



Agenda Item No. 20.

Staff Report

Date: April 2, 2015

To: Mayor Elizabeth Brekhus and Councilmembers

From: Elise Semonian, Senior Planner

Subject: Hardie, After-the-Fact Variance and Project Modifications, 128 Winding Way, File 1919

Recommendation

Council approve variance from Hillside Lot wall height limit to allow areas of retaining walls to exceed six feet, floor area variance for pool equipment room, modifications to site retaining walls, and deny landscape stairs and railing in north corner of site.

Project Summary

Owner:	Norman and Mette Hardie
Location:	128 Winding Way
A.P. Number:	72-250-03
Zoning:	R-1:B-5A (Single Family Residence, 5 acre min. lot size)
General Plan:	Very Low Density (.1-1 units per acre)
Flood Zone:	Zone X (outside 1-percent annual chance floodplain)

Town Council consideration of an after-the-fact request for an amendment to the hillside lot permit, design review, demolition permit, and variance application approved by the Town Council on July 11, 2013, for a remodel and addition to the residence, new pool and deck area, and new driveway area. The amendment is requested to permit 1.) retention of several areas of retaining wall that exceed the Hillside Lot Ordinance six foot height limit; 2.) modification to the landscape plan downslope of the residence, including modification to retaining walls and improvement of steps and new handrails; and 3.) variance for an unfinished pool equipment room with a ceiling height that exceeds 7 feet and constitutes additional floor area.

Background, project description and discussion

The Town Council approved the driveway and pool project for 128 Winding Way in July 2013. The project was subject to the regulations of the Hillside Lot Ordinance, which limits the height of retaining walls to 6 feet and limits site floor area.

In September 2013, the Town Council approved Resolution No. 1832 to modify the project to mitigate neighbor concerns regarding noise. The amended Conditions of Approval provided, "The pool equipment room shall be built with concrete walls and a solid door and vented as required by building codes. Any vents shall be located to minimize any noise impacts to 10 Canyon Road. Any enclosed space shall be less than 7 feet in height so that the area does not count as new floor area."(Emphasis added)

The applicant submitted plans for a building permit, including plan revisions over the course of construction. In the initial plan submittal, planning department staff noted several areas of proposed retaining walls exceeded the six foot height limit. The building department noted the issue in plan check comments and the applicants' response was, "All retaining walls do not exceed 6 ft. in height. The only site wall over 6 ft. tall is the curving sound wall on the north side of the swimming pool deck in response to a neighbor's request to mitigate noise from the pool area." Due to staff's concern, the issued plans had over a dozen notations by in red ink limiting maximum wall height to six feet. One note indicated that wall heights were limited to six feet and required building inspection prior to placing concrete. Staff informed the applicant that only Council, not staff, could grant a wall height variance. In addition, every plan sheet for the pool equipment room indicated the ceiling height was required to be lower than 7 feet.

On a recent project final inspection, planning staff confirmed several areas of wall are over six feet tall, the pool equipment room exceeds the permitted ceiling height and is now floor area, and modifications were made to the approved landscape plan, including widening a gravel path downslope of the residence and improved stairs and railings to Winding Way, partially within the right-of-way.

The applicants would like to legalize, instead of correct, the as-built conditions. The applicants can eliminate most of the wall height violations by constructing planters at the base of the walls. However, most of these areas of wall are not visible off site. The applicants could lower the ceiling in the pool equipment room. However, staff has no objection to granting a floor area variance for this unfinished room, since the applicants eliminated an addition to the residence and the project falls substantially within the floor area initially approved.

In order to approve a variance the Town Council must find:

1. That there are special circumstances or conditions applicable to the land, building or use referred to in the application.
2. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights.
3. That the granting of the application will not materially affect adversely the health

or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood. (RMC §18.48.030)

The applicants' description of the work, photographs, and statements in justification of the variance request are attached.

Staff has no concerns with modification to the path build downslope of the residence, which is wider than what was proposed on Council-approved plans, and may be wide enough for vehicles. The area and associated walls are not readily visible off site. However, staff recommends removal of the landscape stairs to Winding Way, as they do not match the high quality of other site improvements, are not built to current codes, detract from the natural setting of the area, and a portion of the stairs encroach into the right-of-way. Staff believes these stairs do not comply with the following purposes of the Hillside Lot Ordinance:

- Ensure that development will not create or increase the potential of major financial loss to the town or any other governmental entity through claim or litigation related to physical development of the site.
- Preserve significant features of the natural environment including watersheds, watercourses, canyons, knolls, ridgelines and rock outcroppings and minimize disturbance to the natural terrain.
- Protect steep slopes, creeks, significant native vegetation, wildlife and other environmental resources.

