

FINDINGS AND CONDITIONS OF APPROVAL – COUNTY FILE #CDDP25-03032, GREG VANMECHELEN | VANMECHELEN ARCHITECTS (APPLICANT) AND KEN AND JULIE KURTZMAN (OWNER)

FINDINGS

A. 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 is to construct a 150-square-foot addition, and a 145-square-foot lower-level conversion (for a proposed accessory Dwelling Unit) and a 103-square-foot addition on the upper (main level), for a total of a 398-square-foot addition to the existing residence. The scope also includes 88-square-foot deck addition. All elements are typical requests for residential properties. Although the new gross floor area exceeds the gross floor area threshold for the subject parcel, the additions are not significant where they would decrease the value of the property or the neighborhood. The project will not be excessively larger or taller than other dwellings in the neighborhood and is designed to not deprive surrounding properties of views, privacy, natural light or parking. The additions and new deck will increase the value of the property as it allows the property owner more space to enjoy their lot and accommodate ordinary addition requests for residential uses.

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 residential addition that is mainly in conformance with all applicable development standards for the R-6 District. Seeking only a Variance request to the rear side. 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 majority of the addition is located towards the rear of the residence and on the lower level (lower topography), while the other portion of the addition is facing the front while remaining behind the garage. Neither the lower addition nor the upper level addition affect the neighboring views given their location.
- *Privacy.* The project proposes a lower-level conversion and addition located at the rear of the lower level of the residence, and a separate addition facing the internal middle deck, and screened behind the existing garage. The overall proposal results in a 398-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 given that the living space within the existing homes on these neighboring parcels are situated uphill and east of the project. The neighboring properties to the west at 207 and 209 Arlington Avenue are located downhill from the site yet screened with various trees and vegetation, and the proposed addition and deck would not impact their privacy. Despite the request for a smaller rear yard where required by the zoning district, the lower-level addition would remain out of view. The second story addition may be seen from the north facing windows of 212 Amherst; however, this is not a new configuration, given that the existing deck is already in place in the same location. 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, nor does it significantly alter the size or height of the established building envelope. The project is adding livable space to the lower level of the residence and does not disrupt adjacent properties. The second story addition remains relatively hidden and towards the interior portion of the main level of the residence. The deck addition will also be facing the rear and does not interfere with light or solar access. 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 would 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 would 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 proposal does not involve an incompatible land use that would conflict 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 1,614 square feet of living area, and a 699-square-foot lower (first) floor. The project is converting a portion of the existing usable unconditioned space on the lower level and doing an addition to this area for a proposed accessory dwelling unit. The other portion of the addition is located on the second floor (the main floor) and it remains within the building envelope. The project will provide additional living space and a new unit without significantly expanding the established building envelope, and the lower addition utilizes both the existing 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, would 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.

B. Variance Findings

Pursuant to County Code Section 26-2.2006 states that all of the following findings must be made to approve the Variance request.

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

Project Finding: The subject parcel is located in the R-6 Single-Family Residential District and is in the Kensington Combining District. The R-6 zoning district requires a minimum lot size of 6,000 square feet and the following setbacks and yards: a 20-foot front setback, a 5-foot minimum side yard with an aggregate side yard of 15 feet, and a rear yard requirement of 15 feet. The lot is an approximate 5,000-square-foot parcel, and also receives sliding scale due to its creation year, thus awarding it a relief on the side yards (5 foot minimum on both sides with a 10-foot aggregate side yard). The 150-square foot addition at the lower-level seeks a variance to accommodate a future new unit, and part of the scope involves the conversion of 145 square feet of non-habitable space into conditioned space. The lower addition is limited in location due to the sitting of the residence and available open area for construction, as well as the sloping condition of the parcel. Moreover, an addition and conversion to accommodate an expansion is not an unusual request for any residential property. Several parcels in the area are faced with smaller lots and steep topographies and have had to adapt their requests. Some have received relief regarding side yards, front yards or rear yards to accommodate any newer development to standards established after the original residences were built. The proposed addition is one seeking to adapt to the site conditions in order to pursue a typical residential request. As it is, the variance is consistent with the intent of the zoning code to allow flexibility in unique situations, ensuring that all property owners have the opportunity to develop in a reasonable manner, and ultimately does not constitute a grant of special privilege.

