



Staff Report

Date: September 3, 2014
To: Mayor Elizabeth Brekhus and Council Members
From: Elise Semonian, Senior Planner
Subject: Stern, Basement Exception Application, 66 Bridge Road, File 1971

Recommendation

Town Council approve the project subject to the findings and conditions attached.

Project Summary

Owner: Karen and Stanley Stern
Location: 66 Bridge Road
A.P. Number: 73-302-20
Zoning: R-1:B-20 (Single Family Residence, 20,000 sq. ft. min. lot size)
General Plan: Low Density (1-3 units per acre)
Flood Zone: Zone X (outside high risk area)

Request for a floor area exception under Chapter 18.46 of the Ross Zoning Code (Exceptions for Basements and Attics) to permit improvement of 393 square feet of existing unfinished basement area for a bedroom, bathroom and pantry. One new window is proposed on the east side of the residence.

Lot area	23,751 square feet
Existing Floor Area Ratio	3,557 sq.ft.* 15.0%
Proposed Floor Area Ratio	3,950 sq. ft. 16.6% (15% permitted)
Existing Lot Coverage	3,543 sq. ft. 14.9%
Proposed Lot Coverage	3,543 sq. ft. 14.9% (15% permitted)
Existing/Proposed Impervious Areas	no change

**From 2005 Council approval. This figure may include high ceiling areas that are no longer included in floor area and may exclude covered porches that are now included in floor area.*

Background and discussion

The existing residence was built in 2006 and included an unfinished crawl space area under the second story. The applicants ask for a Basement Exception to allow improvement of the crawl space area for living space, which will bring the site above the maximum floor area ratio.

Staff believes that Council may make all of the required findings for the basement exception as detailed below. The basement improvement will only minimally change the exterior of the structure with the addition of one new window. The additional floor area will not significantly change parking demand at the site and there are on-site parking spaces available.

Fiscal, resource and timeline impacts

If approved, the project would be subject to one-time fees for a building permit, and associated impact fees, which are based in part on the valuation of the work proposed. The improved project site may be reassessed at a higher value by the Marin County Assessor, leading to an increase in the Town's property tax revenues. The Town currently serves the site and there would be no operating or funding impacts associated with the project.

Alternative actions

Alternative actions available to the Town Council include: 1.) continue the public hearing for any further information and review or modifications; or 2.) vote to deny the application.

Environmental review (if applicable)

The project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301 (existing facilities, as an addition to an existing single-family residence in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive). No exception set forth in Section 15300.2 of the CEQA Guidelines (including but not limited to Subsection (a), which relates to impacts on environmental resources; (b), which relates to cumulative impacts; Subsection (c), which relates to unusual circumstances; or Subsection (f), which relates to historical resources, applies to the project.

Attachments

1. Findings and Conditions of Approval
2. Town Council Minute history
3. Material submitted by applicant

Attachment 1

Recommended Town Council Action, Findings and Conditions

Staff recommends that the Town Council approve the project based on staff report, site visits, correspondence, and other information contained in the project file, with the following Findings and subject to the following Conditions of Approval:

1. Area to be improved is an existing area created prior to September 12, 2011, in an existing residence built prior to September 12, 2011. *Basement area created in 2006 with the construction of the residence.*
2. Basement are to be improved has a ceiling height 5.5 feet or greater. *Existing basement area proposed for improvement has at least 5.5 foot ceiling height.*
3. For attic improvements only: the improvements proposed do not change the exterior appearance of the structure by adding dormers, raising the roof ridge, addition of windows, or any other exterior modifications. *Project does not include improvement of an attic*
4. For basements:
 - a. If the structure is in a Special Flood Hazard Area (SFHA) identified on the town Flood Insurance Rate Map and/or in an area that is known for flooding, the finished floor level of the improvements must be above the base flood elevation. *Not in SFHA*
 - b. Modifications proposed to the building exterior cannot materially increase the visible mass of the building and modifications, such as new windows, must be compatible with the design of the existing improvements and shall not create privacy issues. The Council may limit the size of light wells to the minimum size necessary to satisfy California Building Code requirements for light, ventilation and emergency egress. *Proposed new window is compatible with the design of the building and will not create privacy issues due to its location and the configuration of improvements on adjacent sites.*
 - c. Any modifications to site drainage must be designed by a licensed engineer and shall result in no net increase to the rate or volume of peak runoff from the site compared to pre-project conditions. Any new mechanical pumps or *No modifications to existing drainage are proposed.*

equipment shall not create noise that is audible off site.

- 5. The fire chief must confirm that there is adequate water supply for firefighting purposes for the site, or that the project includes measures to provide adequate water supply for firefighting purposes.

If not already sprinklered, sprinklers will be required to be extended to the new living space.

- 6. The site has adequate parking. For purposes of this section, adequate parking shall mean that the site complies with at least the minimum number of parking spaces required for the zoning district (covered or not covered). If the site does not comply with the covered parking requirement, the Town Council may require covered parking to be provided. The Town Council may consider the size of the residence, number of bedrooms, and the size and use of the proposed attic and/or basement area and may require additional parking up to the following:

The site complies with the minimum parking requirements for the zoning district. The site has over 4 parking spaces.

<i>Total site floor area (excluding covered parking)</i>	<i>Required off street parking</i>
1,300 square feet to 3,300 square feet	3 spaces
Over 3,300 square feet	4 spaces

- 7. The project complies with the most recent California Residential Code adopted by the Town.

A building permit is required and conditions of approval require the project to meet all code requirements for the intended use of the areas.

- 8. Excavation, grading or cutting shall not exceed 35 cubic yards. If the project involves excavation, grading or cutting for a basement space, new floor area shall not exceed 20% of the existing floor area.

No excavation is proposed.

- 9. 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 15301, existing facilities.

B. Conditions of Approval, 66 Bridge Road

1. A building permit shall be obtained for the basement improvement project. The project must comply with the building and fire code applicable at the time of the building permit application. Town staff may approve minor modifications to the project that do not result in significant exterior changes and that substantially comply with the approved plans.
2. The town may require fire sprinklers to be extended to the new area if they are not already installed.
3. The floor area exempted under this approval shall not be traded off for non-basement floor area in the future.
4. The project shall comply with any requirements of the Ross Valley Sanitary District and Marin Municipal Water District prior to project final on the building permit. The applicants are responsible for contacting these agencies and obtaining any necessary permits.
5. The building permit project shall comply with the Town of Ross Construction Completion Ordinance.
6. 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 prior to the issuance of any building permits.
7. All applicants and/or owners shall defend, indemnify, and hold the town harmless along with the Town Council and town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding (“action”) against the town, the Town Council, 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 alleging any other liability or damages based upon, caused by, or related to the approval of the project. The town shall promptly notify the applicants and/or owners of any action. The town, in its sole discretion, may tender the defense of the action to the applicants and/or owners or the town may defend the action with its attorneys with all attorney fees and litigation costs incurred by the town in either case paid for by the applicant and/or owners.

Council Member Hunter stated that there is excellent staff in planning and recommended that the applicant discuss matters with Town staff so that the plan is more in conformance.

Council Member Poland favored what the applicant is heading toward.

The Council then provided the applicant with the following guidance:

- Provide an arborist report
- Location of garage must be addressed (move it out of the setback)
- Clean up the issue with the three large windows on the stairway
- Maximum effort to avoid going into setbacks

Mayor Pro Tempore Byrnes expressed concern for the neighborhood becoming a very urban street and encouraged the applicant to exhaust every effort to not locate the garage at its current location.

Council Member Strauss reiterated that the applicant should work closely with staff to resolve issues.

Mayor Pro Tempore Byrnes asked for a motion.

Council Member Strauss moved and Council Member Hunter seconded, to continue the matter. The motion carried by a unanimous vote by the Council.

19. Demolition Permit, Variance, Design Review, and Tree Removal

A demolition permit, variance, design review, and tree removal application has been received from:

Karen Stern, 66 Bridge Road, A.P. No. 73-302-10, R-1:B-20 (Single Family Residence, 20,000 Square Foot Minimum.) Demolition permit to allow the removal of an existing 1,931 square foot three story residence. Variance and design review to allow the following: 1.) construction of a new 3,650 square foot two-story shingle-clad residence within the southeast side yard setback (20 feet required, 14 feet proposed) with a 502 square foot attached two-car garage; a total floor area of 4,152 square feet is proposed; 2.) construction of an approximately 425 square foot roofed open residential wing at the front of the residence; 3.) construction of a swimming pool and pool patio in the front yard; 4.) construction of a partially trellis-covered parking area within the northwest side yard setback (20 feet required, 4 feet proposed); 5.) reconstruction and realignment of an existing 7.5 foot tall (6 feet permitted) open wrought iron vehicular access gate with stone pillars having a width of 2.5 feet and a height in excess of 7.5 feet and located 1 foot from the front yard property line; 6.) construction of a 5 foot tall wrought iron pedestrian access gate and fence with 6 foot tall stone pillars adjacent to the proposed vehicular access gate and located 1 foot from the front yard property line; and 7.) 850 cubic yards of cut, 920 cubic yards of fill, and 292 linear feet of retaining walls with a maximum height of 12 feet. Tree removal approval is additionally requested to allow the removal of two trees, a 42-inch bay and a 36-inch bay.

