

Department of Conservation and Development

County Zoning Administrator

Monday, October 19, 2015 – 1:30 .P.M.

STAFF REPORT

Agenda Item # _____

Project Title:	Kwan and Leighton Addition
County File(s):	#DP15-3009
Applicants/Owners:	Phoebe Kwan and Ralph Leighton
Zoning/General Plan:	Single-Family Residential, R-6/Tree of Obstruction of Views, -TOV/ Kensington Combining District, -K Single-Family Residential-High Density, SH
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, Project Planner (925) 674-7790
Staff Recommendation:	Approve (See Section II for Complete Recommendation)

I. PROJECT SUMMARY

The applicant requests approval of a Kensington Design Review Development Plan Permit to allow a one-story 335 square-foot addition and a deck to the existing residence. The addition involves a bedroom, bathroom, and deck, and expansion of the existing kitchen. The addition does not exceed the gross floor area threshold allowed for the subject property; however, the applicants requested the project to be heard at the Zoning Administrator public hearing.

II. RECOMMENDATION

Staff recommends approval of 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 applicant withdrew their application. On the same day, the applicant submitted a Kensington Design Review Development Plan application for a proposed addition that met all of the required setbacks and zoning requirements, without the need for a variance. Since the project was below the gross floor area threshold, it did not require a public hearing. However, the applicants requested to have the project directly heard at public hearing. Therefore, submitting a Development Plan application.

IV. GENERAL INFORMATION

- A. General Plan: The subject property is located within the General Plan Land Use designation of Single-Family Residential-High Density, SH.
- B. Zoning: The subject property is zoned Single-Family Residential, R-6/Tree of Obstruction of Views, -TOV/ Kensington Combining District, -K.
- C. California Environmental Quality Act (CEQA) Compliance: This project is categorically exempt under CEQA Guidelines Class 1, Section 15301 (e) – 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 structures before the addition, or 2,500 square feet, whichever is less.
- D. Origin of Parcel: The subject property is Lot 26 of Block D Berkeley Park Subdivision recorded in 1913.

E. Previous Applications:

1. VR14-1044: A Variance application for a request to allow a 6-inch side yard for an addition was withdrawn on May 13, 2015.
2. ZI10-12720: A Kensington Design Review application to allow a second story addition was approved on April 20, 2010.

V. SITE/AREA DESCRIPTION

Surrounding Land Use: The subject property is primarily surrounded by residential zoned properties that range in size from 4,000 square feet to 5,200 square feet. Many of the residences on Colusa Avenue are two stories, with the garage located on the lower floor and the living area on the second floor. The City of El Cerrito lies immediately west of the subject property, while the City of Berkeley is approximately 0.25 miles south of the subject property.

Existing Site Condition: The subject is approximately 5,160 square feet and rectangular in shape. The existing residence lies from the front to the middle of the property (west to east), and is approximately 1,906 square feet and is two stories. The property has a slight slope upwards from west to east and therefore, the garage is on the lower floor and the living area and bedrooms are on the upper floor. The residence also has an existing deck located at the rear of the property. A large 23-inch pine tree is located at the rear of the property.

VI. PROJECT DESCRIPTION

The applicant proposes an addition of approximately 335 square feet to the existing residence. The addition includes one bedroom and one bathroom, and the expansion of the existing kitchen. The addition will be constructed over the existing deck and 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 addition and the hot tub will be located 3 feet from the side yard setback, with the deck 5 feet from side yard setback. The addition is one-story and will be 14 feet 6 inches tall.

VII. AGENCY COMMENTS

- A. Conservation and Development, Building Inspection Division: In a memo dated May 18, 2015, the Division indicated no comments.
- B. Stege Sanitary District: In a memo dated May 26, 2015, the District indicated in their comments that the project is approved "as is."
- C. El Cerrito/Kensington Fire Department: In a memo dated May 28, 2015, the District provided comments for the project indicating compliance with State and County codes, providing address that is visible, and compliance with Kensington Vegetation Management Standards and Wildland Urban Interface Codes.
- D. Health Department, Environmental Health Division: In a memo dated June 9, 2015, the Division provided comments that requires a permit for abandoned wells and septic tanks to be destroyed, and a permit for any well or soil boring.
- E. East Bay Municipal Utility District: In a memo dated June 8, 2015, the District indicated that if additional water service is needed, then the applicant should contact EBMUD, water-efficiency measures installed prior to new or expanded service, and no water meters located within driveways..
- F. Kensington Municipal Advisory Council (KMAC): In a memo dated July 1, 2015, the MAC recommended approval of the project.

