



# Department of Conservation and Development

## County Planning Commission

Tuesday, January 12, 2016 – 7:00 .P.M.      Agenda Item #

### STAFF REPORT

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**Project Title:** 148 Highland Boulevard Residential Addition Development Plan

**County File Number:** DP15-3011

**Applicant/Owner:** Wade Skeels, Architect (Applicant) / Dean Williams (Owner)

**General Plan/Zoning:** Single-Family Residential-High Density (SH) / R-6 Single-Family Residential District (R-6), Tree Obstruction of Views Combining District (-TOV), and Kensington Combining District (-K)

**California Environmental Quality Act (CEQA) Status:** Exempt under CEQA Guidelines, Section 15301(e)(1), (additions to existing structures)

**Project Location:** 148 Highland Boulevard, Kensington; APN: 572-090-009

**Project Planner:** Adrian Veliz, Project Planner (925) 674-7798

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#### I. PROJECT SUMMARY

This is an appeal of the Zoning Administrator's decision to approve a Development Plan and Kensington Design Review for the purpose of adding 753 square-feet of conditioned space to an existing single family residence. The project includes converting 599 square-feet of unconditioned basement into conditioned living area. A 154 square-foot addition is also proposed to the basement level. The proposed addition is entirely within the footprint of the level above. The project will result in a gross floor area of 2,448 square-feet, which exceeds the design review threshold of 2,100 square feet for the subject site.

## II. RECOMMENDATION

Staff recommends that the County Planning Commission deny the appeal and approve County File #DP15-3011 subject to the attached findings and conditions of approval.

## III. BACKGROUND

On September 21, 2015, this application was heard by the County Zoning Administrator with a staff recommendation for approval. After taking testimony on the project, the Zoning Administrator (ZA) continued the Development Plan application to October 5, 2015 in order to consider the testimony presented. The item was then rescheduled to October 19, 2015 in order to accommodate scheduling conflicts. After hearing additional testimony on the proposal during the October 19, 2015 public hearing, the ZA approved the development plan with modified findings and the addition of condition of approval #3 requiring submittal of a revised floorplan (current upper level floorplan only).

On October 29, 2015, Ms. Deneergaard filed an appeal of the Zoning Administrator's decision.

## IV. GENERAL INFORMATION

- A. California Environmental Quality Act (CEQA) Compliance: The proposed project is exempt under CEQA Guidelines, Section 15301(e)(1), regarding "Existing Facilities," which exempts 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 structure before the addition or 2,500 square feet, whichever is less.
- B. Lot Creation: The subject property is Lot 10 of Block 1 of the Berkeley Highlands Terrace Subdivision, recorded in 1914.
- C. Prior County Files Related to the Subject Property:
  - KR11-0001: A Kensington Design Review application submitted on January 24, 2011, for replacement of a retaining wall with a maximum height of 5.5-feet. The design review was approved by the Zoning Administrator on March 2, 2011.

## V. SITE/AREA DESCRIPTION

The subject property is located within a developed residential neighborhood of detached single-family homes. The lots within the area are rectangular in shape, measuring between 40-50 feet in width and 100-110 feet in depth. The topography slopes upward from West to

East. At 4,160 square-feet in lot area, the subject property is substandard in lot size (minimum 6,000 feet required) which is consistent with neighboring lots in the vicinity. The parcel fronts Highland Boulevard for  $\pm$  40.3 feet, approximately 80 feet North of Kenyon Path, which is a public pedestrian access route. The single family residence has been located on the subject property since 1953. A two-stall carport located on the Highland Boulevard frontage provides vehicular parking for this site.

## **VI. PROJECT DESCRIPTION**

The applicant requests approval of a Development Plan for a Kensington Design Review to construct a 154 square-foot addition to an existing single-family residence. The project also includes converting an additional 599 square-feet of unconditioned basement area into livable space (753 total square-feet added) which will result in a total gross floor area of 2,448 square-feet (where the Kensington Combining District gross floor area threshold is 2,100 square-feet for the subject lot).

The project is a conversion of unfinished basement space on the lower level as well as an expansion of the basement into a portion of the existing covered deck. The proposed improvements would accommodate a new master bedroom, master bathroom, mudroom, sitting area and laundry room. The design of the addition is consistent with the existing residence. The addition will have the same T-111 siding, color palate and window design.

## **VII. APPEAL OF THE ZONING ADMINISTRATOR'S DECISION**

On October 29, 2015, Ms. Catherine Deneergaard, resident of 152 Highland Boulevard – the property located directly adjacent to the south, filed an appeal with the Department of Conservation and Development against the decision of the Zoning Administrator to approve the proposed project. The appeal points have been summarized and addressed below.

