



Department of Conservation and Development

County Planning Commission

Tuesday, February 9, 2016 – 7:00 P.M.

STAFF REPORT

Agenda Item # _____

Project Title:	Kwan and Leighton Residential Addition
County File(s):	#DP15-3009
Appellant:	David Gerstel
Applicants/Owners:	Phoebe Kwan and Ralph Leighton
General Plan /Zoning:	Single-Family Residential-High Density, SH Single-Family Residential, R-6/Tree of Obstruction of Views, -TOV/ Kensington Combining District, -K
Site Address/Location:	285 Colusa Avenue, Kensington (APN: 571-350-016)
California Environmental Quality Act (CEQA) Status:	Categorically Exempt under CEQA Guidelines Class 1, Section 15301(e) – Existing Facilities
Project Planner:	Jennifer Cruz, Senior Planner (925) 674-7790
Staff Recommendation:	Deny the Appeal and Uphold the Zoning Administrator's Decision (See Section II for Complete Recommendation)

I. PROJECT SUMMARY

This is an appeal of the Zoning Administrator's decision to approve a Kensington Design Review Development Plan to allow an approximately 335-square-foot addition and an uncovered deck to the existing residence. The addition involves a bedroom, a bathroom, and a deck with a hot tub, and an expansion of the existing kitchen. The new gross floor area will be approximately 2,241 square, where the gross floor area threshold of 2,600 square feet is allowed for the subject property.

II. RECOMMENDATION

Staff recommends that the County Planning Commission deny the appeal and uphold the Zoning Administrator's decision to approve County File #DP15-3009, based on the attached findings and subject to the conditions of approval.

III. BACKGROUND

A Variance application to allow a 6-inch side yard setback for an addition was submitted on November 6, 2014. The 34-day notification with a comment period ending on March 9, 2015, was mailed to properties within 300 feet of the subject property. A request for a public hearing was received by the Department of Conservation and Development. On May 13, 2015, the applicants withdrew their Variance application and submitted an application for a Kensington Design Review. As redesigned, the project met all of the required setbacks and zoning requirements, it was below the gross floor area threshold, and it was not necessary to be heard before a hearing. Being fully aware that the project needed to be re-noticed as part of the Kensington Design Review process and still result in a hearing request, the applicants requested to have the project heard directly at a public hearing.

The application was heard by the Zoning Administrator on October 19, 2015, where the Zoning Administrator received testimony from both the architect Mr. Wright Sherman on behalf of the property owners and Mr. David Gerstel the property owner of 283 Colusa Avenue. The Zoning Administrator closed the hearing and continued the item to November 2, 2015, for a decision. On November 2, 2015, the Zoning Administrator approved the project with an added condition requiring landscaping along the northern property line (Condition of Approval #5). An appeal on the decision was filed on November 9, 2015, within the 10-day appeal period.

IV. PROJECT DESCRIPTION

This is an appeal of the Zoning Administrator's decision to approve a Kensington Design Review Development Plan to allow an approximately 335-square-foot addition and an uncovered deck to an existing residence. The addition involves a bedroom, a bathroom, and a deck with a hot tub, and an expansion of the existing kitchen. The new gross floor area will be approximately 2,241 square feet, where the gross floor area threshold of 2,600 square feet is allowed for the subject property.

The existing deck will be demolished and the addition will be constructed in its

location. Thus, a new deck will be constructed with a hot tub located on the northern portion of the deck. The addition is completely located within the rear of the existing residence. The residential one-story addition and the hot tub will be located 3 feet from the side yard property line, with the deck 5 feet from side yard property line and more than 15 feet from the rear property line. The project meets the required setbacks in accordance with the R-6 Zoning District requirements and sliding scale (reduced side yards), where a minimum side yard setback of 3 feet, aggregate side yard setback of 8 feet, and 15 feet rear yard setback is required.

The existing residence currently measures 24 feet tall on the western portion of the property. The height of the additions varies from different locations of the property. At the tallest point, the addition will measure 18 feet 6 inches on the southern side and 18 feet on the northern side. The height of the addition decreases towards the east due to the topography of the lot. The proposed addition will remain consistent with the existing residence and the surrounding area.

V. **APPEAL POINTS**

An appeal from Mr. David Gerstel of 283 Colusa Avenue (property owner located directly north of the subject property) was received on November 9, 2015. Below is a summary of Mr. Gerstel's appeal points and staff's response.

- A. Appeal Point #1: The proposal affects the value of the property at 283 Colusa Avenue (Mr. Gerstel's property), including the deprivation of sunlight from the south.