2. *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 rights enjoyed by other properties in the vicinity and within the identical land use district.*

Project Finding: The existing residence is located on an approximate 5,000-square-foot parcel where 6,000 square feet is the minimum for parcels in the R-6 zoning district. The parcel also faces a negative slope where the main (street) level sits at 562 feet above sea level and declines in elevation as it reaches the rear, eventually,

arriving at the 548-foot mark at its lowest point. The existing residence is a multi-level residence, where portion of the house is one level, and as the slope descends, the residence becomes two stories, with some crawl space. The residence itself sits meeting almost all of the required standards, with a 23-foot 9-inch front setback (and a 13-foot setback to the garage), and 5 feet on both side yards. The current rear yard is 12 feet 4 inches, which encroaches on the R-6 rear yard requirement. The residence, with its detached garage and the deck, cover most of the surface area of the parcel, and given its location, almost any type of addition would encroach onto the yards. The proposal for the residential addition is to expand towards the inner deck, and to utilize portion of the existing lower level for a future dwelling unit. The strict application of the rear yard district standard, on a property that already is unable to meet the minimum requirement due to its original construction location, combined with its size and topography, would deprive the property of the right to pursue any reasonable type of addition without triggering a variance. Therefore, due to these circumstances, a variance would be granted.

3. *That any variance authorized substantially meets the intent and purpose of the respective land use district in which the subject property is located.*

Project Finding: The proposed rear addition substantially meets the intent and purpose of the R-6 Single-Family Residential District and the -K Kensington Combining District. The purpose of any rear yard setback is to provide for a consistent buffer between properties, ensure adequate light and air, and maintain separation between structures. The rear portion of the lot abuts vegetation and does not disturb the neighboring properties. The reduction of the rear setback is a deviation that will not compromise the R-6 or the Kensington objectives and will not have a substantial negative impact on the character of the neighborhood, as showcased under the Kensington Combining District findings. As stated above, there are a number of neighboring properties with configurations encroaching on side yards, rear yards or front setbacks sides due to smaller lot configurations, the topography and even the time of construction of the residences themselves. Additions and other common improvements have had to adapt to allow providing owners the same rights as properties where these issues are not a concern. Therefore, the variance substantially meets the intent of the zoning ordinance.

C. California Environmental Quality Act (CEQA) Findings

The project is exempt under CEQA Guidelines Section 15301(e) – Existing facilities, addition to existing structures provided 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 existing single-family residence is approximately 2,733 square feet including its garage, and it also has a 112-square-foot deck. The addition of 398 square feet of livable space and an 88-square foot deck addition do not exceed the threshold noted in this exemption, and remains under both the 2,500 square foot limit and the 50% limit. Therefore, the project is exempt under CEQA Guidelines Section 15301(e) which exempts addition to existing structures.

CONDITIONS OF APPROVAL FOR COUNTY FILE #CDDP25-03032

Project Approval

Development Plan for a Kensington Design Review

1. This DEVELOPMENT PLAN application for a KENSINGTON DESIGN REVIEW to allow for the construction of a 398-square-foot addition at the rear lower level, and main level of an existing residence, and an 88-square-foot deck, with a new gross floor area of 3,131 square feet (where 2,500 square feet is the Kensington Threshold) is APPROVED based on the following:
 - The application and project plans received by the Department of Conservation and Development, Community Development Division (CDD) on November 17, 2025.
 - Revised plans received on December 4, 2025.
2. A VARIANCE to allow a 5-foot 10-inch rear yard, where 15 feet is the minimum for a residential addition at the rear lower level of the existing residence is APPROVED based on the following:
 - The application and project plans received by the Department of Conservation and Development, Community Development Division (CDD) on November 17, 2025.
 - Revised plans received on December 4, 2025.
3. Any change from the approved plans shall require review and approval by the CDD and may require the filing of an application to modify this Development Plan.

Payment of Fees

4. 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.

Construction Period Restrictions and Requirements

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

5. The applicant and his contractor shall make a good faith effort to park any construction related vehicles on the project driveway and existing asphalt parking area at the front of the parcel.
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 project sponsor 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. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
9. 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.
10. 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)
- Farmworkers 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/federal-holidays/)

California Holidays: <http://www.ftb.ca.gov/aboutftb/holidays.shtml>

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. The applicant will be required to comply with the requirements of the Bridge/Thoroughfare Fee Ordinance for the West County, WCCTAC (West Contra Costa Transportation Advisory Committee) Bridges/Road, and WCCTAC Transit/Pedestrian Areas of Benefit, as adopted by the Board of Supervisors. These fees must be paid prior to issuance of a building permit.
- C. 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
 - Contra Costa County Environmental Health Division
 - East Bay Municipal Utility District
 - Stege Sanitary District
 - Kensington Fire Protection District