**Ross Town Council Meeting
January 13, 2005**

Lot area	23,751 square feet	
Existing Floor Area Ratio	8.1%	
Proposed Floor Area Ratio	17.5%	(15% permitted)
Existing Lot Coverage	6.6%	
Proposed Lot Coverage	17.6%	(15% permitted)

(The existing residence is nonconforming in side yard setbacks, height, and number of stories. The property is currently nonconforming in covered parking.)

Gary Broad, Planning Director, summarized the staff report and recommended that the Council discuss the submittal, provide the applicant with direction and continue the matter to allow the applicant the opportunity to review their application.

Jared Polsky, the project architect, noted that this application meets the spirit and intent of the law, which is to reduce the bulk and mass and create a positive structure in the neighborhood. He added that it is a handsome project with a lower profile and in order to do that they pushed the house in the ground. They would have an underground garage that would bring the FAR down to 5%. They have tried to balance their cut and fill so the front yard would be raised. They created a huge outdoor covered deck with a fireplace and specifically followed the guidelines. They desired to create a reasonable home and they believe this is a particular site that findings could be made because it is narrow, steep and 40% of the home is underground. Also, there is a tremendous amount of neighborhood support. He further hoped the Council supported this project in order to move forward.

Mayor Pro Tempore Byrnes opened the public hearing on this item.

Betsy Young, neighbor, supported the project and felt it would be a huge improvement to the neighborhood and they have been great in considering the neighbors boundary.

Diane Rudden, Ross resident, expressed concern for the slide that occurred in 1982 and recommended that the Council take that issue into consideration. Also, the definition of a porch must be addressed and she desired to know if this area is classified as a porch.

Ms. Young discussed the flood and she pointed out that in her view it was a one-time occurrence due to logs and building materials that were stored improperly that created a dam above Chestnut.

There being no further public testimony on this item, Mayor Pro Tempore Byrnes closed the public hearing and brought the matter back to the Council for discussion and action.

Council Member Strauss recommended providing guidance and direction and then continuing the matter to a later date. The Council agreed.

Council Member Strauss urged the applicant to continue to work on the project. Also, the staff report was excellent and agreed with many items. He expressed concern for the FAR and desired compliance with the 15% as well as setbacks. Also, any new

development should be held to standards of the Zoning Ordinance. He further believed it is a great design and could work well.

Council Member Hunter concurred with Council Member Strauss and agreed that it is a beautiful house, but he expressed concern for designing beyond the limitations.

Council Member Poland visited the property and reviewed the plans in detail and believed it would be a great improvement to the neighborhood. Also, he felt the property is unique and exceeding that 15% is very acceptable in this case

Mayor Pro Tempore Byrnes concluded that there is long historic precedent in Ross for designs conforming to the Zoning Ordinance and unless there are clear cut findings it is not their authority to go over significant amounts. He believed in flexibility and judgment, but exceeding the 15% is not acceptable. He understands that part of this house is underground, but there is a law in Town in regard to the 15%.

Mr. Polsky pointed out that there seemed to be consensus and direction from individuals that 17% would be acceptable. He further noted that they would try to bring the FAR down, but desired some direction in regard to a variance.

Stanley Stern, owner, respected the staff report, but it was not his idea to do new construction. He added that it was the architect's idea to take it down and lower it in order to do what they thought was right for the Town under Council's direction. He noted that the neighborhood supported the idea because it makes the project virtually invisible. He stated that 30 plus trees would be planted in order to have privacy and this house would not be seen from the street. He explained that he is trying to hide the house and do what is right. He added that the Council was elected to do what is best to the interest of the neighborhood and Town. He indicated that the neighborhood felt it is a major improvement and right for the neighborhood. He further desired direction from the Council as to what they desired in order to reach a compromise.

Mayor Pro Tempore Byrnes believed that on a clean sheet of paper they should hit the 15%.

Council Member Strauss stated that this project has an accumulative effect. He could agree with the covered deck and if development was cut back so that floor area and lot coverage were not exceeded.

Mayor Pro Tempore Byrnes indicated that the site line to the existing house intersects the new house, so the perception of size is the same from the street.

Council Member Poland agreed that the applicant received guidance from all Council Members, so he is disappointed with the situation tonight. He did not believe the applicant would go against whatever guidance was received.

Mayor Pro Tempore Byrnes stated that the Council would never agree to a 17% floor area in advance of having a public meeting and review of the plans as required by the Brown Act.

The majority of the Council agreed that the target is 15%, not counting the two open porch areas as FAR.

Mayor Pro Tempore Byrnes asked for a motion.

Council Member Hunter moved and Council Member Strauss seconded, to continue the matter. The motion carried by a unanimous vote by the Council.

20. Correspondence

- Letter from Kentfield Fire Chief to be part of their consolidation study.

Mr. Broad desired to send a letter to any interested municipality or fire agency to attend a meeting on fire consolidation, including San Rafael that shares borders with Ross and San Anselmo.

Council Member Hunter recommended getting the MOU done first before any meeting occurs. The Council and staff agreed.

21. Other Business- None

22. Adjournment

BY ORDER OF THE MAYOR PRO TEMPORE, THE MEETING WAS ADJOURNED
AT 10:38 P.M.

Jeanne Barr, Mayor

A T T E S T :

Gary Broad, Town Manager

2. Prior to the commencement of use, a business license shall be obtained from the Town of Ross Building Department. Failure to keep current with Town of Ross business license requirements and business license taxes shall be cause for the revocation of this conditional use permit approval.
3. ANY SIGNAGE ASSOCIATED WITH THIS USE IS SUBJECT TO THE REVIEW AND APPROVAL OF THE PLANNING DEPARTMENT PRIOR TO ITS INSTALLATION.
4. 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 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.

12. Demolition Permit, Variance No. 1550, Design Review No. 453 and Tree Permit Applicant

Karen and Stanley Stern, 66 Bridge Road, A.P. No. 73-302-10, R-1:B-20 (Single Family Residence, 20,000 Square Foot Minimum.)

Demolition permit to allow the removal of an existing 1,931 square foot three story residence. Variance and design review to allow the following: 1.) construction of a new 3,121 square foot two-story shingle-clad residence with a 437 square foot attached two-car garage; a total floor area of 3,558 square feet is proposed; 2.) construction of an approximately 410 square foot roofed open residential wing at the front of the residence; 3.) construction of a swimming pool and pool patio in the front yard; 4.) construction of a partially trellis-covered three-car parking area within the northwest side yard setback (20 feet required, 2 feet proposed); 5.) reconstruction and realignment of an existing 7.5 foot tall (6 feet permitted) open wrought iron vehicular access gate with stone pillars having a width of 2.5 feet and a height in excess of 7.5 feet and located 1 foot from the front yard property line; 6.) construction of a 5 foot tall wrought iron pedestrian access gate and fence with 6 foot tall stone pillars adjacent to the proposed vehicular access gate and located 1 foot from the front yard property line; and 7.) 810 cubic yards of cut, 900 cubic yards of fill, and 292 linear feet of retaining walls with a maximum height of 12 feet. Tree removal approval is additionally requested to allow the removal of two trees, a 42-inch bay and a 36-inch bay.

Lot area	23,751 square feet	
Existing Floor Area Ratio	8.1%	
Proposed Floor Area Ratio	15.0%	(15% permitted)
Existing Lot Coverage	6.6%	
Proposed Lot Coverage	16.1%	(15% permitted)

(The existing residence is nonconforming in side yard setbacks, height, and number of stories. The property is currently nonconforming in covered parking.)

