

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE CDDP24-03059,
DEBBIE CHERNOFF, JACK BACKUS ARCHITECTS (APPLICANT), TIMOTHY AND
CATHERINE LO (OWNERS)**

FINDINGS

A. Kensington Combining District Findings

County Code Section 84-74.1206(b) requires a project within the Kensington Combining District to satisfy seven criteria to be approved.

1. *Recognizing the rights of property owners to improve the value and enjoyment of their property.*

Project Finding: Construction of a new 2-story 3,524 square-foot single-family residence that includes a main floor area of 1,765 square feet, a lower floor area of 905 square feet, a 480 square-foot attached garage, and a 374 square-foot covered deck, will allow the property owners to develop the residentially zoned vacant lot for a single-family residential land use. Approval of the project will allow the property owners to improve the lot by adding a housing unit and thereby add value to the existing vacant lot. Therefore, the project will afford the property owners to improve the value and enjoyment of their property.

2. *Recognizing the rights of property owners of vacant lots to establish a residence that is compatible with the neighborhood in terms of bulk, scale, and design.*

Project Finding: The proposed single-family residence will be constructed on a vacant lot and the design does not require any variances to the maximum building height or number of stories of the R-6 Single-Family Residential District. The design of the single-family residence is to be tiered with each successive story located further away from the front property line similar to other residences along Eagle Hill Road. The proposed new residence is consistent with adjacent properties, as its appearance from the street frontage is a one-story house, and utilizes the steep topography for its second story as do other residences in the area. The subject residence has a residential floor area of approximately 2,670 square feet and a total gross floor area of 3,524 square feet including the attached garage and covered deck, within a neighborhood where the sizes of residences range between 1,500 square feet and 4,400 square feet. Thus, the scale of the project is within the range of existing homes in the area. The design of the new residence is of modern

architecture consistent with other residences on Eagle Hill Road. Therefore, the project is compatible with the neighborhood in terms of bulk, scale and design.

3. *Minimizing impacts upon surrounding neighbors.*

Project Finding: The project will not encroach into the required side yard setbacks as specified in the R-6 zoning district and thus will have a side space that is consistent with other lots in the immediate vicinity. The project will not have a maximum height higher than what is allowed and the story poles erected by the applicant illustrate the relatively minimal sight impacts to designated vista areas from adjacent properties. The project is for a single-family residence and thus will not include any non-conforming land uses that would otherwise have adverse impacts on the surrounding neighbors.

4. *Protecting the value and enjoyment of the neighbors' property.*

Project Finding: The construction of a new single-family residence on the subject lot will not include marginal development that would otherwise negatively impact the surrounding vicinity. To the front of the property, development extends to the 805-foot elevation contour of the lot where the residence has a maximum height of 12 feet from grade. The height of the residence increases as it adjusts to the downward slope of the property. The new residence is visible from adjacent properties; however, the residence does not obstruct any views from surrounding vantage points (predominately the bay). It also does not substantially decrease access to sunlight for any surrounding properties due to its siting and massing. Therefore, the project would preserve the value and enjoyment of neighboring properties.

5. *Maintaining the community's property values;*

Project Finding: As discussed above, the project is for the construction of a new single-family residence and does not include any marginal development that would otherwise negatively impact the surrounding area. The project does not involve a noncompatible land use that conflicts with the surrounding residential community in a manner that may negatively affect property values, and thereby, maintaining the residence on the subject property. The project has minimal, if any, impacts on views, light and solar access, and privacy of nearby residences. The siting and overall height are consistent with the development pattern along Eagle Hill Road.

6. *Maximizing the use of existing interior space.*

Project Finding: The project is for the construction of a new single-family residence and this criterion does not apply.

7. *Promoting the general welfare, public health, and safety.*

Project Finding: The project does not change the land use of the subject property and as described earlier, does not adversely impact surrounding properties. Construction of the single-family residence improves the value of the lot. There are no side or rear yard encroachments and the project is under the maximum height limit. In addition, the project will not use or emit hazardous substances beyond what is normal for a residential property. Based on the foregoing reasons, the project promotes the general welfare, public health, and safety of the Kensington community.

