

To: Mayor and Ross Town Council  
From: Elise Semonian, Senior Planner  
Re: Ramsay, Watercourse Design Review Application, File 1611  
Date: September 6, 2007

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### I. Project Summary

Legal Owner: David and Anne Ramsay  
Location: 79 Shady Lane  
A.P. Number: 73-091-16  
Zoning: R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum)  
General Plan: Medium Density (3- 6 Units per Acre)  
FEMA Designation: Zone AO (area of 100 year flood)

### II. Project Description

Design review for work within 25 feet of a watercourse. Project involves work to repair and strengthen a creek retaining wall in Ross Creek.

### III. Discussion

Ross Creek runs through the rear of this site and a timber lag retaining wall retains the creek bank. The steel supports are deteriorating near the creek bed. The owners retained a structural engineer to design a solution to repair the wall that was reviewed with staff in October 2006.

The project under construction at the site was approved by Council in November 2006. Staff imposed the following condition of approval on the project:

Design review and environmental review will be required for any creek retaining wall work. The applicant should consult with a structural engineer as well as creek biologist. The creek retaining wall and guardrail project may fall under the jurisdiction of the United States Army Corps of Engineers (Section 404 permit), the California Regional Water Quality Control Board (Section 401 certification) and the California Department of Fish & Game. In general, creek work is only allowed between April and October.

The repair consists of placing 10 steel piles along the wall and a 36 inch tall concrete buttress wall along the base of the wall. Concrete columns would encase the existing exposed steel support structures. Rip rap fill is proposed in front of the new buttress wall to prevent future scouring. The applicants would access the creek from the project site.

The project involves work in a creek that is home to federally-listed endangered salmonids (steelhead). The work could result in adverse environmental impacts and potential "take" of an endangered species if precautions are not taken. Staff has included conditions to protect the wildlife during construction, such as limiting construction to dry periods.

The State Fish and Game Department has already determined that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) as a minor alteration to land (State Clearinghouse Number 2007058397) and has issued a Streambed Alteration Agreement for the project. Therefore, staff is also recommending that Council find the project categorically exempt from CEQA.

Design review is required for any construction, improvements, grading/filling or other site work within twenty-five feet of a creek, whether or not a building permit is required. (RMC §18.41.020(d)). Council may approve the design review application if they find:

1. The project is consistent with the purpose of the Design Review Chapter as outlined in RMC Section 18.41.010.
2. The project is in substantial compliance with the design criteria of Section 18.41.100.
3. The project is consistent with the Ross general plan and zoning ordinance.

The applicants propose to repair an existing wall where alternative design options are limited based on the site conditions. The general plan and design review criteria recommend improving and restoring creek habitat where feasible.

The Town Hydrologist has reviewed the project and has made recommendations on modifications to the design that would limit impacts to the creek and improve creek habitat at the site. The modifications are illustrated on the attached plans. They include eliminating the fill from the fish pool area at the base of the wall, reducing the height of the new buttress wall, increasing spacing between the wood boards or drilling holes to allow for the installation of willow branches to improve creek habitat, and installing bolts to allow for attaching large woody debris for fish cover.

Staff recommends approval of the project with the recommendations by the Town Hydrologist. We have provided some flexibility so that the Town Hydrologist recommendations may be modified for safety and engineering concerns.

#### **IV. Recommendation, Findings, & Conditions**

Staff recommends approval of the project with the following findings and conditions:

##### **Findings:**

1. As conditioned, the project is consistent with the purpose of the Design Review Chapter as outlined in RMC Section 18.41.010 and the project is in substantial compliance with the design criteria of RMC Section 18.41.100. The work proposed is the minimal necessary to repair the wall and measures have been included to improve creek habitat.
2. As conditioned, the project is consistent with the Ross general plan and zoning ordinance.
3. This project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15304, minor alterations to land.

### Conditions

The following conditions shall be reproduced on the first sheet of the construction plans:

1. The applicant shall submit evidence prepared by a licensed land surveyor that confirms the retaining wall and construction work shall take place on the applicants' lot. If the construction work or wall repairs will be off site, the applicant shall submit written evidence from property owners that permission has been obtained for the construction and work.
2. Planning department staff shall review and approve the design of any guardrail or fence proposed within 36 inches of the repaired wall prior to construction.
3. All work which could affect the creek shall be completed when there is no water in the creek and during the June 1-October 15 work window, as established by NMFS Guidelines for anadromous salmonids.
4. The applicants shall incorporate the habitat protection and improvement measures recommended by the Town Hydrologist, attached to the staff report dated September 5, 2007, for the retaining wall repairs. Planning department staff may modify this condition, in consultation with the Town Hydrologist, if found necessary for safety and engineering reasons.
5. The applicants shall make their best efforts to obtain and secure large woody debris on the threaded lag bolts installed on the wall in order to provide cover for fish in the pool area.
6. No creek dewatering of the creek is permitted by this approval.
7. No concrete, cement, slurry, or other construction debris is permitted to enter the creek. If any concrete, cement, slurry, or other debris inadvertently enters the creek, the material shall be cleaned up and removed from the channel immediately.
8. Staging/storage areas for equipment, materials, fuels, lubricants and solvents, shall be located outside of the creek channel and associated riparian area.
9. Spoil sites shall not be located within the stream channel, where spoil may be washed back into the creek. Building materials and construction equipment shall not be stored where materials could fall or be washed into the creek.
10. All existing vegetation outside the project limits shall be left undisturbed.
11. The applicant is responsible for obtaining all appropriate Federal, State and local permits prior to issuance of a building permit, including a Streambed Alteration Agreement from the Department of Fish & Game, permit from the U.S. Army Corps of Engineers and the Regional Water Quality Control Board. The applicant shall comply with any additional requirements of the agencies.
12. The drainage from the residence and site shall not be discharged directly into the creek.
13. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses

and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.

14. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice.
15. **No changes from the approved plans shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval prior to any modification.**
16. Failure to secure required building permits and/or begin construction by September 11, 2008 will cause the approval to lapse without further notice.
17. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.