No comments were received from the City of El Cerrito.

VIII. COMMENTS RECEIVED FROM NEIGHBOR

- A. David Gerstel of 283 Colusa Avenue, Kensington: An email from Mr. Gerstel sent on July 6, 2015, to staff indicated his concerns regarding the proposed addition and the impacts it will have on the value of his property, and reducing the enjoyment of his property.

Staff's Response: 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. The existing kitchen will be enlarged, which cannot be accommodated elsewhere on the property. The addition of one bedroom and one bathroom will result in a three bedroom and two bathroom residence. No windows are proposed along the northern portion of the addition. According to the County Assessor records, the area consists of residences with living area 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.

IX. STAFF ANALYSIS

- A. General Plan Consistency: The property has a General Plan land use designation of Single-Family Residential-High Density, SH. Under this land use designation, detached single-family homes and accessory buildings or structures are permitted uses.

In addition to the project's consistency with the land use designation of SH, the proposed project is consistent with the following General Policies:

- *Policy 3-220: Preservation of views of scenic natural features (e.g. bay, mountains) and the developed environment (e.g. bridges, city skyline) should be incorporated into the review of development applications.*
- *Policy 3-221: Review proposed residential development for design compatibility with nearby development (e.g. building mass, height, mechanical devices) and provisions for adequate parking.*

The project is designed to preserve the views of scenic natural features. Views of the Bay Bridge and San Francisco Bay are to the west of the property. The addition will be located towards the east (rear) of the property, where a large 23-inch pine is located near the rear property line. In addition, the project is a one-story addition, which would not impact views of scenic natural features.

Since properties in the area are narrow in width and are only 40 feet – 46 feet wide, additions have been accommodated at the rear of the residence or by adding a second story. The one-story addition is consistent with homes in the area that have added onto their residence and is modest in size,

approximately 335 square feet with the rear yard deck. Overall, the project is consistent with the goals and policies of the General Plan.

- B. Zoning Compliance: The site is located within the Single-Family Residential-High Density, R-6/Tree of Obstruction of Views, -TOV/ Kensington Combining District, -K. Under this zoning district, a residence is a permitted use. The project involves an addition of approximately 335 square feet and an addition of a rear yard deck. The gross floor area (GFA) threshold for this 5,160 square-foot property is 2,600 square feet. With the addition, the new gross floor area will be approximately 2,241 square feet. The project is below the GFA threshold; however, at the applicants' request, they have decided to take their project directly to a public hearing.

The subject property was created in 1913, before the effective date of the County Ordinance. Section 82-14.004 allows properties that are 41 feet or less but more than 31 feet to have a reduced side yard of 3 feet and an aggregate side yard of 8 feet. The residential addition and hot tub will have a 3-foot side setback. The deck will be located 5 feet from the side yard setback. The addition will have an aggregate side yard setback of approximately 12 feet 7 inches. The one-story addition will be 14 feet 6 inches in height.

The addition will not be visible from Colusa Avenue. In fact, the property located east of the subject property will have minimal visibility of the addition because of the 23-inch pine tree and vegetation located at rear of the subject property. The neighboring property that would have visibility of the addition would be the property to the north; however, visibility of the addition would be minimal because of the proposed vegetation along the northern property line. Further, the addition meets the required side yard setback, does not propose windows along this side of the addition, and does not further encroach into the side yard setback. The project is consistent with the R-6/TOV/K Zoning District.

- C. Appropriateness of Use: The gross floor area of the existing residence is 1,906 square feet, consisting of two bedrooms and one bathroom. The proposal is to construct an addition located at the rear of the existing residence, approximately 335 square feet. This addition will include one bedroom, one bathroom and deck, and enlarging the existing kitchen. The living area is located above the garage and the proposal to extend the addition towards the rear of the property (east) appropriate and consistent with other homes in

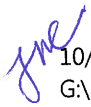
the area that have added onto their existing residence. The proposed addition is a permitted use determined to be consistent with the General Plan and Zoning District.

