

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #DP19-3019;
HOWARD MCNENNY (APPLICANT) AND MARY HANLEY (OWNER)**

FINDINGS

A. Growth Management Performance Standards

1. Traffic: Policy 4-c under the Growth Management Program (GMP) requires a traffic impact analysis be conducted for any project that is estimated to generate 100 or more AM or PM peak-hour trips. The addition to the existing residence will generate minimal traffic trips to and from the project site during construction and no additional traffic trips post construction. Therefore, a traffic impact analysis is not required.
2. Water: The GMP requires new development to demonstrate that adequate water quantity and quality can be provided. The subject property currently receives water service from the East Bay Municipal Utility District (EBMUD). EBMUD has reviewed the project, and the project is not anticipated to significantly increase the demand for water service in the area.
3. Sanitary Sewer: The GMP requires that new development demonstrate that adequate sanitary sewer quantity and quality can be provided. The subject property currently receives sanitary sewer service from the Stege Sanitary District. The project is not anticipated to significantly increase the demand for sanitary sewer service in the area.
4. Fire Protection: The fire protection standards under the GMP require that a fire station be within one and one-half miles of development in urban, suburban and central business district areas, or requires that automatic fire sprinkler systems be installed to satisfy this standard. The project site is within the El Cerrito/Kensington Fire Department jurisdiction and will be required to comply with current fire codes and regulations. The addition to the existing residence would not increase demand for fire services. The Fire Department will review the project for a building permit.
5. Public Protection: Public protection standards under the GMP require that a Sheriff Facility standard of 155 square feet of station area and support facilities per 1,000 in population shall be maintained within the unincorporated area of the County. The addition to the existing residence and will not increase the demand for police service facilities as the project will not increase the population.
6. Parks & Recreation: Parks and recreation standards under the GMP require three acres of neighborhood park area per 1,000 in population. The project will not

increase the demand for parks or recreation facilities, as the project will not increase the housing stock in the County.

7. Flood Control & Drainage: No portion of the subject property is located within a 100-year flood area as determined by the Federal Emergency Management Agency. In addition, the project does not involve the removal, construction, or alteration of any dams or levees within the County. Therefore, further analysis in relation to increased flood risks as a result of the project is not required.

B. Kensington Combining District Findings

The Kensington Combining District (-K) requires that any permit for development or expansion of the envelope of a building or structure be evaluated by balancing seven factors. Each of the seven factors is addressed below.

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

Finding: The project includes an approximately 326-square-foot two-story addition, an interior remodel of the upstairs, and replacement of an existing deck at the rear of the existing three-story single-family residence. The addition creates more living space and the interior remodel of the upstairs allows for additional bedrooms and an additional bathroom. The development enhances the livability of the residence, and thereby improves the value and enjoyment of the residence.

The Board further finds that the project will not extend or expand any part of the existing three-story portion of the residence and therefore does not require a variance. The rear southwest corner of the existing residence is three stories due to the enclosed storage space on the lower level. The remainder of the existing residence is two stories above an uninhabitable and unfinished crawlspace that does not constitute a story. The project includes an addition to the main and upper levels that will be located above the crawlspace. The project also includes a small addition (approximately 5 square feet) to the main and lower levels that will have no upper level above. Thus, the project will not extend or expand any part of the existing three-story portion of the residence and therefore does not require a variance.

The Board further finds that the project will comply with the applicable side yard setback requirements (3-foot setback, with an aggregate setback of 8 feet) and therefore does not require a variance. The project has been conditioned to require that the proposed deck and addition be setback from the property's southern

property line by 3 feet, 2 inches. The minimum setback from the property's northern property line of that portion of the residence opposite from the proposed deck and addition is 4 feet, 10 inches, resulting in a minimum aggregate setback of 8 feet. Thus, the project as conditioned will comply with the applicable side yard setback requirements and does not require a variance.

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: The subject property is not vacant, so this criterion does not apply.

3. Minimizing impacts upon surrounding neighbors.

Finding: The development has been designed and conditioned to minimize impacts to surrounding neighbors while still recognizing the property owners' right to improve and enjoy their property. Partly in response to comments from the neighbor to the north, the addition is located on the southern portion of the west side of the residence. The addition to the main floor will extend the main floor by five feet to the west and the deck will extend another 10.5 feet. The addition to the upper floor will extend the upper floor approximately seven feet to the west, creating an approximately two-foot overhang over the new deck. The addition and deck meet the required minimum side yard setback and have been designed to minimally impact the neighbors while still allowing the enjoyment of the views. The applicant has agreed to eliminate the northwestern facing master bathroom window, which also minimizes impacts to the neighboring residence on the north side. Moreover, the project has been conditioned to require cable or glass railing for the deck to further minimize potential impacts to neighbor views. The project has minimized impacts to surrounding neighbors.