Staff recommends that the Council, after carefully reviewing the facts and the arguments presented after a public hearing, site visits, review of as built improvements, staff reports, correspondence, and other information contained in the project file, deny the north landscape stairs and railing as inconsistent with the purposes of the hillside lot regulations, approve a wall height variance to permit the walls to exceed the six foot height limit, approve a floor area variance to permit the pool equipment room to have a ceiling height over 7 feet, and approve other site wall modifications, based on the findings submitted by the applicant, the findings in Resolution 1832, and subject to the following conditions:

1. Prior to project final, the applicant shall remove the stone and concrete stairs and railings to Winding Way, located in the north corner of the site and partially within the right-of-way, and shall restore the area to a natural and unimproved state.
2. The pool equipment room is permitted to have a ceiling height in excess of 7 feet but shall not be used for habitable space and cannot be traded off for other floor area in the future.
3. The 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, 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 attorneys fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.

Fiscal, resource and timeline impacts

The Town currently serves the site and there would be no operating or funding impacts associated with the project.

Alternative actions

1. Continue the project for modifications; or
2. Make findings 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 Sections 15303 (one single-family residence) and 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 applies to the project 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.

Attachments

1. Resolution 1832
2. Town Council Minute history
3. Information provided by the applicant

Elise Semonian

Subject: FW: Hardie Residence - 128 Winding Way

From: Elise Semonian
Sent: Friday, September 06, 2013 5:16 AM
To: Phiroze K. Wadia
Cc: Elise Semonian; Rob Braulik; Simone Jamotte
Subject: Re: Hardie Residence - 128 Winding Way

That is what it is supposed to be - but not what i saw on the plans. That us why I wanted you to check to see if I am reading the civil plans incorrectly. I don't think that is the only tall area of wall when I checked the top of wall and bottom of wall/finished grade for those other areas I noted.

Sent from my iPhone

On Sep 6, 2013, at 5:05 AM, "Phiroze K. Wadia" <pkwadia@comcast.net> wrote:

Elise:

Please see the response to item A below from the architect:

A. WALL HEIGHTS:

Planning would like to have confirmation that none of the walls exceed 6ft in height.

RESPONSE: All retaining walls do not exceed 6 ft in height. The only site wall over 6 ft. tall is the curving sound wall on the north side of the swimming pool deck in response to a neighbor's request to mitigate noise from the pool area. The sound wall in the Sitework Permit Submittal has not changed since it was approved by the Town Council.

Thank you,

Phiroze

PHIROZE K. WADIA S.E., Leed A. P.
Consultant
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[TOWN OF ROSS Municipal Code](#) | [MARINMAP](#)
[\(415\)457-7777](#) | Cell: [\(415\)300-6131](#)

From: Elise Semonian [<mailto:esemonian@townofross.org>]
Sent: Friday, September 06, 2013 4:50 AM
To: Phiroze K. Wadia
Cc: Simone Jamotte; Rob Braulik; Elise Semonian
Subject: Re: Hardie Residence - 128 Winding Way

Can you confirm I am reading the plans correctly and that there are new walls over 6 feet tall on the civil plans in more than one area? Near the garage, near the driveway stairs, the tallest part of the driveway walls? The only one I didn't have concern with is the "planter" /wall for the new entry stair, which is sort of part of the residence. It is just a planning department issue - but they would need council approval of variances for those areas.

Elise

Sent from my iPhone

Bill Reilly, applicant, explained that the trellis is almost at eyesight, so there really is not that much of an impact. Mrs. Fritts disagreed. Architect Hilmi explained that the idea of the trellis is to provide screening and shade.

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

Council Member Hoertkorn objected to the trellis and is very uncomfortable with the entire project.

Council Member Small noted that staff is struggling with this project as the Council. They are improving a house in the flood zone. Historically this type of decking has not been approved if it is problematic to the neighbors. She is faced with going back to the drawing board and allowing a landing and stairs. She is unable to support the trellis. She further added that there are privacy issues.

Mayor Kuhl agreed this is a very difficult situation due to the location of the lot and neighbors. It is hard to indicate that the lack of a deck creates a significant hardship. He is unable to support due to the privacy issues. He is very concerned with this project as well.

Council Member Hoertkorn agreed this is a very difficult situation and is struggling with making a determination.

The Council is unable to support the present plan and suggested eliminating the trellis and stairs.

Council Member Small suggested shortening the deck at the doors, taking the stairs straight out rather than onto the side of the Fritts's and remove the trellis. She believed the deck should be narrower as well as eliminate the stairs and trellis.

Mayor Kuhl asked for a motion.

