

Kensington Paths

Christopher Deppe and Rachelle Sherris-Watt

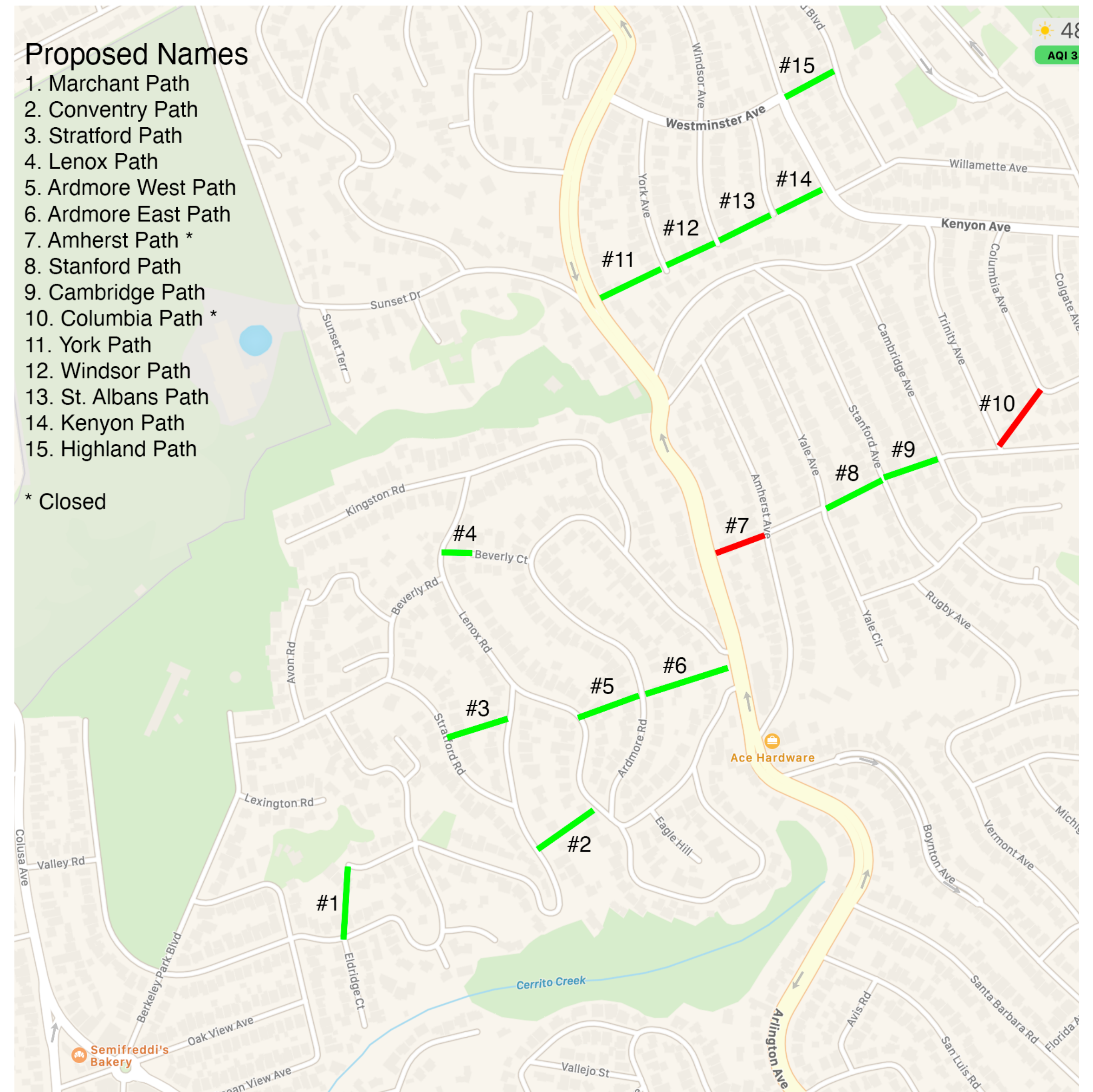
Kensington Paths

Definition

- For this purposes of this presentation Paths will mean a set of walkways in Kensington that that have no clear owner and connect various streets
- This set of paths was identified by the Path Ad-Hoc committee

Path Maps

- Updated from original Path Ad-Hoc Committee Report



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History / Ownership

- The paths were originally part of the development of Kensington
- The paths were offered to the county, but the county never accepted the offer
- The developer no longer exists as an entity
- In 1989 Contra Costa County annexed parts of Kensington and created Zone 21, adding that to an existing Landscape and Lighting District (LL-2)
- Kensington property owners are assessed a yearly fee for paying for maintenance of this district
- This district included the Kensington Pathways, as well as median landscaping along Arlington and Colusa.