Gary Broad, Town Manager, summarized the staff report and recommended that the Council consider requiring the following three modifications:

1. Scale back the size of the loggia and pulled it back on the lot to reduce lot coverage.
2. Modify the front yard area and reduce the amount of fill. In order to bring lot coverage down, staff recommended reducing amount of fill, lowering the terrace and stepping the pool down such that the terrace would not constitute lot coverage. Staff is very concerned about the visual appearance of this property with an extensive amount of fill placed to the front of the residence and staff felt a pool is more of a rear yard use. In order to minimize the use of this front area in the back yard, staff felt it could more successfully be done if the entire front is not built up. Also, this will require some off haul of fill from the site. However, this temporary off haul is a reasonable tradeoff rather than permanent fill in the front yard.
3. Size of the arbor in back must be scaled back as necessary to bring overall lot coverage down to 15%, which was one of the directives that the Council gave at the January meeting.

Town Manager Broad noted that staff supports the project and design with changes proposed to the front of the property.

Mayor Pro Tempore Byrnes expressed concern for the pool area. Town Manager Broad deferred that concern to the applicant.

Council Member Strauss discussed shingles and asked if they would be left natural or painted. Mayor Pro Tempore Byrnes responded that the shingles would be a light gray stain. Stanley Stern, applicant/owner, concurred.

George Girvin, landscape architect, stated that the concept of the pool was looking at the entire site. They looked at the front area with the grade at approximately 170 as well as some fill generated from the back area. The lawn would be flush with the pool and the terrace would be flush with the pool. The terrace is flush with the main part of the house and loggia and then steps down with stonewalls. So from the lawn it steps up approximately 24-inches with planters. So much of what they did was to connect the surrounding grades and driveway. They tried to maximize the stepping down of the site by lowering a portion of the site for parking that would be below the neighbor's grade. They would mitigate that from any visual impact from the street by using a trellis. There are a series of steps from 180 down in order to meet the grade at the street level. He believed this concept could accommodate the fill due to the existing stonewall on the street with a fence on top of it and a hedge that would remain. They propose to plant many birch trees to create a buffer around the one side of the house. He further stated that they tried to gradually step the area up without any visual impacts.

Mayor Pro Tempore Byrnes discussed the elevations in regard to the north elevation, which is Item 2 on the elevation sheet because he noted some confusion when he visited

the site and asked if the pool coping is flush with the wall. Jared Polsky, project architect, responded in the affirmative.

Mayor Barr discussed the existing front lawn and asked the landscape architect how far up the existing lawn would be from the fill. Mr. Girvin responded that in one area there would be approximately 3 feet of fill and at existing grade there would be approximately 5 feet of fill.

Mayor Pro Tempore Byrnes asked staff whether staff's proposed solution for reducing lot coverage arises from a technicality in their regulations. Town Manager Broad responded that it is lowering the terrace so that it is not more than 18-inches from grade.

Mayor Pro Tempore Byrnes clarified with staff that the loggia is not in the FAR, but in lot coverage. Town Manager Broad responded in the affirmative. Town Manager Broad noted that the staff report recommends three options to reduce the lot coverage or recommends all three options because the loggia is significant in terms of reducing lot coverage whereas the rear arbor is not and the Council has the ultimate authority on what level of lot coverage is allowed and whether or not to grant a variance. Staff noted that the Council could not legally approve what the applicant is proposing because the lot coverage number would be above the 16.1% in the notice.

Mr. Polsky agreed with staff and felt the loggia should line up with the family room and it is a good design idea and would be better massing. In terms of recording the lot coverage incorrectly, technically anything that has a hard surface and is more than 18-inches above existing grade is considered lot coverage, so technically they could plant the terrace and it would not be considered lot coverage. Town Manager Broad responded that a decomposed granite terrace would still be lot coverage, so it is the use not the material.

Mr. Polsky agreed with staff to cut the loggia back and the intent is to lower the lawn and terrace and they reviewed a way to lower the house by 2 feet. Also, if they agreed with the existing front yard elevation as being 175, they would lower the house and terrace 2 feet and the pool would be 18-inches above that average grade. He asked to lower the house 2 feet in order to maintain the patio, but there is no way to lower the patio with respect to the house because it would defeat the entire purpose. Also, they desired plantings to soften the parking area and if they changed the trellis to wires held up on beams with plantings, cut back the loggia, and lowered the house a couple of feet, then they would meet all codes, except they must plant grass on the patio.

Council Member Strauss asked Mr. Polsky how they propose to get to the 15% lot coverage. Mr. Polsky responded that they must plant grass and change the trellis to wires.

Council Member Strauss asked Mr. Polsky where they would be if they left the hardscaped terrace with the other two options. Mr. Polsky responded that they are just under 15% without the trellis, and if they cut the 135 square feet back and add the patio they are 330 feet over, which is 1.5% if they count the back terrace as lot coverage.

Ross Town Council Meeting
March 10, 2005

He then agreed to plant about two-thirds softscape and one-third hardscape up on the terrace and that would bring them to 15% if they lowered the house.

Mr. Stern believed they could reach a resolution if they dropped the loggia, family room, patio, pool and entire lawn down 2 feet. He pointed out that the retaining wall would not need to be at the end of the pool if lowered 2 feet. He further believed they are back to the original level. Town Manager Broad desired clarification in that regard. Mr. Polsky responded that the front portion of the house would be lowered, but not the back.

Council Member Hunter asked staff if the solution as discussed by the applicant would work. Town Manager Broad did not understand the last part as far as landscaping replacements. Mr. Polsky stated that instead of having hard surface areas they would add landscaping and the entire house would drop down and the terrace would go with the house. Some of the terrace would be planted rather than having hard surfaces. He stated that if they plant some of the terrace they could achieve 15%. Mr. Stern desired hard surface, but if it must be part lawn in order to receive approval that would be acceptable.

Mayor Barr opened the public hearing on this item.

Phil Lesh, neighbor, noted his supports for the project.

Silvia Kwan, neighbor/architect, noted that she is very impressed with both presentations and believed the approach of this project as presented before modifications is absolutely appropriate. She stated that the original grade before Mr. Stern cut to the lower the lawn was higher, so Mr. Stern artificially reduced the height of the lawn and the original design as seen today. In a house with multiple funny levels there are several maneuvering problems and recommended reviewing the original design.

Council Member Strauss desired the improvements to be within 18-inches of grade. Mr. Polsky noted that they would have to lower it down by 4 feet. He also noted that the 18-inches is being measured from where grade is today.

Betsey Young, neighbor, felt this is an improvement in terms of what currently exists and noted her support.

Chris Martin, friend of Stern's, believed the Stern's addressed all issues from the previous meeting and hoped the Council approves this project because it is an improvement and in his view it would be a good home.

Debbie Sagues, friend of Stern's, encouraged the Council to accept the plan because it would be a huge improvement to the Town. She urged the Council to approve the plan as presented tonight.

There being no further public testimony on this item, Mayor Barr closed the public hearing and brought the matter back to the Council for discussion and action.

Mayor Pro Tempore Byrnes stated that this is a very handsome design that has been very responsive from the last meeting. He believed they have come a long way and they are

90% or more there. He noted that in regard to FAR they are on the correct number because they are not counting two large areas that amount to 2.5% FAR in regard to the circular porch and loggia. When reviewing legislative history a porch is a covered entryway and it is lot coverage because it is covered with a roof. He questioned whether in substance it is a porch due to the size and by the furniture layout along with a fireplace and felt that is outdoor/indoor living area attached to the dining room and in his view it should be counted in the FAR. He suggested that if the loggia were pulled back by 15 feet, the lot coverage would be reduced by 225 square feet and still have a 15 by 15 area with a fireplace, which in his view more than provides an occasional outdoor usage. He agreed with having one leg not even with the other leg and if pulled back to the half way point that would address his concern from exempting it from FAR. Also, after hearing the grade differential, he could accept a paved pavilion behind the pool, but objected to the 30-inch drop into a swimming pool from a populated area. He would be happy to overlook the lot coverage ratio as it pertains to the patio, but he is more concerned with the substance of lot coverage and FAR and a loggia that is real living space. If it went back to 14 by 15 they would reduce 225 square feet and he would accept the project. He stated that a family room, breakfast room and kitchen serve the pavilion and there is plenty of living space connecting with this patio.

Mr. Polsky proposed cutting the post of the loggia back 8 feet from the proposed position in the drawings. Mayor Pro Tempore Byrnes noted that his suggestion would reduce 1% of the lot coverage.

Council Member Strauss recommended lot coverage at 15% and how they get there is between staff and the applicant.

Mayor Pro Tempore Byrnes objected to a 500-square-foot thumb sticking out of the house. He recommended measuring from the original finish grade before Mr. Stern disturbed it. Town Manager Broad stated that the definition of lot coverage cannot be thrown out, but a variance could be granted instead.

