

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDVR25-01041;  
JAMIE GROETSCH, THE ARCHITECTS OFFICE (APPLICANT), STEPHEN C LOWRY TRE  
(OWNER):**

**I. Variance Findings**

1. *Required Finding: That any variance authorized shall not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and the respective land use district in which the subject property is located.*

Project Finding: The Variance is to allow a 9'-11" secondary frontage setback (where 15' is the minimum required) for a 135-square-foot uncovered deck extending from the rear of the second floor of the existing residence. A substantial portion of the residence exists within the secondary front setback area. Based on the minimum required setbacks in the ordinance, full compliance with applicable development standards would render approximately 64% of the subject property unbuildable. Given the physical characteristics of the subject property, routine development would expectedly encounter challenges to fully comply with R-6 development standards. Considering that the deck otherwise conforms to all applicable development standards, the granting of the secondary front setback variance will not be a grant of special privilege inconsistent with the limitations of other properties in the vicinity and the respective land use district.

2. *Required Finding: That because of special circumstances applicable to the subject property because of its size, shape, topography, location or surroundings, the strict application of the respective zoning regulations is found to deprive the subject property of the rights enjoyed by other properties in the vicinity and within the identical land use district.*

Project Finding: The subject property is located in an area of the County which is quite steep and developed in the early 1900's. Since most properties were developed prior to adoption of the current R-6 zoning for the Kensington area, setback encroachments are typical for this area. Additionally, at 4,000 square feet in area, the subject property is substandard with respect to the minimum parcel size for the R-6 district (6,000 square feet). Further, the subject property is a corner lot, which entails more stringent setback requirements and further constrains conforming building locations on this property. Considering the dimension constraints and surrounding topography, the deck is located in the most reasonable area of the property as it is sited in a location that provides the property owners with views while not intruding on the privacy of neighboring properties. Strict application of the R-6 standards would prevent the applicant

from being able to construct an uncovered deck at the rear of the residence and would deprive the subject property of the rights enjoyed by other properties in the vicinity and within the identical land use district.

3. *Required Finding: That any variance authorized shall substantially meet the intent and purpose of the respective land use district in which the property is located.*

Project Finding: The intent and purpose of a R-6 zoning district is to facilitate orderly development and maintenance of medium-density single-family residential neighborhoods. The existing single-family residence located on the parcel is consistent with the desired development mentioned above. The improvement is directly associated with and ancillary to the residential use of the subject property.

Additionally, there is no element of the project that will inhibit future residential uses or development on the subject property or those in the surrounding neighborhood. Therefore, a variance authorized for the reduced setback will substantially meet the intent and purpose of the R-6 zoning district in which the property is located.

In addition, the project is consistent with the applicable Findings for the -K Kensington Combining District and only expands the gross floor area on the property by 135 square feet. The development does not include alteration, addition, or removal of any trees, therefore, the -TOV ordinance does not apply to the proposed project. Therefore, the variance requests will meet the intent and purpose of the current zoning district.

## **II. Kensington Combining District Findings**

Kensington Combining District (-K) requires the project 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 involves the construction of a new, approximately 135-square-foot uncovered deck extending from the rear of the second floor of an existing single-family residence. The deck is designed with a 9'-11" secondary frontage setback (where 15 feet is required), however, the required finding for a variance to the R-6 zoning standards have been established. The deck conforms to standards for primary frontage and side yard setbacks and does not exceed

the maximum height limitation of the R-6 district. Approval of this Variance will provide the property owner with an opportunity to enhance the outdoor living areas—including the second-story deck and the lower-level covered patio—while also improving the property's visual appeal, which in turn contributes to its overall value and enjoyment.

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 property is not a vacant lot, so this criterion does not apply.

3. *Minimizing impacts upon surrounding neighbors.*

Project Finding: The Kensington Combining District Ordinance requires staff to consider the project's impact on neighbors' views, light and solar access, privacy, parking, residential noise levels, and compatibility with the neighborhood with regard to bulk and scale.

Nearby homes having existing "views", as defined in County Ordinance Section 84-74.404(r), predominantly consist of properties located east of the subject property. Since the height and location of the deck are such that it will not be visible when viewed from the east, the project will have a negligible impact on "views".

The subject residence's proximity to the adjacent properties on the same side of the street determines whether there would be any significant impact on light and solar access, and privacy. No such impacts are expected for easterly or southerly parcels due to the separation between these properties provided by the adjoining public rights-of-way. For northerly and westerly adjacent parcels, the project will have minimal impact on light and solar access. This determination is based on the relatively small scale of the project, the deck's lower elevation relative to nearby existing improvements, and visual screening provided by the surrounding built environment. Furthermore, the deck does not increase or exceed the height of the existing residence. Therefore, the deck could not block light and solar access to adjacent properties. The project is also not expected to have any significant impact on privacy as the uncovered deck is at a lower height than existing conditioned space within the existing residence. Additionally, rising topography makes the deck appear lower than it is because the street level is slightly higher than the backyard level.

The existing two-car garage provides the minimum required off-street parking spaces serving this existing residence. This project does not displace the existing parking nor does it necessitate the addition or inclusion of additional off-street parking spaces. Therefore, there is no impact on parking in the area.