Council Member Small moved and Council Member Hoertkorn seconded, to approve 92 Shady Lane, Variances for Deck Area, File No. 1896 subject to the findings and conditions outlined in the staff report, including a 10-foot fence; 14-foot wing wall on the Martin's side; removal of the trellis; and removal of the stairs on the Fritts's side. Motion carried 3-0-2. Brekhus/Russell recused.

Council Members Brekhus and Russell reconvened their positions on the Council.

16. 128 Winding Way, Variance, Design Review, Hillside Lot and Demolition Permit No. 1919

Note: existing and proposed conditions and linear feet of retaining wall modified since public notice mailed.

Norman and Mette Hardie, 128 Winding Way, A.P. No. 72-250-03, R-1:B-5A (Single Family Residence, 5 acre min. lot size), Very Low Density (.1-1 units per acre). Public

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hearing for the Town Council to consider an application for a hillside lot permit, design review, demolition permit, and variances for the following: 1.) remodel of existing single-family residence including 232 square foot (net) addition to existing residence that exceeds floor area permitted under the Hillside Lot Ordinance (HLO); 2.) replacement of existing kitchen exterior walls and flat roof with a new kitchen with a roof ridge that aligns with the existing upper level of the residence; 3.) new second level deck on northwest elevation; 4.) new balcony above main entry on southwest elevation; 5.) replacement of all existing exterior windows and doors with new painted wood windows and doors; 6.) demolition of existing sports court and retaining wall structure northeast of residence; 7.) new pool and deck area northeast of the residence and east of the existing sports court, partially within the required Hillside Lot Ordinance rear yard setback (70 feet required, 50 feet proposed); 8.) extension of driveway to a new turnaround west of the residence and associated retaining walls; 9.) new landscaping, paths and patio areas to replace existing landscaping; 10.) tree removal permit for 6 trees. The project includes 795 cubic yards of cut and 640 cubic yards of fill and 744 linear feet of new retaining walls up to 6 feet tall.

Gross Lot Size	50,556 square feet	
Lot Area	46,277 square feet	
Existing Floor Area Ratio	5,706 sq. ft.	12.3%
Proposed Floor Area Ratio	5,938 sq. ft.	12.8% (5.7% permitted under HLO)
Existing Lot Coverage	4,378 sq. ft.	9.5%
Proposed Lot Coverage	4,764 sq. ft.	10.3% (15% permitted)
Existing Impervious Surfaces	4,246 sq. ft.	9.2%
Proposed Impervious Surfaces	4,017 sq. ft.	8.6%

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the modifications proposed to the residence and deny the pool area and driveway turnaround as inconsistent with the Hillside Lot Ordinance (*HLO*). Staff further noted that the house is already over the HLO, and the applicants are requesting an additional 232 sq. ft., which staff supports to address the unattractive flat roof kitchen area.

Wendy Posard, architect, noted excitement about this project. They spent a lot of time, thought and collaboration to get to this point. There was a lot of open and transparent dialogue. They were very encouraged with the outcome of the Advisory Design Review (*ADR*) Group meeting. They love the park-like setting and natural feel of the area. They pushed the deck back and the porch area is off the front elevation of the house per *ADR* discussions making sure they ensure the rule. This enhances the opportunity to view the landscaping. They also pushed the pool back considerably and removed it from the side yard setback. They received a lot of positive response from *ADR*. They reduced the impervious surfaces enormously as well. All switchbacks and brick paths will be removed. They are trying to make the property more usable. They focused bringing back classic proportions and classic windows. She further noted that the aerial photograph provides a real story of the canyon.

Mayor Kuhl opened the public hearing on this item.

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Ms. Zara Muren, northwest neighbor of the Hardie's, expressed concern for noise impacts. They are prepared to look for some sound reduction. The sound wall should be 6 ft. the length of the wall. They have been concerned that the deck could become a noise generator. They view the conditions in their letter as an essential package and asked the Council to seriously consider the conditions.

Doug Abrams, Winding Way resident, enjoyed working with the Hardie's. He attended the ADR meeting as well. In regard to preserving the Muren's privacy, he asked the Council to allow that variance in order to have a sound wall at 6 ft. with screening. As far as the 232 sq. ft., he certainly had to fight tooth and nail for every foot. One-third of it is enclosing the existing entry porch, so that did not seem unreasonable. In terms of the auto court, a huge landslide occurred in 1982, and by putting in the auto court it will probably help stabilizing the hillside. Ironically, there is an improvement of having the auto court. If 6-foot walls are done properly with native landscaping it can be done well.

Norman Hardie, applicant, appreciated the ADR process and followed each recommendation. He reached out to each neighbor. He believed there is broad support for their project. He has tried to alleviate the pool noise and his family will be as considerate as possible. The trampoline will be moved away. The deck is 2000 sq. ft. The existing developed space with patio, deck and play area is 2100 sq. ft. This is the smallest home in the area. It will be a beautiful project and a plus in the neighborhood. The driveway extension will allow the use of their garage. He further noted that letters have been submitted noting support.

