



Agenda Item No. 9h.

Staff Report

Date: February 10, 2022

To: Mayor Robbins and Council Members

From: Richard Simonitch, Public Works Director

Subject: Town Council consideration and approval of an amendment to a Deed Restriction to allow the construction of an accessory structure at 92 Shady lane APN 073-052-38

Recommendation

It is recommended that the Town Council authorize the Town Manager to execute an amendment to a deed restriction that will allow the construction of a 96 SF shed in the rear yard of 92 Shady Lane.

Background and Discussion

On August 1, 2012 former Town Manager Rob Braulik received a request from Bill and Jenny Reilly, the owners of 92 Shady Lane, to purchase a vacant parcel of land owned by the Town of Ross which lies contiguous to and easterly of the Reilly's parcel. The Reilly's desired to purchase the vacant parcel which contains a dense redwood grove, because it was contiguous to their existing back yard and would therefore expand their back yard use. On December 13, 2012 the Town Council adopted Resolution 1795 authorizing the Town Manager to execute a Purchase and Sale Agreement with the Reilly's which transferred fee ownership of the parcel from the Town of Ross to the Reilly's. The Grant Deed contained certain deed restrictions, most notably "the restriction that no additional residential or other structures shall be constructed on the Property".

In May of 2021 Town staff discovered that a small accessory structure was being constructed within the deed restricted portion of the property. The structure is a 96 SF storage shed without electrical, plumbing, or mechanical services, and does not require a building permit. The storage structure is not visible from Sir Francis Drake Boulevard and is barely visible from the sidewalk over a 6-foot-tall rear yard fence. Staff notified the adjacent property owner to the South at 88 Shady Lane (Martin Trust et. al) who were already aware of the structure and did not object to it remaining in the Reilly's back yard.

The shed does not appear to impact the health of their redwood grove, and is a negligible impact to impervious surface, given the total size of the lot=17,601 SF.

The original grant deed contains the restriction on the former Town-owned parcel that *"no additional residential or other buildings shall be constructed on the Property"*. If approved, the recorded amendment (attached as Attachment 1) to the above deed restriction is revised to state that: *"no additional residential or other buildings shall be constructed on the Property, except that a single 8 foot by 12 foot shed with an 8 foot by 9 foot deck may be constructed and located on the Property, as approved by the Town"*

Fiscal, resource and timeline impacts

The applicant has provided a sufficient deposit in the amount of \$9,797 to recover all of staff's cost to review and process the amendment to the Deed Restriction.

Alternative actions

If Council chooses to not execute the amendment to the deed restriction, the Reilly's will be in violation of their deed restriction and will have to remove the shed.

Attachments

1. Proposed amendment to deed restriction
2. Site plan showing shed and deck location

ATTACHMENT 1

RECORDING REQUESTED BY:

William (Bill) and Jenny Reilly

WHEN RECORDED MAIL TO:

William (Bill) and Jenny Reilly
PO Box 843
Ross, California 94957

THIS SPACE FOR RECORDER'S USE ONLY

[The undersigned declares that this **AMENDMENT TO GRANT DEED RESTRICTION** is exempt from Recording Fees pursuant to California Government Code Section 27383 and exempt from Documentary Transfer Tax pursuant to California Revenue and Taxation Code Section 11922.]

(Formerly 073-052-24; now a portion of APN: 073-052-38)

AMENDMENT TO GRANT DEED RESTRICTION

That certain GRANT DEED conveying the subject property, as described on Exhibit A hereto, from THE TOWN OF ROSS to WILLIAM (BILL) and JENNY REILLY and recorded December 29, 2012 in the Official Records of the County of Marin as Document # 2012-0081881 is hereby amended as follows:

THE PROPERTY IS CONVEYED SUBJECT TO:

- a) all liens, encumbrances, easements, covenants, conditions, restrictions, and other matters of record;
- b) the restriction that no additional residential or other buildings shall be constructed on the Property, **except that a single 8 foot by 12 foot shed with an 8 foot by 9 foot deck may be constructed and located on the Property, as approved by the Town;**

[Signature On The Next Page]

IN WITNESS WHEREOF, the undersigned has executed this **AMENDMENT TO
GRANT DEED RESTRICTION** as of the date setforth below.

Dated: _____

TOWN OF ROSS

By: _____

Name: Christa Johnson

Title: Town Manager

EXHIBIT A

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ROSS, COUNTY OF MARIN, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERLY LINE OF THE FORMER RIGHT OF WAY OF THE NORTHWESTERN PACIFIC RAILROAD COMPANY, 60 FEET IN WIDTH, DESCRIBED IN DECREE ON JULY 11, 1873, IN ACTION ENTITLED, "NORTH PACIFIC COAST RAILROAD COMPANY VS. JAMES ROSS, ET AL," (CASE NO. 404, DISTRICT COURT) WITH THE NORTHERLY LINE OF LANDS DESCRIBED IN DEED FROM ADOLPH G. TREFZ TO ALICE T. DYSON, ET AL. RECORDED AUGUST 27, 1945, IN LIBER 491 OF OFFICIAL RECORDS OF THE COUNTY OF MARIN AT PAGE 224; THENCE FROM SAID POINT OF BEGINNING, EASTERLY ALONG THE EASTERLY EXTENSION OF SAID NORTHERLY LINE 60.5 FEET MORE OR LESS TO THE EASTERLY LINE OF SAID FORMER RIGHT OF WAY; THENCE SOUTHERLY ALONG SAID EASTERLY LINE, 99.2 FEET MORE OR LESS TO THE EASTERLY EXTENSION OF THE SOUTHERLY LINE OF LANDS DESCRIBED IN SAID DEED; THENCE WESTERLY ALONG SAID EASTERLY EXTENSION OF SAID SOUTHERLY LINE, 60.5 FEET MORE OR LESS TO THE WESTERLY LINE OF SAID FORMER RIGHT OF WAY; THENCE NORTHERLY ALONG SAID WESTERLY LINE, 99.2 FEET TO THE POINT OF BEGINNING.

CONTAINING 5,952 SQUARE FEET, MORE OR LESS.

(Said property being a portion of APN: 073-052-38 and formally known as APN: 073-052-

24)

ATTACHMENT 2