The enjoyment of outdoor decks is consistent and compatible with the surrounding area and with residential development in general. Therefore, any new noise impacts resulting from use of this deck would be expectedly be minimal.

The uncovered deck is at a lower height than that of the existing roof line. Numerous properties in the area have western facing decks that take advantage of the views provided by the hilly terrain. Therefore, the project is compatible with the neighborhood with regard to bulk and scale.

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

Project Finding: Staff has not received any comments or correspondence from neighbors expressing concerns with project-related impacts, nor were any concerns communicated at the Kensington Municipal Advisory Council (KMAC) meeting held on September 24, 2025. Based on the above, the project to construct a new deck will have a minimal impact on surrounding neighbors.

The project does not obstruct any views, predominantly of the San Francisco Bay, from surrounding vantage points. Additionally, it does not substantially decrease access to sunlight for any surrounding properties, due to its siting and being located 8'-0" above ground level. Therefore, the project is expected to preserve the value and enjoyment of neighboring properties.

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

Project Finding: The project has an insignificant impact on views, light and solar access, and privacy of nearby residences. Development of this type would generally be considered an improvement to the property and therefore may increase the value of the subject property. There is no evidence in the record suggesting that the project may have an adverse effect on property values, either for this property or for those in the surrounding area.

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

Project Finding: The new deck is an extension of the living area to outdoor space. No portion of the existing residence could be used for the same purpose and no portion of the existing house is at a suitable location to serve the intended

purpose of outdoor living space providing western facing views. The project is intended to complement the interior by maximizing the functionality of the existing great room by providing more floor area while preserving the views that are available from that area of the home, thereby improving the overall use and functionality of space.

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

Project Finding: The improvements to a single-family residence do not change the land use of the subject property and have a minuscule adverse effect on surrounding properties. The project does not involve the use, transportation, storage, or handling of hazardous substances beyond what is typical for residential construction activities. The project is required to comply with all applicable building and fire codes. Based on the foregoing reasons, the project will maintain the general welfare, public health, and safety of the Kensington community.

**III. California Environmental Quality Act (CEQA) Findings**

The proposed project is exempt under CEQA Guidelines Section 15301(e)(1) – Existing Facilities, additions to existing structures provided that the addition will not result in an increase of more than “50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less.” The project is to allow a 9'-11" secondary frontage setback (where 15' is the minimum) for the construction of a new, approximately 135-square-foot uncovered deck extending from the rear of the second floor of an existing single-family residence where the existing residence exceeds the threshold of 2,000 square feet in gross floor area.

**CONDITIONS OF APPROVAL FOR COUNTY FILE #CDVR25-01041:**

**Project Approval**

1. A Development Plan with a Kensington Design Review to allow the construction of a new, approximately 135-square-foot uncovered deck extending from the rear of the second floor of an existing single-family residence with a gross floor area of 2,693 square feet, where the maximum gross floor area is 2,000 square feet is APPROVED.
2. A Variance Permit to allow a 9'-11" secondary frontage setback (where 15' is the minimum) for the construction of a new, uncovered deck that meets the requirements of Section 26-2.2006 of the County Ordinance Code and is APPROVED.
3. The project approval described above is granted based on, or as generally shown on the following documents.

- Application materials submitted to the Department of Conservation and Development, Community Development Division (CDD) on August 26, 2025.
- Revised project plans received on September 26, 2025.

### **General Provisions**

4. 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 Variance permit or Kensington Design Review.

### **Payment of Fees**

5. The application was subject to an initial deposit of \$3,250.00. The application is subject to time and material costs if the application review expenses exceed 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, 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 in the event that additional fees are due.

### **Construction Period Restrictions and Requirements**

All construction activity shall comply with the following conditions and shall be included on the construction drawings.

6. 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.
7. 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.
8. Construction equipment and materials shall be stored onsite.
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. Large trucks and heavy equipment shall be 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.
11. A good faith effort shall be made to avoid interference with existing neighborhood traffic flows.
12. Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 7:30 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 day the State and Federal holidays occur, please visit the following websites:

Federal Holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov/locations/holiday-schedule)  
California Holidays: <https://www.sos.ca.gov/state-holidays>

### **ADVISORY NOTES**

**ADVISORY NOTES ARE NOT CONDITIONS OF APPROVAL; THEY ARE PROVIDED TO ALERT THE APPLICANT TO ADDITIONAL ORDINANCES, STATUTES, AND LEGAL REQUIREMENTS OF THE COUNTY AND OTHER PUBLIC AGENCIES THAT MAY BE APPLICABLE TO THIS PROJECT.**

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

Pursuant to California Government Code Section 66000, et seq., the applicant has the opportunity to protest fees, dedications, reservations or exactions required as part of this project approval. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and must be delivered to the Community Development Division within a 90-day period that begins on the date that this project is approved. If the 90th day falls on a day that the Community Development Division is closed, then the protest must be submitted by the end of the next business day.

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

- Contra Costa County Building Inspection Division
- Stege Sanitary District
- East Bay Municipal Utility District
- Kensington Fire Protection District