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

Council Member Hoertkorn supports the project. It will be an improvement and believed it will be much safer. It also gets vehicles off Winding Way. Mr. Hardie believed what is proposed is a great package in terms of mitigating sound.

Council Member Russell expressed concern for the HLO issue and whether this sets a precedent in the future. He understands the actual impact of the additional square footage is very minimal, but personally wanted to net off some of that impact because it must be justified in relation to projects in the future.

Council Member Brekhus noted support as well. The decking is their only usable space, so it is important to provide some space. She further believed it is a nice improvement.

Council Member Small supported the project overall. She thinks the safety factor of improving that driveway is important. She appreciated the applicant and neighbors working together and coming to terms. She was shocked to see that cement sports court on the hillside. The size of decking invites other play, but for the most part a pool is about four months out of the year. The sports court can be played 12 months out of the year with a ball bouncing on the cement, so everything that is being done will be an improvement. Overall with the changes and all modifications proposed, she can approve. This property is way over the HLO, but what they are adding is enclosing a space already present.

Mayor Kuhl noted support as well.

Mayor Kuhl asked for a motion.

Council Member Hoertkorn moved and Mayor Pro Tempore Brekhus seconded, to approve 128 Winding Way, Variance, Design Review, Hillside Lot and Demolition Permit No. 1919 subject to the findings and conditions outlined in the staff report including an additional condition requiring the sound wall to remain. Motion carried unanimously.

128 Winding Way Conditions:

The following conditions of approval shall be reproduced on the cover sheet of the plans submitted for a building permit:

1. Except as otherwise provided in these conditions, the project shall comply with the plans approved by the Town Council on July 11, 2013. Plans submitted for the building permit shall reflect any modifications required by the Town Council and these conditions.

2. The proposed 6 ft. high and 47 ft. long curved sound wall shall be erected to run the full length of the north deck edge extending no closer than 45ft. to the property line, as proposed to mitigate noise towards 10 Canyon Road. The wall shall not be removed without prior approval of the Town Council after a public meeting or the written consent of the owners of 10 Canyon Road.

3. Impervious surfaces shall be limited to existing conditions. Pervious surfaces shall not be converted to impervious surfaces, even after project final, without prior Town Council approval.

4. Retaining walls that may be visible from off site shall be finished with an earth tone material or finish so that they recede into the hillside setting until landscape screening is mature.

5. Applicants may be required to return for additional Town Council review, which requires payment of additional application fees, for any roof projections that are not identified on the plans submitted for Town Council review. Where a roof area is visible from off site, roof projections shall be located to minimize their appearance. Exposed galvanized material is discouraged. All vents and flue pipes shall utilize a finish to blend into adjacent surfaces. If possible, vents may be concealed from view in forms compatible with the structure. Vents for cooking appliances should be located or directed to avoid noise and odor impacts to adjacent sites and shall be located out of required setback areas.

6. The plans submitted for the building permit shall detail the gutter and downspout design and location for review and approval by the planning department. Applicants may be required to return for additional Town Council review, which requires payment of additional application fees, for any gutters or downspouts that are not identified on the plans submitted for Town Council review. A specification sheet shall be provided and the proposed color and finish material shall be specified. Downspouts should be located to minimize their appearance from off site locations. Gutters and downspouts should have a finish to blend into adjacent surfaces or underlying trim. Exposed galvanized material is not permitted.

7. Landscaping shall be installed in substantial conformance with the approved landscape plan prior to project final. The Town staff reserves the right to require

modifications to the landscape to protect mature trees and to comply with MMWD water conserving landscape requirements or fire code clearance requirements. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.

8. A tree protection plan for all protected trees on or near the project site is required with the building permit application. The plan shall comply with the requirements of Ross Municipal Code Section 12.24.100. The applicants'/project arborist shall review the final construction-level drawings and landscape plans, including civil, structural, grading, drainage, irrigation and utility plans (arborist should note the dates of the plans reviewed). The arborist shall review the construction management plan including all paths that will be used for equipment, grading and off haul. All tree protection conditions recommended by the project arborist shall be included on all relevant sheets of the building permit plans to ensure compliance with the arborist recommendations. The plan shall include a schedule of when the consulting arborist should inspect the site or be present for activities such as trenching in the tree protection area. The applicant shall submit a deposit to cover the cost of town arborist review of the Tree Protection Plan and periodic site inspections.