B. Tree Permit Findings

1. Required Factors for Granting Tree Permit. The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for granting a tree permit have been satisfied:

- *Reasonable development of the property would require the alteration or removal of the tree, and this development could not be reasonably accommodated on another area of the lot.* The existing site plan (A1.1) includes a survey of all existing trees on site. The proposed new residence is encroaching within the dripline of six code-protected Oak trees, and requires the removal of an 8-inch Blueberry tree. The siting of the residence complies with the setbacks and side yards as required by the zoning district and avoids removal of most trees with the exception of the Blueberry tree. This development cannot be reasonably accommodated on another area of the parcel given the steep downslope on the southern portion of the parcel near Edgcroft Road. All other trees on site are set to be preserved, and additional protection measures shall be included as part of the conditions of approval.

2. Required Factors for Denying a Tree Permit. The Zoning Administrator is satisfied that none of the factors for denying a tree permit as provided by County Code Section 816-6.8010 apply.

C. California Environmental Quality Act (CEQA) Findings

Construction of the new single-family residence with a gross floor area of 3,524 square feet is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15303(a), New Construction, which provides a Class 3 exemption for the construction of one single-family residence in a residential zone. There is no substantial evidence that the project involves unusual circumstances, including future activities, resulting in, or which might reasonably result in, significant impacts which threaten the environment. None of the exceptions in CEQA guidelines section 15300.2 apply.

CONDITIONS OF APPROVAL FOR COUNTY FILE CDDP24-03059

Project Approval

1. Kensington Design Review Development Plan CDDP24-03059 to construct a new two-story single-family residence, including an attached garage and covered deck, that has a gross floor area of 3,524 square feet on a vacant lot is APPROVED.
2. A Tree Permit for the removal of one code-protected 8-inch Blueberry tree and work within the dripline of six code-protected Oak trees, ranging from 6-inches to 22-inches in diameter, is APPROVED.
3. The project approvals described above are granted based on, or as generally shown on the following documents:
 - Application and materials accepted by the Department of Conservation and Development, Community Development Division (CDD) on December 16, 2024.
 - Revised project plans received on April 30, 2025.
4. Tree removal shall only occur with an issued grading or building permit.
5. Any deviation from the approved plans shall require review and approval by the CDD and may require the filing of an application for a new Kensington Design Development Plan or Tree Permit or both, if deemed necessary.

Application Costs

6. This Development Plan Permit application is subject to an initial application deposit of \$3,000.00, which was paid with the application submittal, plus time and materials costs if the application review expenses exceed the initial deposit. Any additional fee due must be paid prior to issuance of a building permit, or 60 days of the effective date of this permit, whichever occurs first. The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2019/553, where a fee payment is over 60 days past due, the Department of Conservation and Development may seek a court judgement against the applicant and will charge interest at a rate of ten percent (10%) from the date of judgement. The applicant may obtain current costs by contacting the project planner. A bill will be mailed to the applicant shortly after permit issuance.

Building Permits

7. No construction is approved with this permit. Any construction at the subject property will require issuance of building permits from the Department of Conservation and Development, Building Inspection Division, prior to commencement of work.

Encroachment Permit

8. Any construction or improvements within any public right of way will require an encroachment permit from the Contra Costa Public Works Department.

Height Confirmation

9. During the Framing stage, the applicant shall provide a letter from a certified civil engineer confirming that the height at construction does not exceed 35 feet.

Arborist Expenses

10. The applicant shall be responsible for all arborist expenses related to the work authorized by this permit

Security for Possible Damage to Trees Intended for Preservation

11. Pursuant to the requirements of Section 816-6.1204 of the Tree Protection and Preservation Ordinance, to address the possibility that construction activity damages

tree(s) that are to be preserved, the applicant shall provide the County with a security to allow for replacement of tree(s) that are significantly damaged or destroyed by construction activity. **Prior to issuance of a grading or building permit, whichever occurs first, the applicant shall provide a security that is acceptable to the CDD.**

- a. Amount of Security: The security shall be an amount sufficient to cover:
 - i. Preparation of a tree planning and irrigation plan prepared by a licensed arborist or landscape architect for review and approval by the CDD. The plan shall provide for the planting and irrigation of one (1) tree of a drought-tolerant species, minimum 15-inch box size, for each tree that is significantly damaged or destroyed up to a total of 6 trees, or an equivalent planting contribution as determined appropriate by the CDD. The plan shall comply with the State's Model Water Efficient Landscape Ordinance or the County's Water Efficient Landscape Ordinance, if the County's Ordinance has been adopted. Verification of compliance with the Water Efficient Landscape Ordinance shall accompany the plan.
 - ii. The estimated materials and labor costs to complete the improvements shown on the approved planting and irrigation plan (accounting for supply, delivery, and installation of trees and irrigation).
 - iii. An additional 20% above the costs described in Section 11.a.i and 11.a.ii above to account for inflation potential.
- b. Initial Deposit for Processing of Security: The County ordinance requires that the applicant pay fees to cover all staff time and materials costs for processing the required security. At the time of submittal of the security, the applicant shall pay an initial processing fee deposit of \$200.00.
- c. Duration of Security: After the final building inspection has been completed, the applicant shall submit a letter to the CDD composed by the consulting arborist, describing any construction impacts, if any, that may have occurred to trees intended for preservation. The security may be retained by the County may retain the security for up to 24 months beyond the date of receipt of the letter.