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

Finding: As previously mentioned, the overall project has been designed and conditioned to minimize impacts to the surrounding neighbors. The addition has been designed to extend the existing residence as little as possible, while still allowing for a remodel of the interior to increase the usability and enjoyment of the existing living space.

Neighboring properties to the north and south are at similar elevations as the subject property such that views from those properties may be impacted. However, the views of the San Francisco Bay for the subject and neighboring properties are primarily to the west. The Board finds that the project will have only minimal

impacts to views from the north and south neighboring properties when looking north or south past the subject property, but will not impact the primary westward facing views of the Bay from the neighboring properties. Moreover, the residence located on the neighboring property to the north extends 20 feet further west than the existing residence, resulting in additional views for those neighbors that will not be impacted by the additions.

The existing residence on the subject property is located downhill of the neighbors to the east, and the addition will be lower than the existing residence. The Board finds that the addition will not impact views of the San Francisco Bay visible from properties at a higher elevation. Therefore, the project preserves the value and enjoyment of neighboring properties.

The project will comply with side yard setback requirements. The Board finds that the proposed addition will not result in a structure that encroaches on neighboring properties or impedes light or solar access. The Board further finds that the proposed addition as conditioned, including the removal of a proposed master bath window on the upper level, will protect the privacy of neighboring properties.

5. Maintaining the community's property values.

Finding: The project has minimal impacts on views, light and solar access, privacy, parking, and residential noise levels. The addition will increase the property value of the subject property by adding more living space to the existing residence, including more bedrooms and an additional bathroom, and will therefore increase the property value of the surrounding neighborhood. As a result, existing community's property values are preserved.

6. Maximizing the use of existing interior space.

Finding: The addition will add approximately 326-square-feet of living space to the existing residence, which allows for an interior remodel of the upper floor, including the addition of bedrooms and another bathroom. The overall scope of the project maximizes the use of existing interior space, and minimally increases the existing footprint of the residence.

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

Finding: The project does not change the land use of the subject property and, as described earlier, has minimal impact on surrounding properties. The new development improves the value of the property. Also, the project will not use or

emit hazardous substances beyond what is normal for a residential property. The project will be required to comply with applicable building and fire codes. Based on the foregoing reasons, the project promotes the general welfare, public health and safety of the Kensington community.

CONDITIONS OF APPROVAL FOR COUNTY FILE #DP19-3019

Project Approval

1. Development is approved as generally described in the application materials received by the Department of Conservation and Development, Community Development Division (CDD) on September 18, 2019, and is subject to the conditions listed below.

General Provisions

2. Any development or expansion beyond the limits of this permit approved under this application may require the review and approval of CDD and may require the filing of an application for modification to a Development Plan and a public hearing, if deemed necessary.
3. The applicant shall eliminate the northwestern facing master bathroom window and the plans shall be reviewed and approved by CDD prior to obtaining a building permit.
4. The deck railing shall be cable railing as shown on sheet A5 elevation dated September 18, 2019, OR shall be glass in compliance with the Building Code requirement to minimize impacts to neighboring property.
5. The deck and the addition on the southern side shall be setback by 3' 2" in order to comply with the 8' 0" aggregate setback.

Payment of Fees

6. This application is subject to an initial application deposit of \$1000.00, 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 the applicant owes additional fees, a bill will be sent to the applicant shortly after permit issuance.

Construction Period Restrictions and Requirements

7. The applicant shall comply with the following restrictions and requirements:

- A. 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 information on the calendar dates that these holidays occur, please visit the following websites:

Federal Holidays:

http://www.opm.gov/Operating_Status_Schedules/fedhol

California Holidays:

<http://www.sos.ca.gov/holidays.htm>

- B. Transportation of large trucks and heavy equipment is 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.
- C. A good faith effort shall be made to avoid interference with existing neighborhood traffic flows.
- D. All internal combustion engines shall be fitted with mufflers that are in good condition and stationary noise-generating equipment such as air compressors shall be located as far away from existing residences as possible.
- E. Construction equipment and materials shall be stored onsite.

- F. The construction site shall be maintained in an orderly fashion. Litter and debris shall be contained in appropriate receptacles and shall be disposed of as necessary.
- G. Any debris found outside the site shall immediately be collected and deposited in appropriate receptacles.

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
 - Contra Costa County Environmental Health Division
 - East Bay Municipal Utility District
 - Stege Sanitary District
 - El Cerrito/Kensington Fire Department