Council Member Strauss suggested cutting back the loggia, so the lot coverage is at 15% and then use wires rather than a trellis with plantings. Mr. Polsky stated that if granted a variance considering the existing grade as 175 and they lower the house as well as cut back the loggia as far as the family room, then they would not have a lot coverage issue, but existing grade must be defined at 175.

Mayor Pro Tempore Byrnes noted that they have pending designs that would not be counted in regard to porches and that is why he is struggling.

Council Member Hunter agreed with the proposal as long as it is pulled back with the other side. Mayor Barr agreed with the idea of using the existing grade.

Mayor Pro Tempore Byrnes noted that they are not imposing the technical procedure of the rules. He noted that the porch is 22 feet and he desired 15 feet. Mr. Polsky stated that the massing would look better if lined up with the family room.

Council Member Strauss did not desire to see the 15% lot coverage exceeded. The Council agreed.

Town Manager Broad stated that they cannot grant a variance because the zoning must define what the lot coverage is based on existing topography because there is no way to know “once upon a time” what the grade was.

Council Member Strauss recommended taking a separate action to return grade to the original grade. Mr. Stern responded that the wall defines the original grade.

Town Manager Broad stated that the application did not propose to return to the original grade. He noted that the Council could grant a variance for lot coverage. Council Member Strauss felt it is bad precedent.

Mr. Polsky suggested approving a lot coverage variance. However, the Council could specify that lot coverage, which is created by any grade that is less than 175 feet will be granted as a lot coverage variance and findings would be based on this grade and the number, which would not set a precedent.

Town Manager Broad pointed out that staff has no idea what the original grade was. Council Member Hunter recommended using the existing retaining wall at 175. Town Manager Broad responded that staff did not review that matter. Staff clarified that the Council is accepting 175 as the original grade, but staff has not investigated that aspect to know what the original grade was.

Council Member Strauss recommended that the General Plan review the issue of lot coverage.

Mayor Barr asked for a motion.

Council Member Strauss moved and Council Member Hunter seconded, to approve the application with staff’s recommendations that the loggia be moved back in line with the family room or greater; grades be calculated based on a reconstitution at a 175 foot elevation; wood trellis in back should be removed and replaced with wire and vines; front yard and front of house lowered 2 feet; garage remain as shown; reconstituted lot coverage not exceed 15%; also urge that the drop between terrace and level of the pool be fenced for safety; and allow clad windows to Planning Department satisfaction. The motion carried by a 3:1 vote by the Council with Mayor Pro Tempore Byrnes opposed.

A. Stern Conditions

- I. NO VARIANCE FOR DEVELOPMENT IN EXCESS OF THE 15% LOT COVERAGE MAXIMUM IS HEREBY APPROVED. *For purposes of calculation lot coverage for this application, the grade below the front terrace shall be the represented natural grade of 175 feet.* Prior to the issuance of a building permit or the initiation of any work associated with this approval, the applicants must submit revised plans for the review and approval of the Planning Department which meet the following conditions:

- I. *The loggia must be pulled back to the line created by the front of the family room wing.*
 - II. *The height of the front of the house and front yard area shall be lowered at least 2 feet in grade from the submitted plans. The garage/rear of the house finished floor level remains unchanged.*
 - III. *The rear trellis shall be wire, not wood, in order to not constitute lot coverage.*
2. The applicants shall pay required Town fees of \$3 for every cubic yard of off-haul resulting from this project. Final off-haul amounts shall be calculated by the project civil engineer with calculations submitted to the Director of Public Works prior to the issuance of a building permit.
 3. *All windows shall be real wood windows without cladding, either on their interior or exterior, with permanent wood mullions appropriate to the style of the structure, unless the Planning Department approves clad windows as equal to real wood in appearance. All windows must substantially resemble real wood true divided light windows and are subject to Planning Department approval prior to the issuance of a building permit.*
 4. Prior to project final, the applicants shall submit a final landscape plan for the review and approval of the Planning Department. The submitted plan shall focus on screening the residence and associated development from off-site vantage points.
 5. **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.
 6. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
 7. This project shall comply with the following requirements to the satisfaction of the Department of Public Safety: 1.) THE HYDRANT LOCATED AT BRIDGE AND CHESTNUT MUST BE UPGRADED TO STEAMER TYPE (ONE 4 ½” AND TWO 2 ½” OUTLETS); 2.) SPRINKLERS ARE REQUIRED; 3.) clear all brush impinging on the access roadway; 4.) a street number must be posted (minimum 4 inches on a contrasting background; 5.) a Knox lock box is required; 6.) remove all dead or dying flammable materials as per RMC Chapter 12.12; and 7.) a 24-hour monitored alarm system required.
 8. Any portable toilets shall be placed off of the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
 9. Prior to the issuance of a building permit, the applicants shall submit a tree protection plan drafted by a certified arborist for the review and approval of the Planning Department. The submitted tree protection plan shall focus on the protection of all on-site trees not hereby approved for removal during construction and upon the ongoing preservation of their health and vigor. The

- tree protection plan shall include specific provisions acceptable to the Planning Department for independent on-site monitoring of Conditions No. 10-18, below.
10. Before the start of any clearing, excavation, construction, or other work on the site, or the issuance of a building permit, every significant and/or protected tree shall be securely fenced-off at the non-intrusion zone, or other limit as may be delineated in the required tree protection plan. Such fences shall remain continuously in place for the duration of the work undertaken in connection with the development.
 11. If the proposed development, including any site work, will encroach upon the non-intrusion zone of a significant and/or protected tree, special measures shall be utilized, as approved by the project arborist, to allow the roots to obtain necessary oxygen, water, and nutrients.
 12. Underground trenching shall avoid the major support and absorbing tree roots of significant and/or protected trees. If avoidance is impractical, hand excavation undertaken under the supervision of the project arborist is required. Trenches shall be consolidated to service as many units as possible.
 13. Concrete or asphalt paving shall not be placed over the root zones of significant and/or protected trees, unless otherwise permitted by the project arborist.
 14. Artificial irrigation shall not occur within the root zone of oaks, unless deemed appropriate on a temporary basis by the project arborist to improve tree vigor or mitigate root loss.
 15. Compaction of the soil within the non-intrusion zone of significant and/or protected trees shall be avoided.
 16. Any excavation, cutting, or filling of the existing ground surface within the non-intrusion zone shall be minimized and subject to such conditions as the project arborist may impose. Retaining walls shall likewise be designed, sited, and constructed so as to minimize their impact on significant and/or protected trees.
 17. Oil, gas, chemicals, or other substances that may be harmful to trees shall not be stored or dumped within the non-intrusion zone of any significant and/or protected tree, or at any other location on the site from which such substances might enter the non-intrusion zone of a significant and/or protected tree.
 18. IN NO CASE SHALL CONSTRUCTION MATERIALS OR DEBRIS BE STORED WITHIN THE NON-INTRUSION ZONE OF A SIGNIFICANT AND/OR PROTECTED TREE.
 19. 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.
 20. 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 prior to the issuance of any building permits.
 21. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY MARCH 10, 2006 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
 22. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
 23. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
 24. 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.

Mayor Barr announced at 8:49 p.m. that the Council would take a short recess and then reconvene with the next agenda item.

13. Variance No. 1549, Design Review No. 452 and Tree Permit Application
John and Lisa Martin, 73 Bolinas Avenue, A.P. No. 73-041-22, R-1 (Single Family Residence, 5,000 Square Foot Minimum.)

Variance and design review to allow the following: 1.) replacement of existing windows with French doors on the rear elevation and within the west side yard setback (15 feet required, 10 feet proposed) and east side yard setback (15 feet required, 10 feet proposed); 2.) construction of a new rear yard landing and patio within the west side yard setback (15 feet required, 7 feet proposed) and east side yard setback (15 feet required, 4 feet proposed); 3.) construction of a 7 foot tall trellis topped built-in barbeque structure within the west side yard setback (15 feet required, 3 feet proposed); and 4.) construction of a patio within the rear yard setback (40 feet required, 3 feet proposed), east side yard setback (15 feet required, 2 feet proposed), and guideline watercourse setback (25 feet recommended, 3 feet proposed). Tree removal approval is additionally requested to allow the removal of 5 trees, including a mature redwood, 2 recently planted madrones, a recently planted ginkgo, and a recently planted olive. This application proposes no new or altered floor area

Lot area	6,400 square feet
Existing Lot Coverage	35.1%
Proposed Lot Coverage	36.1% (20% permitted)

(The existing residence is nonconforming in front yard, west side yard, and east side yard setbacks. The existing rear yard patio is nonconforming in east side yard setbacks.)