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History / Ownership

- According to county correspondence the maintenance of the paths was to be directed by the Kensington Improvement Club (KIC)
- In 1995 the county wrote to the KIC to express a legal opinion that the county never intended to own the paths and does not own the paths
- They also wrote that they intend to delete the maintenance of the paths from Zone 21
- Since then the paths have been maintained by volunteers

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History / Ownership

- The KPPCSD board created an Ad-Hoc committee in 2011 to look into the paths
- The committee presented the report at the January 12th 2012 meeting
- At that meeting the board passed a motion to acquire the Highland path, along with the desire to eventually acquire all the paths
- At the October 16, 2013 KPPCSD meeting the paths committee reported that acquiring the Highland path was not easy and the board should consider acquiring an alternate path. They also reported that issue of the paths is complicated. No action was taken and since then no KPPCSD board as taken up the issue.

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Current Owner(s)

- No one seems to want to admit they own they paths
- In the past efforts have been made to convince the county to accept ownership, given the language in the Zone 21 creation (annexation)
- The county has been clear they do not own the paths and they do not want to own the paths
- There may be valid claims to partial ownership by some property owners who have built on the paths

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Past liability issues

- On December 3, 2014 someone injured themselves on the Ardmore path and sued a number of entities
- A settlement agreement was executed on June 20, 2017
- The KPPCSD paid \$4,000
- The KIC paid \$18,500
- A private homeowner paid \$2,500

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Past liability issues

- In 2006 a drainage pipe underneath the Highland path appeared to cause drainage issues with an adjoining property
- An examination of the pipe showed that it was failing
- The property owner contacted the county to try and get them to accept responsibility for the problem and repair the pipe
- The county eventually accepted responsibility and repaired the pipe

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Current Liability Issues

- Since there is no clear owner, liability is what the outcome of any lawsuit would be
- Anyone currently maintaining the paths exposes themselves to liability

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Potential liability issues for the KPPCSD as Paths owner

- One important concept for any potential owner is “Dangerous Condition on Public Property”
- There are some exclusions to liability (Government Code 831.4)
 - Different requirements for paved and unpaved
- According to the SDRMA ADA requirements to not apply to recreational foot paths
- If the paths are designated as evacuation routes then they would need to comply with the ADA
- From the SDRMA: Paths should be inspected seasonally, especially after big storms and periodically during the year. If someone complains to the District about the path being damaged or a dangerous condition, the District must repair it timely.

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Options for the paths

- Keep the status quo
- Add them to the Landscape and Maintenance Zone 21
- Some entity acquires ownership
- ???

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Keeping the status quo

- Liability is unclear
- Blocked paths indicate unresolved issues
- Funding for maintenance and improvements are not consistent
- If the paths are just to be used as occasional recreation then the status quo is probably acceptable to some residents
- If the paths are intended to be used as evacuation routes then they will need to be upgraded and maintained as such

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Adding paths back to Zone 21

- Should be simple as they were originally a part of Zone 21
- No need to change ownership (although the issue of ownership would still exist)
- Yearly Assessment may need to increase
- Agreement would be needed on who is responsible for maintaining the paths
- If they are to be used as evacuation routes then additional factors need to be taken into consideration (this was not the original intent of the Paths inclusion in Zone 21)
- Since the County was the one who removed the paths from Zone 21 not likely they would be immediately agreeable to this

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Possibilities for new ownership

- The county accepts ownership
- The KPPCSD takes ownership
- The Kensington Fire Protection District takes ownership
- A private entity takes ownership (KIC, KCC, ?)

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Steps needed to acquire the paths for any potential owner

- Verification of original offer of dedication
- New survey of all the paths
- Appraisal of paths
- Comprehensive title reports (easements, ownership, etc.)
- CEQA reports
- Resolution of property owner claims

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Steps needed to acquire the paths for KPPCSD

- Board buy in
- Public buy in
- Estimation of acquisition costs as well as yearly costs
 - No extra cost for our SDRMA coverage
 - \$25K deductible applies for each liability claim
- Revision of District Charter
 - LAFCO
 - Public Vote?

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Next steps for the KPPCSD

- First we should consider a couple of questions
 - What problem(s) are we trying to solve
 - What would the public expectations be for the KPPCSD