X. 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 approval of DP15-3009, based on the attached findings and subject to the conditions of approval.

XI. EXHIBITS

Correspondence from Neighbor
Maps
Agency Comments
Plans



10/1/15-JRC

G:\Current Planning\curr-plan\Staff Reports\Development Plans (DP)\DP15-3009\DP15-3009_SR_10-19-15.docx

FINDINGS & CONDITIONS OF APPROVAL FOR COUNTY FILE #DP15-3009; PHOEBE KWAN AND RALPH LEIGHTON (APPLICANTS AND OWNERS)

A. Kensington Combining District Ordinance Findings

Ordinance Code Section 84-74.1206(b): Standards of consideration.

1. Recognizing the rights of property owners to improve the value and enjoyment of their property;

Finding: The applicant is requesting approval of a Kensington Design Review Development Plan for a one-story 335-square-foot addition to a single family residence, which includes a deck. The current residence is approximately 1,906-square-feet in area (garage included), and is proposed to be 2,241-square-feet in area. The additional square footage will add one bedroom and one bathroom, resulting in a three bedroom and two bathroom residence. The addition will also include enlarging the existing kitchen. The addition recognizes the rights of property owners to improve the value and enjoyment of their property by allowing development to occur that is both considerate of neighbor's views and does not infringe on the privacy of adjacent properties.

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;

Finding: This criterion does not apply as the subject property is not vacant.

3. Minimizing impacts upon surrounding neighbors;

Finding: The applicant has minimized the impact of the addition by proposing a project which is consistent in height to the existing residence as well as surrounding homes. The addition is one-story and no windows are proposed along the northern property line. Given that the addition is located at the rear of the residence, the addition will not be visible from the property's frontage. Overall the project will blend in with the current design and architecture of the existing residence maintaining visual continuity of the developed site. Therefore, as designed, the project will allow the property owners an opportunity to improve upon the existing residence in a manner that will minimize impacts to surrounding neighbors.

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

Finding: The project is consistent with the development patterns for this area and is not expected to diminish home values in the area. The one-story addition will be constructed at the eastern portion of the property. Homes in the surrounding area have either added onto the rear of the residence or added a second story. The addition is located towards the rear of the property, which would have minimal impacts to the surrounding neighbors. Further, the addition will not have windows along the northern portion of the building. This reduces privacy concerns with the adjacent neighbor.

The project also includes the addition of a rear yard deck, also at the eastern portion of the property. There is currently an existing deck located at the rear of the residence. The addition will be located on the footprint of the existing deck. Therefore a new deck will be constructed and is not anticipated to create privacy issues with adjacent neighbors. The project will not diminish the value and enjoyment of neighbors' properties in the immediate vicinity.

5. Maintaining the community's property values;

Finding: This project will not conflict with the property values of the neighborhood. The project will remain consistent in terms of height and bulk as other nearby residences. The project is not expected to block any views of adjacent neighbors. Furthermore, residential improvements typically increase property values which positively affect neighborhoods in general.

6. Maximizing the use of existing interior space;

Finding: The garage area is located on the lower floor and the living area is located above. However, only a portion of the living area is above the existing garage since the property slopes upward to the rear of the residence. The project will be adding a bedroom and a bathroom, and expanding the existing kitchen. The one-story addition is approximately 335 square feet and is designed to provide continuity of the living area.

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

Finding: The proposed addition is consistent with the General Plan Policies for Kensington and is not anticipated to adversely impact the general welfare, public health and safety of the Kensington community. The addition is compatible (e.g., height, bulk and design) with other residences in the

immediate vicinity. The Kensington Municipal Advisory Council (KMAC) recommended approval of the project at their July 1, 2015, meeting. Additionally, the addition will be required to comply with applicable fire and building codes public health or safety risks. Therefore, as conditioned, the project will promote the general welfare, public health and safety of the Kensington area and County in general.