9. Tree protection fencing and other tree protections, such as mulch, steel plates or other protection against compaction around un-fenced trees, shall be installed prior to building permit issuance as recommended by the project arborist on the tree protection plan. Tree protection fencing shall be constructed of sturdy material and identified with signs that include the words, "tree protection fence" and "do not remove without permission from the Town of Ross." The project arborist shall inspect the site prior to issuance of a building permit to determine if tree protection fencing has been properly installed and shall submit written confirmation to the town planner that the tree protection is in place prior to building permit issuance.

10. No changes from the approved plans, before or after project final, including changes to the materials and material colors, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town for review and approval prior to any change. The applicant is advised that changes made to the design during construction may delay the completion of the project and will not extend the permitted construction period.

11. The Town may collect a deposit in advance of building permit issuance to cover the anticipated cost for any Town consultants, such as the town hydrologist and town arborist. Any additional costs incurred by the Town, including costs to inspect or review the project, shall be paid as incurred and prior to project final.

12. Any exterior lighting shall be included on plans submitted for the building permit and is subject to the review and approval of the town planner. Lighting shall be shielded (no bare bulb light fixtures or down lights that may be visible from down-slope sites). Exterior lighting of landscaping by any means shall not be permitted if it creates glare, hazard or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public right-of-ways is prohibited. No up lighting is permitted. Interior and exterior lighting fixtures shall be selected to enable maximum "cut-off" appropriate for the light source so as to strictly control the direction and pattern of light and eliminate spill light to neighboring properties or a glowing night time character.

13. The applicant shall submit an erosion control plan with the building permit application for review by the building official/director of public works. The plan shall include a signed statement by the soils engineer that erosion control is in accordance with Marin County Stormwater Pollution Prevention Program (MCSTOPPP) standards. The erosion control plan shall demonstrate protection of disturbed soil from rain and surface runoff and demonstrate sediments controls as a "back-up" system. (Temporary seeding and mulching or straw matting are effective controls.).

14. No grading shall be permitted during the rainy season between October 15 and April 15 unless permitted in writing by the Building Official/Director of Public Works. Grading is considered to be any movement of earthen materials necessary for the completion of the project. This includes, but is not limited to cutting, filling, excavation for foundations, and the drilling of pier holes. It does not include the boring or test excavations necessary for a soils engineering investigation. All temporary and permanent erosion control measures shall be in place prior to October 1.

15. Prior to any demolition or issuance of a building permit for the new structure, which was constructed prior to 1985, an asbestos and lead-based paint survey shall be provided to the Town building department. If asbestos-containing materials are determined to be present, the materials should be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District. If lead-based paint is identified, then federal and state construction worker health and safety regulations should be followed during renovation or demolition activities. If loose or peeling lead-based paint is identified, it should be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations.

16. The drainage design shall comply with the Town's stormwater ordinance (Ross Municipal Code Chapter 15.54). A drainage plan and hydrologic/hydraulic analysis prepared by a licensed engineer may be required to be submitted with the building permit application for review and approval by the building official/public works director, who may consult with the town hydrologist at the applicants' expense (a deposit may be required). The plan shall be designed, at a minimum, to produce no net increase in peak runoff from the site compared to pre-project conditions (no net increase standard). As far as practically feasible, the plan shall be designed to produce a net decrease in peak runoff from the site compared to pre-project conditions. Applicants are encouraged to submit a drainage plan designed to produce peak runoff from the site that is the same or less than estimated natural, predevelopment conditions which existed at the site prior to installation of impermeable surfaces and other landscape changes (natural predevelopment rate standard). Construction of the drainage system shall be supervised, inspected and accepted by a professional engineer and certified as-built drawings of the constructed facilities and a letter of certification shall be provided to the Town prior to project final.

17. The plans submitted for a building permit shall include a detailed construction and traffic management plan for review and approval of the building official, in consultation with the police chief and fire department. The plan shall include as a minimum:

a) Working Hours are limited to Monday to Friday 8:00 a.m. to 5:00 p.m. Construction is not permitted at any time on Saturday and Sunday or the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day,

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Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. If the holiday falls on a Sunday, the following Monday shall be considered the holiday. If the holiday falls on a Saturday, the Friday immediately preceding shall be considered the holiday. Exception: work done solely in the interior of a building or structure which does not create any noise which is audible from the exterior.

b) No road closures are permitted. If the road has to be closed temporarily, a minimum of 24 hours notice shall be provided to the neighbors.

c) The applicant shall clearly document the condition of Canyon Road from Laurel Grove Avenue to the project site, taken at a slow speed and provided to the Town for review prior to issuance of the permit, by video on CD and shall submit the information to the Public Works department prior to issuance of a building permit. The applicant shall repair any damage caused by the construction. The public works department shall consider neighbor input regarding the condition of the roadway and repairs that may be necessary.

d) The applicant shall provide details on the size of construction vehicles to be used during the project. The Town Engineer may limit the size and/or weight of construction vehicles and will require the applicant to make any repairs necessary to ensure road stability for construction vehicles. The Town may also require as a condition to the granting of a permit that the applicant submit a certificate of a responsible insurance company showing that the applicant is insured in an amount to be fixed by the Town against any loss or damage to persons or property arising directly or indirectly from the construction project.

e) Temporary toilet facilities shall be screened from public view.

f) The owner/applicant shall spray all disturbed soil with water to control dust. Dust control shall be required as necessary on the site or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at site. Cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.

g) Materials and vehicles shall not be stored in the public right-of-way. 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. All loads carried to and from the site shall be securely covered, and the private road and public right-of-way must be kept free of dirt and debris at all times.