- A. *Summary of Appeal Point #1: The proposal takes away from solar access, light, views, and spaciousness and air for the appellant's property.*

Staff Response: The proposed addition is beneath the footprint of an existing deck on the subject property. The addition itself is mostly screened from the appellant's property by an existing fence and landscaping (see attached photo #1). When viewed from the second story of the appellant's property (see attached photo #8) the upper level of the subject property conceals all but the uppermost portion of the southern wall. The projects effects on solar access and views from 152 Highland Boulevard are negligible. Photo #8 also clearly shows that the views beyond the subject property are unaffected by the proposed addition.

*B. Summary of Appeal Point #2: The project is a thinly disguised second unit.*

Staff response: The proposed basement area does not provide independent living facilities (i.e. no kitchen) which would suggest a second unit is the intended use of this area. The Zoning Administrator elaborated on this concern by pointing out the fact that the subject property cannot receive approval of a second unit in the future because it does not meet the 6,000 square-foot minimum lot size requirement of the Residential Second Unit Ordinance.

*C. Summary of Appeal Point #3: The subject property has already had several additions which block solar access and views from 152 Highland Boulevard. Its bulk, footprint and envelope is larger than the surrounding houses and is incompatible with the neighborhood.*

Staff Response: Staff has performed site visits to the subject property and Ms. Deneergaards' property to observe and gauge potential impacts that may result from this development. Due to the proposed addition's location beneath the footprint of the existing upper level, its effect on views and solar access is expected to be negligible. The increase in bulk will also be negligible as most of the increase of floor area is gained by converting an existing unfinished basement and all work is within the existing footprint of the subject residence.

A review of County Assessor records to determine the typical size of residences on comparably-sized lots in the vicinity indicates that properties in this neighborhood have an average of 1,820 square-feet of conditioned space on lots averaging 4,478 square-feet in area (see attached neighborhood comparison). This average includes all lots 3,500-5,500 square-feet in area between Kenyon Ave and Highland Boulevard, north of Willamette Ave (33 total properties considered).

The applicant proposes to increase the conditioned space of the subject residence from 1,325 to 2,078 square-feet. The existing 1,325 square-foot house is in the lower quintile of homes in the vicinity in terms of conditioned space. The proposed addition and basement conversion will increase the homes size to approximately 250 square-feet above the neighborhood average. Though the subject residence would be above-average-sized for the area, more than a third of homes in the vicinity exceed 2,000 square-feet of conditioned space. Therefore, the design and size is reasonably compatible with the scale of residences in the surrounding neighborhood.

- D. Summary of Appeal Point #4: Multiple unpermitted improvements to the property have created dangerous and/or unhealthy conditions that are detrimental to nearby properties and their inhabitants.

Staff Response: The appellant identified several improvements that have been performed on the subject property through the years which she believes may not have been permitted. Most prominent amongst these concerns is a furnace vent on the southern exterior wall of the subject property. A review of County records indicates that a permit was issued for the replacement furnace in question (County Building Permit #BIM11-004587) and a final inspection of the work was passed on 12/07/2011. Building Inspection staff has confirmed that a final inspection for a furnace replacement includes inspecting the exhaust vent. A code enforcement case was initiated on 11/19/2015, for a reported unpermitted furnace replacement at the subject property. Investigation by a Contra Costa County Code Enforcement inspector confirmed that the furnace was permitted and had passed a final inspection; the case was closed on 11/19/2015.

Another item of concern was a prior reroof performed on the subject property which changed the pitch of the roof and relocated downspouts to direct water runoff towards the adjacent property to the south. The appellant identifies the previous owner of the subject property as the party responsible for diverting water runoff in the manner described. The appellant asserts the current owners exacerbated the situation by increasing the pitch of their roof to deliberately direct runoff south towards her house. During a visit to the subject property, staff observed a uniformly flat roof over most of the house with no obvious inclination to the south. The western dining room addition on the upper level is the exception to this uniformity; the roof in this area is slightly pitched downward in a westerly direction. No changes to the roof or drainage spouts have been proposed with this application. There is no history of code enforcement cases initiated relating to roofing or drainage on the subject property. Since there are no plans to modify/repair the roof as part of this project, staff has determined that this is not germane to the subject project.

The appellant has questioned the legality of a closet that was built within the footprint of the existing carport on the subject property. Staff has verified that a building permit was issued on 1/24/2006 (County Building Permit #BI378787) to add a closet in an existing carport. A final inspection for this job was passed on 2/24/2006. This project was exempt from the Kensington Design Review process because it did not expand the envelope of the existing structure.

