as to whether they were closet or bathroom windows. Chair Barazza then questioned the applicant owner regarding what appeared to be a need for a long retaining wall or window wells on the east side expansion. The owner acknowledged that something was required there to permit light to the windows in this area, but indicated he was uncertain as to why there was no indication of what his architect planned for this area. Member Reed then commented that it was difficult to grant approval for a variance based upon plans that were unclear to both KMAC and the owner. She then noted that the deck appeared to be within the setback, and the owner indicated that the deck had been removed since the date of the plans. Vice Chair Carman then also indicated that it was his view that a variance could not be granted by KMAC based upon plans that were not up-to-date. Chair Barazza requested that, if Mr. Yilmaz returned, the plans be revised to show exactly how far the improvements would extend into the setbacks. Mr. Tahara indicated that he would request that the revised plans show all gridlines as well as overall dimensions and elevations, beginning at 0', and then show variances from that point. Member Reed indicated that it would be helpful for her consideration to have information on the total height of the new construction.

Mr. Yilmaz at this point requested a continuance of the Council's consideration of the application so that he could come back with current plans and would try to have his architect present at the meeting. KMAC, on a vote of 5-0, approved the applicant's request that consideration be continued until the June 29th hearing.

Following Mr. Yilmaz's request for a continuance, it was then his request, which was approved, to mail copies of the minutes to him, at his Kensington address, so that he could request his architect modify the plans as requested.

5. **County Urban Limit Line.** KMAC was requested by the Community Development Department to comment and consider making recommendations

upon a potential ballot measure regarding changes to the County Urban Limit Line. After consideration and discussion of the ballot measure, citizen comments, and review of the current ordinance and the maps showing existing Urban Limit Lines, Vice Chair Carman made a motion *that any areas of incorporated cities that are currently within the boundaries of the East Bay Regional Park District should remain outside the Urban Limit Lines. Specifically, KMAC was concerned that the area immediately adjacent to Kensington, Wildcat Canyon, remain part of the East Bay Regional Park and that any ballot measure not allow for the extension of Urban Limit Lines to extend into this area of the park. Member Reed requested an amendment of Vice Chair Carman's motion to add that KMAC further supported the adoption of strong Urban Lot Lines to protect undeveloped and parkland areas of the County. The motion as amended was approved 5-0.* The Chair was authorized by KMAC to send a letter to Contra Costa Community Development stating the recommendation of KMAC regarding Wildcat Canyon and its objection to potential extension of Urban Limit Lines near Kensington.

6. Informational Reports:

Enforcement Report: Chair Barraza noted that Community Development Department ("CDD") had advised that one case was closed and four were active. He further requested assistance from CDD regarding two properties that he had written letters about and had not heard anything in response. Vice Chair Carman then reported on 24 Edwin Dr., a house under construction that had received complaints from neighbors and had received a stop work order from Building Inspection.

Letter regarding 89 Kensington Rd. and 163 Arlington Ave. A report was provided by Chair Barraza regarding these two properties.

Update on 120 Kenyon Ave. A update was provided regarding the stucco fence at the subject property. Chair Barraza is continuing to work with our Code Enforcement Officer on this matter.

Home Occupancy Use Permits. Secretary Karlsson indicated that he had a discussion with the Contra Costa County Counsel, Silvano Marchesi, as to why KMAC's recommendations in regard to limiting the permit to the term of occupancy were not being upheld by CDD. The County Counsel indicated that as restrictions for a use permit, at law, ran with the land, such permits could not be restricted to the residency of the occupant or owner of the property. Accordingly, the only appropriate restriction would either be as to the conditions that run with the land or to limit same to a term of years. However, CDD was considering the adoption of an Administrative Permit for residential home use that would be limited to the term of the resident requesting the permit.

A motion was made and adopted by KMAC on a 5-0 vote that the KMAC Chair would write to CDD endorsing the idea of Administrative Permits for Home Use in Kensington that would be limited to the term of ownership or occupancy of the party requesting the permit.

Funding for Repair and Improvement of Public Pathways: Supervisor Gioia is planning a mail ballot measure this fall that would be for the purpose of repair and improvement of existing public creeks and pathways. Prior to consideration of such a measure, efforts will be made to educate the electorate on this issue.

Update on Noise Ordinance and Kensington Overlay Zoning Ordinance: Kensington Community Services District is to do its final review and approval of the noise ordinance at a special meeting. Supervisor Gioia is scheduled to speak at the KPOA Annual Community Meeting May 27, on the topic of each of the respective ordinances. The Kensington Overlay Zoning ordinance received the necessary funding support from the community, which raised \$15,000 in support. It has now moved forward to Contra Costa CDD for writing of the General Plan amendment and negative CEQA declaration.

7. The meeting was adjourned at 9:07 p.m.

Richard Karlsson
Secretary