18. The applicant shall submit a schedule that outlines the scheduling of the site development. This should clearly show completion of all site grading activities prior to the winter storm season and include implementation of an erosion control plan. The construction schedule shall detail how the project will be completed within the construction completion date provided for in the construction completion chapter of the Ross Municipal Code (Chapter 15.50).

19. A copy of the building permit shall be posted at the site and emergency contact information shall be up to date at all times.

20. The Building Official and other Town staff shall have the right to enter the property at all times during construction to review or inspect construction, progress, compliance with the approved plans and applicable codes.

21. Inspections shall not be provided unless the Town-approved building permit plans are available on site.
22. Failure to comply in any respect with the conditions or approved plans constitutes grounds for Town staff to immediately stop work related to the noncompliance until the matter is resolved. (Ross Municipal Code Section 18.39.100). The violations may be subject to additional penalties as provided in the Ross Municipal Code and State law. If a stop work order is issued, the Town may retain an independent site monitor at the expense of the property owner prior to allowing any further grading and/or construction activities at the site.
23. A single geotechnical engineering report, containing all recommended geotechnical design criteria for the project, shall be submitted with the building permit plans. All geotechnical aspects of the proposed project and preliminary development of plans shall continue to be evaluated by the project geotechnical consultant. A letter from the project geotechnical consultant shall be prepared that approves all geotechnical aspects of the proposed site development layout, verifies project geotechnical feasibility, and verifies conformance with the geotechnical consultant's design recommendations.
24. Applicants shall comply with all requirements of PG&E prior to project final. Letter or email confirming compliance shall be submitted to the building department prior to project final.
25. The applicant shall comply with all requirements of the Marin Municipal Water District (MMWD) for water service prior to project final including compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape plans shall be submitted, and reviewed to confirm compliance. The Code requires a landscape plan, an irrigation plan, and a grading plan. Any questions regarding District Code Title 13 - Water Conservation should be directed to the Water Conservation Department at (415) 945-1497. You can also find information about the District's water conservation requirements online at www.marinwater.org. Should backflow protection be required, said protection shall be installed as a condition of water service. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559. For questions contact Joseph Eischens, Engineering Technician, at (415) 945-1531. Letter or email confirming compliance shall be submitted to the building department prior to project final.
26. Applicants shall comply with the following requirements of the Ross Valley Sanitary District No. 1 prior to project final: since this project involves an extensive demolition and rebuild, the Ross Valley Sanitary District (415) 259-2949 will require a connection permit from the District. The size of the sewer lateral will depend on the fixture count calculated during the permitting process. If the existing lateral meets the size requirement of the fixture count, the applicant has the option of installing a new lateral or the old sewer lateral needs to be tested in the presence of a District Inspector and found to meet all current District requirements. Sanitary District No. 1 will place a hold on the property once the building permit is issued. This hold prevents the new building from being released for occupancy until the District's permit and sewer requirements are fulfilled. It is the owner's responsibility to obtain a sewer connection permit from this office and meet all District requirements pertaining to the private side sewer/lateral prior to project final. Letter or email confirming compliance shall be submitted to the building department prior to project final.

27. Landscaping shall be installed in substantial conformance with the approved landscape plan prior to project final. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.

28. The director of public works may require all electric, communication and television service laterals to be placed underground.

29. The project shall comply with the Fire Code and comments of the Ross Valley Fire Department (RVFD):

a) Site plan shall include the nearest fire hydrant.

b) All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.

c) Carbon monoxide alarms shall be provided outside of each dwelling unit sleeping area in the immediate vicinity of the bedroom(s) and on every level of a dwelling unit.

d) The applicant shall maintain an effective firebreak around the structure by removing and clearing all flammable vegetation and/or other combustible growth. Consult the Ross Valley Fire Department Fire Protection Standard 220 Vegetation/Fuels Management Plan available online at Rossvalleyfire.org.

e) Address numbers at least 4" tall shall be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. The address numbers shall be backlit or illuminated by an adjacent light controlled by a photocell and switched only by a breaker so the numbers will remain illuminated all night.

f) Applicant may propose alternate materials or method in accordance with Section 103.3. All approved alternates requests and supporting documentation shall be included in the plan set submitted for building department approval.