Gary Broad, Town Manager, summarized the staff report and recommended that the Council approve the project with the Town Arborist's recommendation that the redwood tree be removed with findings and necessary modifications to the conditions. Staff noted that several residents expressed concern for removal of trees and additional impervious surface.

Mayor Barr staff discussed the guideline water setback and asked staff to explain the three feet proposed. Town Manager Broad responded that the watercourse is along the back property line. Staff stated that there is a garden patio shown in the back corner near a drainage way and it is a small sized structure, so staff is not concerned because there is no riparian habitat.

13. 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.

18. **Denial No. 15 (Filed with Variance no. 1550)**
Karen and Stanley Stern, 66 Bridge Road, A.P. No. 73-302-10, R-1:B-20 (Single Family Residence, 20,000 Square Foot Minimum). Variance and amendment to a March 10, 2005 variance, design review, demolition permit, and tree removal approval to allow the following: 1.) reorientation of the approved front yard swimming pool from a north-south axis to an east-west axis; 2.) enlargement of the pool from 9' x 38' to 14' x 38'; and 3.) construction of a fireplace within the east side yard setback (20 feet required, 18 feet proposed).

Gary Broad, Town Manager, summarized the staff report and recommended that Council not support the larger pool and requested change to allow it. Staff is unable to support either of the two requests and recommended denial of this application.

Jared Polskey, architect, noted that the landscape architect is unable to be present tonight, so he submitted a letter in the Council's packet discussing the pool change. The pool was rotated 90 degrees and lowered to the level of existing grade with a net reduction of elevated hardscape. They increase the distance of the wall to stair massing. They removed two raised planters, so there is less hardscape in this plan and more turf in this design. In moving forward, a number of pool contractors recommended against the original design, so what is proposed tonight is a better design that allows for more screening. Once screening is planted, the pool would not be visible. In regard to the fireplace, they show a large window near the setback line that looks into the side of the neighbors garage, and the Stern's desired a fireplace and the only way to do that is to push it out. It would project two feet two-inches into the side yard setback that will not be visible, but adds to the quality of the house. He further noted that both changes are deminimis.

Stanley Stern, owner, currently lives in Corte Madera with a fireplace and now they desired a new fireplace with the Ross home. He hoped Council would allow the two feet two inch encroachment into the rear yard setback. It is important to have a fireplace because it is used as a gathering place for his family. He pointed out that there is no objection from the neighbors. Also, the pool being moved over will allow for more landscaping. They planted 29 trees on this property and would plant more if given the opportunity. He further believed this is better for the neighbor and his family.

Mayor Strauss opened the public hearing on this item, and seeing no one wishing to speak, he closed the public hearing and brought the matter back to Council for discussion and action.

Council Member Byrnes considered that semi outdoor family room a giant technical loophole and the Town rectified that issue by changing the definition of porches. A 500 square-foot outdoor roof with a fireplace and a porch would be living space. Now, the Council is faced with another fireplace on the other side and relocating the pool to prevent a much wider face to the street, which uses up more screening area.

Mayor Pro Tempore Hunter reminded everyone that this was a demo and remodel and they worked very hard to reach an agreement on a plan and now they are being asked to revise a plan that was approved. He objected to changing the pool.

Council Member Barr had no objection to the fireplace, but objected to change the pool as well.

Council Member Durst stated that this project went through some extensive review. She stated that the house that was approved is the house that is approved and she did not want to go through additional discussion on this project.

Mayor Strauss will only support what was previously approved and cannot support the pool or fireplace modification.

Council Member Barr pointed out that in building a house items change and people should have the right to ask Council to tweak the plans. She felt individuals should be welcomed back for revisions. She further had no objection to the fireplace. Mayor Strauss stated that they are located right at the floor area ratio and it is a new house, so it must be held to that standard.

Town Manager Broad noted that the fireplace is an additional floor area and the house was approved at 15%, so technically the house is over 15% because of the change in definition of porch as Council Member Byrnes discussed.

Mayor Pro Tempore Hunter stated that under today's ruling they would already be over floor area. Council Member Barr added that the applicant's cannot be penalized for new rules.

Mayor Strauss asked for a motion.

Council Member Byrnes moved and Council Member Durst seconded, to deny the application. Motion carried by a 4:1 vote. Barr opposed.

19. Variance and Design Review

Nan and Rob Foster, 18 Southwood Avenue, A.P. No. 73-151-03, R-1-B-20 (Single Family Residence, 20,000 Square Foot Minimum). Variance and design review to allow the following: 1.) demolition of an existing carport and construction of a new 350 square foot one car garage within the west side yard setback (20 feet required, 0 feet proposed), rear yard setback (40 feet required, 2 feet proposed), and guideline watercourse setbacks (50 feet recommended, 2 feet proposed); 2.)

February 8, 2007 Minutes

Town Manager Broad acknowledged ABAG as well for providing not only basic insurance and workers' comp, but also for a great grant program and providing consultants to help with a lot of the work. Ross would not have accomplished this with out Mr. Beverly and ABAG's help.

14. Council consideration of Resolution No. 1619 granting Marin Sanitary Service an 8.1% rate increase for 2007, effective January 1, 2007.

Gary Broad, Town Manager, summarized the staff report and recommended that Council approve Resolution No. 1619, granting Marin Sanitary Service an 8.1% rate increase for 2007, effective January 1, 2007 with the rate schedule.

Marin Sanitary Service representative announced that they are present to answer any questions of Council. MMS representative also noted that it has been a good year. They are proud because they are 5% under the average rate even though the recycling rate is the highest.

Mayor Strauss opened the public hearing on this item.

Diane Rudden, Ross resident, thanked MMS for picking up more than one can and for working with the RPOA.

There being no further public testimony on this item, Mayor Strauss closed the public hearing and brought the matter back to Council for action.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Council Member Durst seconded, to approve Resolution No. 1619, granting Marin Sanitary Service an 8.1% increase for 2007, effective January 1, 2007. Motion carried unanimously by Council.

15. **66 Bridge Road, Landscape Screening Review of Variance No. 1550 Stanley and Karen Stern, A.P. No. 73-302-10**, R-1:B-20 (Single Family Residence, 20,000 Square Foot Minimum) Low Density (1-3 Units per Acre). Consideration of landscape issues associated with March 2005 Council approval of demolition permit, design review and variance approval.

Elise Semonian, Senior Planner, described the landscape screening proposed between the driveway and property line shared with 64 Bridge Road. In regard to the remaining driveway area, the Stern's wanted to add a redwood hedge. Staff provided photographs for Council's consideration in that regard. The Stern's want to maintain that 30-foot hedge to screen the house area of their project and offered to maintain that screening. The Town Arborist believed this is great screening. Redwood trees grow very fast, they are native to Ross and grow well in the area. Also, there is sufficient light. The Young's have concerns with the redwood tree hedge and maintenance is a concern, so an option is cherry laurel trees, proposed at 24-inch box standard form trees to provide screening between the properties. Cherry laurel trees are found at the Post Office. Cherry laurel trees were agreed upon, but the Stern's prefer a redwood tree hedge. Conditions are left open that a fast growing evergreen tree could be selected, but must be reviewed by the Town Arborist. Staff recommended approval of the plan with the modifications proposed.

February 8, 2007 Minutes

Mayor Pro Tempore Hunter asked staff what other options are available in addition to the cherry laurel trees or redwood hedge. Staff explained that pittosporum eugenioides and sweet bay were also considered.

Mayor Pro Tempore Hunter stated the advantage of a cherry laurel is that it grows to a given height and a redwood hedge, if not maintained, would grow to a redwood tree size. Senior Planner Semonian responded in the affirmative, but noted that a redwood hedge could be contained with trimming. A cherry laurel grows to about 35 to 40 feet and a pitosporum is the same. Staff noted that cherry laurel is used as a hedge, but they come in tree form and are very common in other parts of the country and used more frequently in Marin County as a hedge.

Council Member Cahill asked staff how rapid is the growth of a redwood versus a pitosporum.

Council Member Cahill asked staff the approximate height per year the trees would grow. Senior Planner Semonian believed redwoods would grow about 3 to 5 feet per year; birch trees are about 2 to 3 feet per year; and she was unsure of the growth rate for the cherry laurel trees, but believed they were also fast growing. Council Member Durst provided a book called "*Trees and Shrubs for Climate Change*" for Council's review in order to better understand the different shrubs and trees.

Mayor Strauss asked staff if the Town Arborist is comfortable with this plan. Senior Planner Semonian noted that she was and that the Town Arborist was unable to attend the meeting, but is available by phone, if so needed for questions.