At 12 and 24 months from the date of the final building inspection, the applicant shall arrange for the consulting arborist to inspect the trees and to prepare a report on the trees' health. The report shall be submitted for review by the CDD and shall

include any additional measures necessary for preserving the health of the trees. These measures shall be implemented by the applicant. In the event that the CDD determines that trees intended for preservation have been damaged by development activity, and that the applicant has not been diligent in providing reasonable restitution of the damaged trees, then the CDD may require that all or part of the security be used to provide for mitigation of the tree damaged, including replacement of any trees that have died.

Tree Protection Measures

12. Construction staging areas and routes of access shall avoid the dripline of trees to be preserved.
13. No storing of equipment, machinery or construction materials shall be permitted within the dripline of the tree to be preserved.
14. Equipment shall avoid trunks and branches of trees.
15. Tree trunks shall not be used as winch supports.
16. Construction-related pruning shall occur under the project arborist's direction. All pruning shall be completed by certified arborists familiar with the most recent editions of the American National Standard for Tree Care Operations (Z133.1) and Pruning (A-300) and Best Management Practices for Pruning published by the International Society of Arboriculture.
17. Digging or trenching within the drip line of the Oak trees shall be done by hand under the supervision of the licensed arborist.
18. Hand trenching shall leave roots 2 inches or larger undisturbed. Soil shall be removed under and around the roots to form the necessary trench.
19. Roots 2 inches and larger shall be removed only with the approval of the project arborist.

Additional Tree Permit

20. If any impacts to the trees occur, in addition to those described herein, a separate Tree Permit will be required. The fee for this application is a deposit of \$750.00 that is

subject to time and material costs. Should staff costs exceed the deposit, additional fees will be required.

MWELO

21. Any new landscaping shall comply with the County's Water Efficient Landscapes Ordinance. Verification of compliance with the Ordinance shall accompany the plan. The plan shall also include an estimate prepared by a licensed landscape architect, arborist, or landscape contractor of the materials and labor costs to complete the improvements (accounting for supply, delivery, and installation of trees and irrigation).

Park Impact Fees

22. Prior to CDD stamp-approval of plans for issuance of a building permit for a new residence, the applicant shall pay the applicable park impact fee as established by the Board of Supervisors.

Park Dedication Fess

23. Prior to CDD stamp-approval of plans for issuance of a building permit for a new residence, the applicant shall pay the applicable park dedication fee as established by the Board of Supervisors.

Child Care

24. Prior to CDD stamp-approval of plans for issuance of a building permit for a new residence, the applicant shall pay a fee of \$400.00 toward childcare facility needs in the area, as established by the Board of Supervisors.

Geology Review

25. **At least 60 days prior to the issuance of a grading or building permit**, the project proponent shall submit a design-level geologic/ geotechnical report for the project, based on adequate subsurface exploration, laboratory testing and engineering analysis. The scope of the geotechnical investigation should provide at least a preliminary evaluation of the range of potential geologic/ geotechnical and seismic hazards listed in Appendix G of State CEQA Guidelines. Additional comments on the scope of the required report are as follows:

- a. An original geologic map of the project site presenting the interpretation of site conditions by the project geologist/ geotechnical engineer.
 - b. The logs of borings and/or test pit logs shall show the details of observed features and conditions (e.g. describe the weathering profile, the depth and engineering properties of the surficial deposits and underlying bedrock, location of any geologic contacts, shear zones, seepage areas and features indicative of downslope displacement).
 - c. Present the field and laboratory data to be used in the slope stability analysis, and description the methodology used to characterize the earthquake parameters to be used in the analysis. We request that the consultant compare the resulting seismic parameters to be used in the slope stability analysis with the seismic parameters presented in SHZ Report 134 that were utilized by CGS geologists in their stability analysis (i.e., see Plates that present pseudo-static PGA, probabilistic PGA and modal magnitude).
 - d. In the slope stability analysis, we request the consultant include a model run that takes into the account the sensitivity of earth materials encountered during the field investigation to antecedent moisture (i.e. provide a model run to estimate the effect of elevated moisture content on the engineering properties / strength properties of native soils and severely weathered rock). The intent is to evaluate a worst case scenario: high magnitude earthquake occurring in the aftermath of a severe rain storm that has saturated native soils and severely weathered bedrock.
 - e. Utilizing the results of slope stability analysis, provide mitigation measures (i.e., recommendations and specifications pertaining to foundation design, including any proposed foundation retaining walls, as well as site grading and drainage recommendations aimed and achieving long-term stability of the project site. Additionally, provide design level recommendations for the proposed improvements, and include California Building Code seismic design parameters.
26. The geotechnical report shall be subject to review by the County's peer review geologist, and review/approval of the Zoning Administrator. Improvement, grading and building plans shall carry out the recommendations of the approved report
27. The geotechnical report required by COA #25 routinely includes recommended geotechnical observation and testing services during construction. These services are essential to the success of the project. They allow the geotechnical engineer to (i)

ensure geotechnical recommendations for the project are properly interpreted and implemented by contractors, (ii) allow the geotechnical engineer to view exposed conditions during construction to ensure that field conditions match those that were the basis of the design recommendations in the approved report, and (iii) provide the opportunity for field modifications of geotechnical recommendations (with BID approval), based on exposed conditions. The monitoring shall commence during clearing, and extend through grading, placement of engineered fill, installation of recommended drainage facilities, and foundation related work. A **hard hold** shall be placed on the "final" building inspection, pending submittal of a report(s) from the project geotechnical engineer that documents their observation and testing services to that stage of construction, including monitoring and testing of any required backfill.

The monitoring report can be segmented into two reports: One following rough grading of the project site. That report shall present all test data gathered, as well as geologic mapping of exposures created during grading, and a map showing the location and estimated depth of subdrains and the planned location of all cleanouts; followed by a second report that documents monitoring of installation of the foundations and drainage-related work (e.g., pier hole drilling, drainage improvements to control of surface and subsurface waters, backfilling of utility trenches as well as viewing of other construction-related work that is addressed in the geotechnical report); and including the geotechnical engineer's opinion on the compliance of the as graded, as-built project with all recommendations in the design level report.

28. All grading, excavation and filling shall be conducted during the dry season (April 15 through October 15) only, and all areas of exposed soils shall be revegetated to minimize erosion and subsequent sedimentation. After October 15, only erosion control work shall be allowed. Any modification to the above schedule shall be subject to review by the Grading Inspector, and the review / approval of the Zoning Administrator.

Construction Restrictions

All construction activity shall comply with the following restrictions, which shall be included on the construction drawings.

29. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors.

30. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.
31. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
32. A publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall respond and take corrective action within 24 hours. The CDD phone number shall also be visible to ensure compliance with applicable regulations.
33. Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:

New Year's Day (State and Federal)

Birthday of Martin Luther King, Jr. (State and Federal)

Washington's Birthday (Federal)

Lincoln's Birthday (State)

President's Day (State)

Cesar Chavez Day (State)

Memorial Day (State and Federal)

Juneteenth National Independence Holiday (Federal)

Independence Day (State and Federal)

Labor Day (State and Federal)

Columbus Day (Federal)

Veterans Day (State and Federal)

Thanksgiving Day (State and Federal)

Day after Thanksgiving (State)

Christmas Day (State and Federal)

For specific details on the actual date the State and Federal holidays occur, please visit the following websites:

Federal Holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov)

California Holidays: [State Holidays \(sos.ca.gov\)](https://sos.ca.gov)

34. Large trucks and heavy equipment are subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 AM to 4:00 PM.

ADVISORY NOTES

PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE AND OTHER LEGAL REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

A. NOTICE OF OPPORTUNITY TO PROTEST FEES, ASSESSMENTS, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et. seq, the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a ninety-day (90) period after the project is approved.

The 90-day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the CDD within 90 days of the approval date of this permit.

- B. Prior to applying for a building permit, the applicant may wish to contact the following agencies to determine if additional requirements and/or additional permits are required as part of the proposed project:

- Department of Conservation and Development, Building Inspection Division
- Public Works Department
- Health Services Department, Environmental Health Division
- Kensington Fire Protection District
- Stege Sanitary District
- East Bay Municipal Utility District
- Contra Costa Mosquito and Vector Control District