30. Based on the scope of the project, the Town shall require sprinklers to be installed in the structure.

31. Development shall adhere to the wildland urban interface building standards in Chapter 7A of the California Building Code, even if the project is otherwise considered exempt under the provisions of the code.

32. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance (copies available at www.townofross.org). 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. As provided in the Town of Ross Municipal Code Section 15.50.040, construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.

33. 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.

End of Public Hearings on Planning Applications.

17. No Action Items:

a. Council correspondence received

- RPOA presented a chart of what the Council has done and a suggestion to make ADR more formalized
- Branson Event

b. Future Council items

- Jack Curley attending October meeting
- Ross School fees and usage of the Common

18. Adjournment.

Mayor Kuhl moved to adjourn the meeting at 11:21 p.m.

P. Beach Kuhl, Mayor

ATTEST:

Linda Lopez, Town Clerk

September 12, 2013 Minutes

There have been several meetings on this matter. They must address the ADA curb at the church in regard to what is legal or not legal.

Mayor Pro Tempore Brekhuis understands the change occurring, but she is on that street every week and really believed there is a need for more safety on Bolinas. She further noted support for the medians.

Council Member Hoertkorn lived in a community with medians, which were very effective and changed traffic patterns. She supported the medians as proposed. She further appreciated all the public comments.

Council Member Russell believed it is probably the right approach, but noted concern for all the opposition. He desired additional communication and suggested holding off on making a decision at this time. He wished there was greater consensus amongst the public. To date, the project improvements are great.

Mayor Pro Tempore Brekhuis indicated they are elected to make the right decisions for the entire community. Council Member Small pointed out that the committee has been working on this matter for a very long time. This cannot be put off any longer. She is extremely uncomfortable continuing a matter that is clearly an issue in terms of safety.

Mayor Kuhl appreciated all input tonight. It is very important to hear the views from the public. He stated the experts indicated that this can be made safer for children. He rather not wait six months and has a child injured. They can always visit the matter again.

The Council agreed to approve installation of these traffic calming devices to slow traffic down on Bolinas Avenue. Medians will be installed at Shady Lane and Bolinas Avenue, and Richmond Avenue and Bolinas Avenue. Also for information, the Town of San Anselmo approved installation of these medians at their Council meeting held on Tuesday, September 10th.

Mayor Pro Tempore Brekhuis moved and Council Member Small seconded, to approve the installation of medians at Shady Lane and Bolinas Avenue, and Richmond Avenue and Bolinas Avenue. Motion carried 4-1. Russell opposed.

The Council took a short recess at 8:58 p.m. and then reconvened at 9:08 p.m. with the next agenda item.

Public Hearings on Planning Applications – Part II.

Item d. 128 Winding Way, Amendment to Variance, Design Review, Hillside Lot and Demolition Permit No. 1919

Norman and Mette Hardie, 128 Winding Way, A.P. No. 72-250-03, R-1:B-5A (Single Family Residence, 5 acre min. lot size), Very Low Density (.1-1 units per acre). Town Council consideration of Resolution No. 1832 to amend the hillside lot permit, design review, demolition permit, and variance application approved by the Town Council on July 11, 2013, for a remodel and addition to the residence, new pool and deck area, and new driveway area. The amendment is requested to address pool area noise and screening.

September 12, 2013 Minutes

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the resolution with the amended conditions presented to the council at the meeting to reflect an agreement reached by the applicants and neighbor as well as an amendment recommended by staff:

- Condition No. 5 – The proposed 6 ft. high and 47 ft. long curve sound wall shall be erected to run the full length of the north deck edge (the edge of the deck that is roughly parallel to the property line is shared between 10 Canyon and 128 Winding Way) extending no closer than 45 ft. to the property line, and shall continue 10 ft. south at 6 ft. high along the west edge of the deck, to mitigate noise towards 10 Canyon Road. The wall shall not be removed without prior approval of the Town Council after a public meeting or the written consent of the owners at 10 Canyon Road. After the 10 ft. of solid wall, the remainder of the railing along the west edge of the deck may be an open material.
- Condition No. 12 – Tree protection fencing and other tree protections, such as mulch, steel plates or other protection against compaction around un-fenced trees, shall be installed after tree removal and prior to any work in the tree protection areas recommended by the project arborist. Tree protection fencing shall be constructed of sturdy material and identified with signs that include the words, “tree protection fence” and “do not remove without permission from the Town of Ross.” The project arborist shall inspect the site prior to issuance of a building permit to determine if tree protection fencing has been properly installed and shall submit written confirmation to the Town planner that the tree protection is in place prior to building permit issuance.