Karen Stern, owner, appreciated staff's time and noted her thanks. They tried to create the best screening possible. She further noted that tonight their consultant, gardener and attorney are all present to answer any questions.

Stern's arborist stated that ultimate height of these trees must be considered. Adequate moisture must be provided. If the goal is to provide dense screening, it will take a number of years to achieve that goal. To provide 40 feet of screening could occur with optimum fertilization and space. The root space is limited, which will affect the overall height. They must consider habitat potential that redwoods would provide for native fawn and are friendlier to birds. Maintenance must occur to maintain the hedge. In regard to a very quick impact screening, cherry laurel trees will be a long-range project to achieve that goal. The lifespan of the current Leyland is on the downward side.

Mayor Pro Tempore Hunter asked the arborist if it is possible to plant a redwood hedge behind the Leyland trees and while they die off, the new redwoods in the next five years could come close to the same height. Stern's arborist responded in the affirmative. Giving they are growing next to a seasonal water ditch, they will receive adequate moisture and reach the same height since the Leyland trees have been topped at 20 feet.

Council Member Cahill asked the arborist the estimated timeframe for both species of trees to attain that height. Stern's arborist responded that cherry laurel trees would take about 20 years and redwoods would take 6, 7 or 8 years.

February 8, 2007 Minutes

Mayor Strauss opened the public hearing on this item.

Stanley Stern, owner, desired a screen and requested a redwood hedge next to the redwood fence. They talked to three arborists, two outside contractors and the Town's Arborist and all recommend a redwood hedge, which is native to the environment. The Town's Arborist agreed the fastest hedge is a redwood hedge. At installation, the specie will be 10 to 12 feet in a 24-inch box. Redwood is fast growing, perfect for the environment and they will maintain the redwood hedge as they maintain all of their property. He further asked the Town for permission to plant the redwood hedge in order to move forward with this matter.

Betsy Young, Bridge Road resident, desired a fast screening as well, but one that is attractive and did not require maintenance when 25 to 30 feet tall. A pitosporum will be equally dense and not need to be maintained as a hedge. Birch is not native, but grows very well. They do not want a hedge that must be maintained at 30 to 40 feet that looks like a dense wall. They desired a softer appearance and not needing to be maintained would be more practical in her view. She further noted that they desired resolution on this matter as well.

Mayor Strauss asked the arborist the nature of a cypress hedge in regard to the one located at Shady lane. Stern's arborist pointed out that an Italian cypress would not provide a uniform screening, but a Monterey cypress can be hedged.

Mr. Stern pointed out that the Young's have 5 or 6 Redwoods, so planting more redwoods would tie in seamlessly in his view.

Senior Planner Semonian noted that one reason pittosporum eugenioides was rejected as an option was that it comes in very short sizes initially. They could not find any to fit the space that were taller than 6 feet in height, so no initial screening would be provided. Also, staff noted that English laurel did thrive on the Young's property.

Diane Rudden, Ross resident, believed redwoods grow well, but redwood roots do not allow any other specie to grow around them. Her camellias are dying from the redwood next door because the roots of the redwood do not allow other plantings. Stern's arborist explained that redwood trees are an ideal candidate for rhododendron, camellias and azaleas, but installing landscaping simultaneously would be an ideal situation. Ms. Rudden disagreed.

Mayor Pro Tempore Hunter felt redwoods planted behind the Leyland trees would be the ideal solution. Mr. Young expressed concern for the shading that will occur from the redwood trees. Also, the redwoods planted up toward the Stern's retaining wall are not interfering with the sun, if planted in the proposed location it will compete with the sun.

There being no further public testimony on this item, Mayor Strauss closed the public hearing and brought the matter back to Council for discussion and action.

Council Member Durst expressed concern for any drainage pipes in the area due to the redwood roots. Over time redwoods will provide effective screening, but she felt they are a problem. They are meant to be out in the middle of nowhere with a lot of rain. Stern's arborist stated that there is no infrastructure below grade. There is a drainage ditch that redwoods will take advantage of and grow. Council Member Cahill stated that there is a drainage line immediately adjacent to the curb just inside the driveway adjacent to where these redwoods are to be planted. They are 3 feet below grade, and he asked the arborist if

February 8, 2007 Minutes

that would be an issue. Stern's arborist responded that redwood trees are surface rooted. Most trees grow on the top four feet due to oxygen needs, so three feet is typical.

Council Member Cahill wanted to know the intent of Council when this was approved. Mayor Strauss thought the Leyland trees would thrive and that there would be ample screening provided. Mayor Pro Tempore Hunter noted that as with any project approved, often times final landscaping plans are not provided and there is always the caveat that the landscape plan must be submitted to staff and Council reserves the right to come back and ask for additional landscaping within the first three years. The real focus was on the structure and placement on the site.

Council Member Cahill stated that there is no information in the minutes that addresses the landscaping. Mayor Pro Tempore Hunter explained that not much discussion occurred in that regard.

Council Member Durst stated what is proposed is significantly different than the original proposal. She wanted to know what would be attractive and provide screening. She is not sure redwoods would work best as a hedge tree. Mr. Stern stated that birch trees were to be planted all the way up and if that is desired that is acceptable. Mayor Strauss noted that the birch trees are deciduous and there is a pretty big crown, which the photographs depict. He wanted to be specific to satisfy the screening of the house. Mayor Pro Tempore Hunter added that Leyland trees are present and the redwoods can grow while the Leyland trees fade away. Mayor Strauss concurred. He felt by adding redwoods it would mitigate the loss of the Leyland trees and in one year Council could review to make sure the landscaping is adequate.

Mayor Pro Tempore Hunter asked staff if there is any way the Town could compel the trimming of the hedge if the owners did not maintain without coming before Council. In other words, could a condition of approval be included in that regard. Town Manager Broad noted that as part of the landscape plan, consideration included a stipulation, but it still is an enforcement situation. Dependent on a property owner complying with that stipulation, and if not in compliance, it must come back before Council for enforcement action. Mr. Stern is happy to stipulate that they will maintain the redwood hedge at 40 feet or below.

Council Member Cahill stated that with any landscape approval, Council has a three year time period to review. The trees will not be 40 feet in three years, so a condition must be added that requires the Stern's to maintain the redwood hedge 40 feet or below for a longer period of time. Town Manager Broad stated that Council can approve the landscaping with requirements, if so desired, particularly if Mr. Stern indicated that he is accepting of that stipulation. Mayor Pro Tempore Hunter asked staff if the condition could run with the land. Town Manager Broad indicated that it would run with the land. Attorney Hadden Roth and the Stern's Attorney concurred.

Council Member Cahill agreed with the redwood hedge, which goes along with the General Plan in regard to native species. Council Member Skall concurred.

Council Member Durst desired different specie than the redwood hedge. She has issues from her past experience with redwoods. She understands that it is a California native, but wished the environment was such to consider another specie. She suggested an English

February 8, 2007 Minutes

laurel. Senior Planner Semonian noted that initially English laurels are not tall enough and she reiterated that English laurels do not thrive in the area.

Bryant Young, Bridge Road resident, stated that if enforcement is recorded against the property, then they can live with the redwoods, but suggested a bigger box redwood than proposed. Mayor Strauss pointed out that the Leyland trees would remain until they fail and during that time the Redwoods would be planted. Also, due to the space, the proper sized root ball is better as opposed to stuffing a bigger tree in that space. Stern's arborist concurred that the quicker establishment rates are smaller trees. He advised putting in a 24-inch box tree rather than a 36-inch box tree. Also, some irrigation would enhance the growth rates. Mr. Stern pointed out that he has a well and intends to water these trees. Stern's arborist added that an irrigation system is provided in the landscape plan approval.

Town Manager Broad noted that this can be memorialized, so that any chance of sale of the property it will be called out to potential buyers, so a condition could run with the property that plantings be limited to 40 feet or below and maintained as a redwood hedge, not a tree. The Stern's attorney requested that they not be required to record this instrument, which goes far beyond what is necessary. There is a voluntary agreement on the part of the owners. To record this instrument would impose a burden on the property owner, which is not legally necessary.

Council Member Cahill stated that to ensure this survives the sale of the property, it must be recorded in his view. Mayor Strauss pointed out that if the hedge dies what then happens, it becomes very restrictive. Attorney Hadden Roth noted that the enforceable issue is maintaining the hedge at a certain height.

Mayor Pro Tempore Hunter asked the Town Attorney if as a condition of approval for this landscape plan that the current and any future owner must keep the trees at 40 feet or below. Attorney Hadden Roth responded that it may not work legally for a new owner.

