

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE CDDP24-03061;  
MICHAEL WAXMAN (APPLICANT), JAMES & ELISABETH THOMSEN (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. The project is a 218-square-foot one-story addition to the southwestern side of an existing single-family residence in the R-6 Single-Family Residential District. The addition is in conformance with minimum setback, minimum side and rear yards, maximum building height, and minimum off-street parking requirements applicable to development in the R-6 District. Construction of a residential addition conforming to these development standards is permitted following the application review procedures for the Kensington Combining District, absent substantial impacts to neighboring parcels in terms of views, privacy, or solar access. The increased square-footage is located entirely within the established building envelope, adjacent to living space on the lowest level of the existing multi-story home. The size and location of the project, and the surrounding topography are such that the project would expectedly result in minimal impacts on neighboring properties in terms of views, privacy, or solar access.

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 subject parcel is not a vacant lot. Therefore, this criterion does not apply.

3. *Minimizing impacts upon surrounding neighbors.*

Project Finding. The project involves a two-story residential addition that is in conformance with all applicable development standards for the R-6 District. Section 84-74.204(b) of the Kensington Combining District Ordinance specifies that the

ordinance is intended to promote the community's values of preservation of views, light and solar access, privacy, parking, residential noise levels. The project is consistent with these values as discussed below:

- Views: The project would not result in adverse effects on views enjoyed from surrounding properties. The surrounding topography, and location of the project relative to living space within adjacent residences ensures that the project minimizes view impacts.
- Privacy: The project includes the enclosure of the area beneath an existing elevated deck, resulting in a 218-square-foot addition to the southwestern side of the existing single-family residence on the subject parcel. The project would have negligible privacy impacts for neighbors to the north and south because living space within the existing homes on these neighboring parcels are situated uphill and east of the project. The neighboring property to the west at 58 Arlington Way is located downhill from the site, and the project may be visible from eastern facing windows within this residence. This would not expectedly result in an adverse privacy impact, however, since the project exceeds the minimum rear setback (50 feet provided where 15 feet is the minimum required) and does not include any western facing windows. Therefore, the project minimizes privacy impacts upon surrounding neighbors.
- Light and Solar Access: The potential for residential construction to limit light and solar access on neighboring properties are predominantly influenced by siting (i.e. setbacks), size, and height. The project does not alter the existing siting, size or height of the established building envelope, since the project is enclosing an area below a deck. Therefore, the project would have no impact on surrounding properties in terms of light and solar access.

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

Project Finding: As previously mentioned, the addition will not significantly block any views in the project neighborhood or decrease privacy or access to sunlight. Therefore, in the absence of significant impacts on neighboring parcels, the addition will preserve the value and enjoyment of the neighbors' property.

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

Project Finding: The project involves an addition to an existing single-family residence in an established residential neighborhood. 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. Additionally, the project does not substantially affect scenic views, privacy, or solar access for neighboring parcels to any significant degree. Therefore, the project maintains the community's property values.

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

Project Finding: The existing single-family residence consists of a main (second) floor at street level having approximately 1,477 square feet of living area, a 794-square-foot upper (third) floor, and a 767-square-foot lower (first) floor. The project is adjacent to and accessible from first floor living areas. The project will provide additional living space without expanding the established building envelope, thereby maximizing the utility of first floor living areas.

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

Project Finding: The residential addition does not change the land use on the subject parcel and as described above, will have minimal impact on neighboring properties. The project's compliance with applicable zoning standards and the requirement to obtain building permits will ensure that the addition does not present a hazard to public health and safety for the occupants or community at large. Thus, the project promotes the general welfare, public health, and safety of the Kensington community.

D. Environmental Findings

The 218-square-foot two-story addition to the southwestern side of an existing single-family residence is categorically exempt under CEQA Guidelines Section 15301(e)(1), which provides a Class 1 exemption for additions to existing structures consisting of no more than 50% of the floor area or 2,500 square feet, whichever is less. The 218-square-foot addition does not exceed 50% of the existing homes gross floor area of 3,258 square feet. 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 CDDP24-03061**

### Project Approval

1. Development Plan CDDP24-03061 to allow a 218-square-foot addition to the southwestern side of an existing single-family residence is **APPROVED**.
2. The Development Plan approval describe above is based on the application and project plans received by the Department of Conservation and Development, Community Development Division (CDD) on December 24, 2024.
3. Any deviation from the approved plans shall require review and approval by the CDD and may require the filing of a new Kensington Design Review application.
4. This approval does not authorize the establishment of an Accessory Dwelling Unit (ADU) on the subject property. An ADU may only be established on the subject property upon the CDD approval of an ADU permit, and the issuance of building permit(s) as necessary for project construction.

### Building Permits

5. No construction is approved with this permit. Any construction at the subject parcel will require issuance of building permits from the Department of Conservation and Development, Building Inspection Division, prior to commencement of work. Within 45 days of the approval date of this permit, the applicant shall obtain building permits necessary to legalize unpermitted work which has occurred prior to this approval.

### Application Costs

6. This application was subject to an initial application deposit of \$3,000.00, which was paid with the application submittal, plus time and material costs if the application review expenses exceed 100% of the initial deposit. **Any additional fee due must be paid prior to an application for a grading or building permit, or 60 days of the approval 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 from the date of approval, the application shall be charged interest at a rate of ten percent (10%). The applicant may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance.

### Construction

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

7. 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.
8. 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.
9. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
10. 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.
11. 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)

12. 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 90-DAY OPPORTUNITY TO PROTEST FEES, 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. The applicant shall submit building plans to the Building Inspection Division and comply with Division requirements. It is advisable to check with the Division prior to requesting a building permit or proceeding with the project.
- C. The applicant must submit building plans to the Kensington Fire Protection District and comply with its requirements. The applicant is advised that plans submitted for a building permit must receive prior approval and be stamped by the Fire Protection District.
- D. The applicant is required to submit plans to the Stege Sanitary District for approval. Plans submitted for a building permit must receive prior approval and be stamped by the Sanitary District.
- E. The applicant is responsible for contacting the Health Services Department Environmental Health Division regarding its requirements and permits.
- F. The applicant is required to comply with the requirements of the East Bay Municipal Utility District.
- G. The applicant is responsible for contacting the Contra Costa Mosquito and Vector Control District regarding its requirements and permits.