CONDITIONS OF APPROVAL

Project Approval

1. This Development Plan Permit for an addition is APPROVED, as generally shown on the plans received by the Department of Conservation and Development, Community Development Division (CDD) and is subject to the conditions listed below and based on the following documents:
 - Application submitted on May 3, 2015; and
 - Revised Plans submitted on September 8, 2015.
2. Any changes to the approved plans stated above must be submitted for review and approval of CDD, and may require the submittal of an application, if deemed necessary.

Application Fees

3. This application is subject to an initial application deposit of \$1,000, 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 costs due must be paid within 60 days of the permit effective date or prior to use of the permit, whichever occurs first.** 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.
4. Construction Restrictions: The applicant shall comply with the following restrictions and requirements, which shall be **stated on the face of all construction drawings:**
 - A. 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 and Federal)
Cesar Chavez Day (State)
Memorial Day (State and Federal)
Independence Day (State and Federal)
Labor Day (State and Federal)
Columbus Day (State and 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 <http://www.opm.gov/fedhol>

California Holidays <http://www.edd.ca.gov/eddsth.htm>

- B. 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.
- C. 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.
- D. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.

ADVISORY NOTES

ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL, BUT ARE NOT CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED IN ORDER TO INFORM THE APPLICANT OF ADDITIONAL REGULATIONS, ORDINANCES, AND REQUIREMENTS THAT MAY BE APPLICABLE TO THE PROPOSED PROJECT.

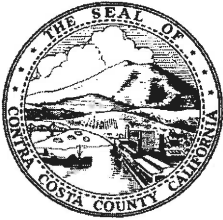
A. NOTICE OF 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

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 90-day period after the project is approved.

The ninety (90) day period, in which you may protest the amount of any fee or the 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 Department of Conservation and Development within 90 days of the approval date of this permit.

B. The applicant shall comply with the requirements of the following agencies:

- Department of Conservation and Development, Building Inspection Division
- Kensington Fire Protection District
- Stege Sanitary District
- East Bay Municipal Utility District



Department of Conservation and Development

County Zoning Administrator

Monday, November 2, 2015 – 1:30 .P.M.

Continued from October 19, 2015

STAFF REPORT

Agenda Item # 2

Project Title:	Kwan and Leighton Addition
County File(s):	#DP15-3009
Applicants/Owners:	Phoebe Kwan and Ralph Leighton
Zoning/General Plan:	Single-Family Residential, R-6/Tree of Obstruction of Views, -TOV/ Kensington Combining District, -K Single-Family Residential-High Density, SH
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Project Planner:	Jennifer Cruz, Project Planner (925) 674-7790
Staff Recommendation:	Approve (See Section II for Complete Recommendation)

I. PROJECT SUMMARY

The applicant requests approval of a Kensington Design Review Development Plan Permit to allow a one-story 335 square-foot addition and a deck to the existing residence. The addition involves a bedroom, bathroom, and deck, and expansion of the existing kitchen. The addition does not exceed the gross floor area threshold allowed for the subject property; however, the applicants requested the project to be heard at the Zoning Administrator public hearing.

II. RECOMMENDATION

Staff recommends approval of County File #DP15-3009, based on the attached findings and subject to the conditions of approval.

III. BACKGROUND

On October 19, 2015, the application was heard at the Zoning Administrator public hearing. 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. Mr. Sherman presented the project and responded to questions from the Zoning Administrator and provided clarification regarding Mr. Gerstel's testimony. Mr. Gerstel provided comments and concerns regarding the project's substantial impacts to the value, light, privacy, and mass of the addition. The Zoning Administrator closed the hearing and continued the item to November 2, 2015, for a decision.

IV. CLARIFICATION ON BUILDING HEIGHT

The existing residence currently measures 24 feet 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 measures 18 feet 6 inches on the southern side, while the addition measures 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. Thereby, staff's recommendation for approval of the project remains the same.

Revised elevations were submitted by the applicant to provide clarification on the height of the additions. Furthermore, staff recommends that Condition of Approval #1 be modified to include the revised elevations received on October 28, 2015.

V. 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 approval of DP15-3009, based on the attached findings and subject to the conditions of approval.