- E. Summary of Appeal Point #5: *The appellant posits that the stability of the soil beneath the lower level of the subject property has been compromised by excessive fill and should be investigated prior to approving the project.*

Staff Response: Staff has inquired with the County Grading Inspector and Engineering staff about the proposed excavation beneath the existing residence. A grading inspector indicated that grading permits are not required when such excavation is done beneath the footprint of an existing structure. Compliance with the California Building Code and County plan check process suggests that the project will not represent an undue risk as a result of the excavation.

- F. Summary of Appeal Point #6: *The structural integrity of the dining room addition on the western portion of the subject property seems dubious.*

Staff Response: The project sponsors have consulted with Erik Anderson, a structural engineer regarding their desire to seismically strengthen their residence. Upon his initial inspection in 2012, Mr. Anderson identified the western portion of the building to be a significant seismic hazard that should be addressed due to the homes location within a highly seismic area. At that time he recommended a partial seismic upgrade consisting of x-bracing bolted to the posts supporting the upper level. The applicants obtained a permit in 2012 (County Building Permit #BIMIR12-006813) and performed the recommended bracing. The engineer advised of what additional work could be performed beneath the dining room portion of the house to provide further seismic strengthening. The project sponsors have demonstrated their commitment to improve the safety of their structure by voluntarily performing recommended seismic improvements in the past. Their ongoing consultation with Mr. Anderson is indicative of their continued efforts to this end.

## **VIII. STAFF ANALYSIS & DISCUSSION**

- A. General Plan: The subject property is located within a Single-Family Residential - High Density (SH) General Plan Land Use designation. The proposed addition of living area to the existing residential use is consistent with this designation.

This project is subject to the specific policies in the General Plan Land Use Element (3-205 through 3-209), "Policies for the Kensington Area." The proposed project's consistency with these policies is addressed in detail within the required findings for the Kensington Combining District (-K).

- B. Zoning: The subject property is located within an R-6 Single-Family Residential (R-6) zoning district, Tree Obstruction of Views Combining District (-TOV), and Kensington

### Combining District (-K).

The project proposes converting 599 square-feet of unfinished basement into conditioned living area. The project also proposes a 154 square-foot addition to the lower floor, adjacent to the basement on the western end of an existing two-story single-family residence. The proposed improvements would add 753 square-feet of conditioned space, which would result in a gross floor area of 2,448 square-feet, which exceeds the design review threshold of 2,100 square feet for the subject site. The existing residence meets rear yard and setback requirements for the R-6 zoning district as well as the required sliding scale side yards (3' minimum, 8' aggregate). Since the proposed addition is entirely within the residence's existing footprint, it will continue to conform to the R-6 zoning districts setback and yard requirements despite the substandard area and width of the subject lot. A two-stall carport is located on the Highland Boulevard frontage which provides vehicular parking for this site. The proposed project would not alter the use, lot size, or vehicular parking of the residence. With the approval of this development plan, the project will remain consistent with the intent and purpose of the R-6 zoning district.

Section 816-2.204 of the Tree Obstruction of Views Combining District Ordinance (-TOV) states that the purpose of the ordinance is to "provide a method for private property owners to gain restoration of views and sunlight lost due to tree growth by another private property owner as defined in Section 816-2.4." The proposed development does not include alteration, addition or removal of any trees; therefore, the -TOV ordinance does not apply to the proposed project.

Kensington Combining District (-K) requires that the proposed additions and alterations satisfy seven criteria before the project is approved. The ZA has found that the proposed project satisfies all seven of the criteria, further described in the attached findings and conditions of approval.

## **IX. CONCLUSION**

The proposed development is consistent with the Single-Family Residential High-Density (SH) General Plan land use designation and complies with the intent and purpose of the Single-Family Residential (R-6) zoning district, the Tree Obstruction of Views Combining District (-TOV), and the Kensington Combining District (-K). Therefore, staff recommends that the County Planning Commission deny the appeal and approve the proposed project based on the attached findings and conditions of approval.

Attachments:

- A: Findings and Conditions of Approval
- B: Letter of Appeal of the Zoning Administrators Decision
- C: Maps– Parcel Map, General Plan, Zoning, and Aerial Photo
- D: Reduced Plans
- E: Agency Comments
- F: Staff Reports – October 19/October 5/ September 21, 2015 Zoning Administrator Hearings
- G: Neighborhood comparison for 148 Highland Boulevard
- H: Photographs with index