Staff's Response: The project will not affect the value of Mr. Gerstel's property, since the addition is minimal and is an improvement on the subject property. The proposal is to add approximately 335 square feet to the rear of the existing residence from the northern portion to the southern portion of the property. The addition consists of a bedroom and a bathroom, enlarging an existing kitchen, and constructing a deck with a hot tub. The existing residence is closest to the northern property line located 2 feet 9 inches from the northern property line. The addition will be located 3 feet from the northern property line. The existing bedrooms are located along this portion of the property. The addition of the bedroom along the northern portion of the property is the most logically location because it will be adjacent to the existing bedrooms. Additionally, the footprint of the proposed addition will not be adjacent to Mr. Gerstel's rear yard building. The proposed addition will be adjacent to the open yard area located in

the middle of Mr. Gerstel's property. The new deck will simply replace the existing deck. A new hot tub will be at grade level and located on the northern portion of deck. An existing fence is located on the northern property line and the hot tub will be screened from view.

The property slopes upward to the rear and therefore, the height of the addition as viewed on the northern property line will begin at 18 feet and decrease to 14 feet 6 inches. This one-story addition would not deprive Mr. Gerstel's property of sunlight.

Additions are a permitted use within the R-6, TOV, K Combining District and are consistent with properties in the area that have made improvements as such. The Kensington Design Review finding relating to maintaining community property values require the hearing body considers a project's impact to the County's tax base a whole, not individual property values. The added value to the community as a whole that will be created by the residential addition must be considered when making a determination on the project, not impacts to individual properties.

- B. Appeal Point #2: The proposal violates property rights as defined in the Kensington Combining Ordinance, since the addition does not minimize the impairment of enjoyment and value, and is precedent setting.

Staff's Response: *Residences in the area are located on long narrow lots, where the development extends from the front to the rear of the property. Residential improvements approved in the neighborhood involve rear additions consistent with what the applicants are proposing.*

The proposed addition meets the required setbacks and zoning requirements. The 335-square-foot addition is modest in size will provide a continuity of living space that will remain one-story and without any windows proposed along the northern portion of the addition. The addition will be abutting the open yard area rather than along the developed portion of the appellant's property. The property slopes upward to the rear and therefore, the height of the addition as viewed on the northern property line will begin at 18 feet and decrease to 14 feet 6 inches, which is the shortest portion of the entire residential building. The existing kitchen will be enlarged from its current location, which cannot be accommodated elsewhere on the property. The kitchen expansion would not impact the enjoyment and value of Mr. Gerstel's property, since the kitchen

expansion is located towards the southern portion of the property.

According to the County Assessor records, the area consists of residences with living areas ranging from 861 to 2,570 square feet. The proposed 335-square-foot addition of living area will increase the existing living area from approximately 1,163 square feet to 1,498 square feet. The project is found consistent with other properties in the surrounding area, especially properties that have constructed additions at the rear of their residence.

- C. Appeal Point #3: An alternative to minimize impacts to Mr. Gerstel's property would be to relocate the addition to the southern portion of the subject property.

Staff's Response: The existing bedrooms are located on the northern portion of the property and the applicants expressed their desire to have the bedroom addition together with the existing bedrooms. There are no proposed windows on this portion of the addition. The Zoning Administrator has added a Condition of Approval (COA #5) to provide landscaping on this portion of the addition. Mr. Gerstel's recommended design relocates the addition to the southern portion of the property. This recommendation is inconsistent with the development of the property and the overall development of the surrounding neighborhood.

- D. Appeal Point #4: The findings of the Zoning Administrator were not supported.

Staff's Response: The Zoning Administrator made a decision based on the evaluation of project, field observation, testimony received, staff's recommendations, and the Kensington Ordinance Intent and Findings.

VI. CONCLUSION

Staff has determined that the proposed project is consistent with the provisions of the R-6, TOV, K Combining District and with the Single-Family Residential-High Density General Plan land use designation. Therefore, staff recommends the County Planning Commission deny the appeal and uphold the Zoning Administrator's decision to approve County File #DP15-3009, based on the attached findings and subject to the conditions of approval.

VII. ATTACHMENTS

Findings and Conditions of Approval

Letter of Appeal received on November 9, 2015

Maps: Parcel Page, General Plan, Zoning, Aerial Photograph

Photos of Subject Property

Staff Reports for October 19, 2015 and November 2, 2015 Zoning Administrator Hearings

Reduced Plans

1/12/16-JRC

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