Council Member Cahill stated if not recorded, it will not run with the land. Council Member Durst noted that approvals run with the property, so if this must be maintained at 40 feet, then it must run with the property. Attorney Hadden Roth stated it may not run with the property unless recorded. Attorney Hadden Roth stated that if a property owner buys a piece of property and did not know about this condition they do not have to abide by it. Recording is constructive notice. Council Member Durst believed approval of this redwood hedge must be recorded because it is about the property.

Mayor Pro Tempore Hunter asked staff on a resale inspection can language be inserted for this property. Town Manager Broad responded that minutes of this meeting would be provided, but after they have gotten all this information a few years down the road they do not remember seeing such information, there is no enforceable action. Staff pointed out that conditions on design review and various approvals are not recorded and are binding upon future property owners. Attorney Hadden Roth stated that variances and use permits run with the land, but other issues that are not recorded may not be enforceable. Town Manager Broad presumed conditions would be enforced and be in effect after a property transfer.

Council Member Cahill pointed out that the resale report goes to the buyer. Public Works Director Jarjoura indicated that it goes to both the buyer and seller, but the buyer may not read the document, so it may not be enforceable.

Mr. Young stated that he compromised with the redwood hedge, but asked that regardless that the hedge be maintained and to make that happen it must be recorded. Recording will memorialize that the Stern's agreed to do so. Mayor Strauss stated that it is about the property in regard to other owners. He felt there is plenty of protection in a buyer's agreement. Attorney Hadden Roth stated that it may not be enforceable, if not recorded. With recordation, it is assured to be maintained and be enforceable.

The Council took a straw vote on the following:

- *Council agreed on 6-foot fence.*
- *Applicants and affected parties agreed on 6-foot fence.*
- *All agreed on a 24-inch box redwood hedge being installed supervised by a licensed landscape architect, 7-foot on center. (Subsequently changed to 9-foot on center.)*
- *Birch trees located in the front are adequate, but Council reserves the right to review within three years and require additional screening.*
- *Redwood hedge shall be maintained at 23 to 40 feet in height.*

In regard to recording, Council Member Durst is in favor of having something recorded as part of this resolution that the redwood hedge must be maintained between 23 and 40 feet. Council Member Cahill agreed as well because the only way to be assured that this requirement is preserved for a subsequent owner it must be recorded. Mayor Strauss, Mayor Pro Tempore Hunter and Council Member Skall opposed recordation.

Mayor Pro Tempore Hunter stated that any kind of a deed restriction is an unknown to the property over time. The system generally works and this does not rise to the level where putting a restriction on the deed is necessary. The height and screening will be provided. The requirement to maintain these trees between 23 and 40 feet runs with the land and will be provided in the seller's report, which is appropriate.

Mr. Stern indicated that he is comfortable with Council's decision. He further noted that they would make their land beautiful. Mr. Young believed Council is wrong and felt this matter should be recorded.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Skall seconded to approve the proposed screening plan for 66 Bridge subject to the following modifications and conditions:

1. Except as otherwise provided in these conditions of approval, the proposed landscape screening shall be installed as proposed.
2. Additional landscaping shall be provided between the driveway retaining wall and the walls above it as suggested in the 2/1/07 town arborist report.
3. The 6-foot redwood fence must have rot resistant material utilized in the post and base of the fence. The 6 foot height shall be measured from the top of the driveway curb.

February 8, 2007 Minutes

4. 24-inch box redwood trees shall be planted in the planter area from roughly in front of the loggia back to the retaining wall, 7 feet on center.
5. The trees shall be planted under the supervision of an arborist, shall be appropriately irrigated and permitted to grow to a height of 23 to 40 feet.
6. **The owners of the site shall regularly maintain the hedge at not less than 23 feet and not more than 40 feet in height.**
7. Council retains the right to require additional landscaping from three years from project final. The Town should review the plan in spring when the birch trees have leaves to determine if additional screening may be necessary for the pool area.

Motion passed by a 4:1 vote. Council Member Durst opposed.

Mayor Pro Tempore Hunter noted that the Town hired a wonderful new employee and acknowledged Senior Planner Semonian for all her efforts on this project.

16. **Town Council adoption of Ordinance No. 599 amending Municipal Code Section 9.20.010, Unnecessary Noise, adding public roadways, sidewalks, paths and public right-of-way regulations.**

Barry Heying, Police Chief, summarized the staff report and recommended that Council adopt Ordinance No. 599, amending Municipal Code Section 9.20.010, unnecessary noise, adding public roadways, sidewalks, paths and public right-of-way regulations.

Attorney Hadden Roth reviewed Novato, San Rafael, Tiburon and Mill Valley. He noted that Tiburon had no general prohibition against noise, and the language provided by Chief Heying is better than all cities, which protects the right of free speech.

Mayor Strauss opened the public hearing on this item, and seeing no one wishing to speak, he closed the public hearing and brought the matter back to Council for action.

Mayor asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter moved seconded, to adopt Resolution No. 599. Motion carried unanimously.

Town Attorney Hadden Roth excused himself from the Town Council meeting at 8:05pm.

17. **Town Council discussion and comment on the Ross Valley Paramedic Authority (RVPA) Five Year Strategic Plan Final Report September 2006.**

Bruce Hart, RVPA, stated RVPA engaged a consultant to come up with a 5-year strategic plan. It took about a year to put the plan together and then 4 or 5 months with discussion

and 3 or 4 months ago it was presented in final form to the Paramedic Authority. They held a public meeting and all council from all represented agencies were invited. It was an attempt to reach out to the public. The Authority received it rather than accept it because it had

Council Member Durst hoped to discuss this matter during the downtown planning discussion.

- II. Town Council consideration of Resolution No. 1620 approving the landscape screening plan associated with March 2005 Council approval for Stanley and Karen Stern, 66 Bridge Road, A.P. No. 70-302-10.

Mayor Strauss summarized the staff report and recommended that Council adopt Resolution No. 1620, approving the landscape screening associated with March 2005 Council approval for Stanley and Karen Stern.

Town Attorney Hadden Roth indicated that the resolution is acceptable.

Mayor Strauss opened the public hearing on this item, and seeing no one wishing to speak, he closed the public hearing and brought the matter back to Council for action.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Council Member Durst seconded, to approve Resolution No. 1620, approving the landscape screening plan associated with March 2005 Council approval for Stanley and Karen Stern. Motion carried 4-1. Durst opposed.

12. Steering Committee presentation of the draft 2007-2025 Town of Ross General Plan to the Town Council.

Town Manager Broad noted that tonight is the kick off in presenting to Council the Draft General Plan. Over the 2.5 years it has been his pleasure to work with the consultant and the Steering Committee, which includes six members of the community, plus former Council Member Thomas Byrnes as Council liaison and then Mayor Pro Tempore Hunter as the Council liaison. It has been a wonderful process learning about the Town and the issues as well as having over 20 meetings. There has been a huge amount of effort in regard to the document before Council tonight. It has been an effort of getting a lot of material and then condensing it all back down into a manageable form. He is very proud of what has been developed and he thanked the Steering Committee who has done a terrific job. He further noted that he is very pleased with the effort to date and this will be a real asset to the Ross community.

Mayor Strauss thanked the Steering Committee as well as former Council Member Byrnes and Mayor Pro Tempore Hunter as the Town's liaisons.

Jody Becker, Steering Committee, noted that almost two and a half years of intense effort, including 23 meetings and numerous subcommittee meetings, the General Plan Steering Committee is pleased to present to Council the Draft Ross General Plan. They had a great time working on the plan because they had a terrific committee under the gentle but firm guidance of our Chairman, George Dirkes who sincerely regrets that he is unable to attend the meeting tonight. They thanked Council for providing them with two excellent dedicated liaisons, Thomas Byrnes and Scot Hunter. Their trenchant, incisive observations added great value to their meetings. In alphabetical order the other members of the Committee are Bruce Goldberg, a former President of the Ross School Foundation who, as we speak, is overseas conducting supervision of his worldwide manufacturing business.

TOWN OF ROSS

RESOLUTION NO. 1620

A RESOLUTION OF THE ROSS TOWN COUNCIL APPROVING THE LANDSCAPE SCREENING PLAN ASSOCIATED WITH THE DEMOLITION PERMIT, DESIGN REVIEW AND VARIANCE APPROVAL OF KAREN AND STANLEY STERN, 66 BRIDGE ROAD, A.P. No. 73-302-10 TO ALLOW THE CONSTRUCTION OF A NEW RESIDENCE AND POOL

WHEREAS, at the meetings of the Ross Town Council held pursuant to lawful notice at Ross Town Hall on March 10, 2005, the Town Council approved a demolition permit, design review and variance application for demolition of an existing residence and construction of a new residence and pool, submitted by Karen and Stanley Stern, 66 Bridge Road, Assessor's Parcel Number 73-302-10; and

WHEREAS, a condition of the March 10, 2005, approval permitted the Town to require additional landscape screening for up to three years from project final; and

WHEREAS, the approved plans include a new driveway located as close as three feet from the west property line, which necessitated removal of several 5-inch diameter birch trees at the site and limits the planting area available for new screening landscaping between the site and the lot to the west, known as 64 Bridge Road, Assessor's Parcel Number 73-302-07; and

WHEREAS, a row of Leyland cypress trees located along the east side of 64 Bridge Road currently screens views of the new residence at 66 Bridge Road, but the trees have a canker that will lead to their demise; and

WHEREAS, at the meetings of the Ross Town Council held pursuant to lawful notice at Ross Town Hall on February 8, 2007, the Town Council considered the landscape screening plan submitted by Karen and Stanley Stern to provide screening landscaping between 66 Bridge Road and 64 Bridge Road; and

WHEREAS, the Town Council has considered all the testimony and public input presented at these public hearings and has considered all the plans, reports, letters, written material, and graphic material submitted related to this application;

NOW, THEREFORE, BE IT RESOLVED, that the Town Council hereby approves the screening plan, dated December 18, 2006, on file with Variance No. 1550 for 66 Bridge Road, subject to the following modifications and conditions:

1. Except as otherwise provided in these conditions of approval, the applicants shall install the landscape screening as proposed.
2. The applicants shall provide additional landscaping between the driveway retaining wall and the walls above it as suggested in the February 1, 2007 email by town arborist Becky Duckles.
3. The applicants shall construct the posts and base of the 6-foot redwood fence of rot resistant material. The 6 foot fence height shall be measured from the top of the driveway curb.
4. The applicants shall plant redwood trees, 24-inch box size, in the planter area between the driveway curb and west property line as shown on the plan, from roughly in front of the loggia back to the retaining wall, 9 feet on center, to create a redwood hedge.
5. The redwood trees shall be planted under the supervision of an arborist to ensure they are planted properly and that the Leyland cypress on the adjacent site are not harmed during planting. They shall be appropriately irrigated and permitted to grow to a height of 23 feet to 40 feet.
6. The owners of the site shall regularly maintain the redwood hedge at a height not less than 23 feet and not more than 40 feet.
7. Council retains the right to require additional landscaping for three years from the date of project final. The Town will review the plan in the spring, when the birch trees have leaves, to determine if any additional screening may be necessary for the pool area.
8. 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.

The foregoing resolution was duly and regularly adopted at a regular meeting of the Town Council of the Town of Ross, held on the 8th day of March, 2007, by the following vote:

AYES: Council members Strauss, Hunter, Cahill, Durst, Skall

NOES:

ABSENT:

ABSTAIN:

Richard Strauss, Mayor

ATTEST:

Gary Broad, Town Manager



Town of Ross

Planning Department

Post Office Box 320, Ross, CA 94957

Phone (415) 453-1453, Ext. 121

Web www.townofross.org

Fax (415) 453-1950

Email esemonian@townofross.org

Staff Use Only

Received By: _____

Date: _____

Fees Paid: _____

Date: _____

BASEMENT/ATTIC EXCEPTION APPLICATION

Contact Staff for Current Application Fee

Parcel Address and Assessor's Parcel No. 073-302-20

Owner(s) of Parcel Karen and Stanley Stern

Mailing Address (PO Box in Ross) 375

City _____ State _____ ZIP _____

Day Phone 845-2777 Evening Phone 887-9820

Email _____

Architect (Or applicant if not owner) Polsky-Paulstein Architects

Mailing Address 469 B Magnolia Ave

City Larkspur State CA ZIP 94939

Phone 927-1156 x305

Email tyb@polskyarchitects.com

Existing and Proposed Conditions (For definitions please refer to attached fact sheet.)

Gross Lot Size _____ sq. ft. Lot Area 23,751 sq. ft.

Existing Lot Coverage 3,543 sq. ft. Existing Floor Area _____ sq. ft.

Existing Lot Coverage 14.92 % Existing Floor Area Ratio 14.98 %

Coverage Removed ∅ sq. ft. Floor Area Removed ∅ sq. ft.

Coverage Added ∅ sq. ft. Floor Area Added 393 sq. ft.

Net Change- Coverage ∅ sq. ft. Net Change- Floor Area 393 sq. ft.

Proposed Lot Coverage 3,543 sq. ft. Proposed Floor Area 3,950 sq. ft.

Proposed Lot Coverage 14.92 % Proposed Floor Area Ratio 16.63 %

Existing Impervious Areas _____ sq. ft. Proposed Impervious Areas _____ sq. ft.

Existing Impervious Areas _____ % Proposed Impervious Areas _____ %

Proposed New Retaining Wall Construction ∅ ft. (length) ∅ ft. (max height)

Proposed Cut ∅ cubic yards Proposed Fill ∅ cubic yards

Written Project Description – may be attached.

A complete description of the proposed project is required. The description may be reviewed by those who have not had the benefit of meeting with the applicant, therefore, be thorough in the description.

Use existing basement for bedroom,
bathroom, and pantry.

Required Findings for Exception Application

In order for an exception to be granted, the following mandatory findings must be made:

- (1) Area to be improved is an existing area created prior to September 12, 2011, in an existing residence built prior to September 12, 2011. *Not Applicable - Amnesty period in effect until September 12, 2013*
- (2) Basement area to be improved has a ceiling height 5.5 feet or greater. Existing basement area has 10 foot ceiling height (provide floor plan with ceiling heights identified, if height varies)
- (3) For attic improvements only: the improvements proposed shall not change the exterior appearance of the structure, for example, by addition of dormers or raising the roof ridge. The Town Council may approve minor changes to the exterior appearance of an attic, such as the addition of windows or skylights, if they will not create view, light or privacy issues for neighbors. Not an attic
 No change to exterior or
 If changes proposed, attach material to describe changes and why they will not create view, light or privacy issues for neighbors.
- (4) For basements:
- a. If the structure is in a Special Flood Hazard Area (SFHA) identified on the town Flood Insurance Rate Map and/or in an area that is known for flooding, the finished floor level of the improvements must be above the base flood elevation. Not in SFHA
 In SFHA
 In SFHA
BFE: _____
Proposed floor elevation: 175.50'
- b. Modifications proposed to the building exterior cannot materially increase the visible mass of the building and modifications, such as new windows, must be compatible with the design of the existing improvements and shall not create privacy issues. The Council may limit the size of light wells to the minimum size necessary to satisfy California Building Code requirements for light, ventilation and emergency egress. Attach description of exterior changes
- c. Any modifications to site drainage must be designed by a licensed engineer and shall result in no net increase to the rate or volume of peak runoff from the site compared to pre-project conditions. Any new mechanical pumps or equipment shall not No change proposed.
 Preliminary drainage plan included.
 Spec's on mechanical equipment included.

create noise that is audible off site.

- (5) The fire chief must confirm that there is adequate water supply for firefighting purposes for the site, or that the project includes measures to provide adequate water supply for firefighting purposes.
- (6) The site has adequate parking. For purposes of this section, adequate parking shall mean that the site complies with at least the minimum number of parking spaces required for the zoning district (covered or not covered). If the site does not comply with the covered parking requirement, the Town Council may require covered parking to be provided. The Town Council may consider the size of the residence, number of bedrooms, and the size and use of the proposed attic and/or basement area and may require additional parking up to the following:

<i>Total site floor area (excluding covered parking)</i>	<i>Required off street parking</i>
1,300 square feet to 3,300 square feet	3 spaces
Over 3,300 square feet	4 spaces

- (7) The project complies with the most recent California Residential Code adopted by the Town.
- (8) Excavation, grading or cutting shall not exceed 35 cubic yards. If the project involves excavation, grading or cutting for a basement space, new floor area shall not exceed 20% of the existing floor area.

staff will confirm

Complies with minimum parking reqts. – show parking spaces on site plan

No. of bedrooms: 4

No. of covered and uncovered spaces available on site:

2 covered spaces

2 uncovered spaces

Submit details on light, ventilation and egress requirements for any habitable space

Project involves 0 cubic yards of grading.

If grading involved:
Existing floor area (excluding covered parking) _____ sq. ft. New floor area is _____ sq. ft.