Robert Epstein, attorney, representing the Hardie’s, is very pleased that they were able to reach an agreement and resolve this matter. He further noted that the agreement is expressly conditioned on this decision being made tonight.

Riley Hurd, attorney, representing the Muren’s, agreed with Attorney Epstein’s comments.

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

Council Member Russell felt blind sided on this matter and did not want to be back here next month. Town Attorney Stepanicich explained that at this point in time if the Council adopts the resolution presented this evening, then that decision is final. The only recourse would be to go to court, but they would not be able to come back to the Council.

Council Member Small is very thrilled there is an agreement. Information was received today, but they have often talked about letters received within the last 24-hours cannot be expected to get as much attention. The situation has been worked out, but this other information came in under this 24-hour period, which is very difficult to consider. Mayor Kuhl suggested imposing rules in regard to deadlines as in a court of law, which is an issue for another day.

Council Member Russell asked staff if there are conditions in place in regard to the decking. Senior Planner Semonian responded in the affirmative.

Mayor Kuhl asked for a motion.

Mayor Pro Tempore Brekhus moved and Council Member Hoertkorn seconded, to adopt Resolution No. 1832, subject to the findings and conditions outlined in the staff report, including the revised conditions as outlined by staff. Motion carried unanimously.

Town Attorney Greg Stepanicich left the Town Council meeting at 9:18 p.m.

16. 53 Poplar Avenue, Amendment to Variance No. 1891

Pete and Molly Woodring, 53 Poplar Avenue, A.P. No. 73-313-07, R-1:B-7.5 (Single Family Residence, 7,500 sq. ft. minimum lot size), Medium Low Density (3-6 units per acre), Zone A (High Risk Area with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30 year mortgage). Request for Town Council to amend conditions of approval for variance application approved October 8, 2012, for 1.) new dormer and window on the south-facing roof; and 2.) new entry landing, steps and trellis feature. The applicants request the Town Council to delete Condition of Approval Number 2 regarding the landscaping and to approve replacement of existing trees and landscaping along the south property line, in the area of the driveway, with a Podocarpus hedge.

Lot area	7,500 square feet	
Existing Floor Area Ratio	1,943 sq. ft.	25.9%
Approved Floor Area Ratio	2,045 sq. ft.	27.3% (20% permitted)
Existing Lot Coverage	1,476 sq. ft.	19.7%
Approved Lot Coverage	1,585 sq. ft.	21.1% (20% permitted)
Existing Impervious Areas	2,156 sq. ft.	28.7%
Approved Impervious Areas	2,100 sq. ft.	28.0%

The existing residence is nonconforming in floor area and setbacks.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council consider the proposed landscape screening between 53 and 55 Poplar, open the public hearing and receive public comment, and approve the screening recommended by staff, or an alternative, subject to the conditions of approval.

Pete Woodring, applicant, discussed this matter with three different landscapers, and the general consensus is that there is not many options to provide the privacy desired, but the podocarpus hedge would be the best solution.

Mayor Kuhl opened the public hearing on this item.

Mal Litwiller, Poplar Avenue resident, received an email on August 22nd, 2013 from the Woodring's regarding the podocarpus hedge. He met with four landscapers and they shared the names of a number of trees to consider that might be good options to receive the light and privacy desired. He desired an evergreen. He sees no valid reason for eliminating the condition of approval that has been set forth and wished the Council would abide by their decision of October 12. He objected to the podocarpus hedge proposed. He submitted that the height of

TOWN OF ROSS

RESOLUTION NO. 1832

A RESOLUTION OF THE TOWN OF ROSS APPROVING AMENDMENT TO HILLSIDE LOT PERMIT, DESIGN REVIEW, VARIANCES, AND DEMOLITION PERMIT FOR A 5,938 SQUARE FOOT RESIDENCE AND OTHER ASSOCIATED SITE IMPROVEMENTS AT 128 WINDING WAY, APN 072-250-03

WHEREAS, Norman and Mette Hardie submitted an application for a Demolition Permit, Hillside Lot Review, Design Review, and Variances pursuant to Title 18 of the Ross Municipal Code to demolish a portion of an existing 5,706 square foot single family residence built in 1920 at 128 Winding Way, Assessor's Parcel Number 072-250-03, and to make additions and modifications to the residence and associated improvements including a new pool, decks, driveway, and parking area (the "project"); and

WHEREAS, the project was determined to be categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15303 (one single-family residence) and 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) of the CEQA Guidelines; and

WHEREAS, 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; subsection (b) which relates to cumulative impacts, subsection (c) which relates to unusual circumstances; or subsection (f) which relates to historical resources) was found to apply to the project; and

WHEREAS, on July 11, 2013, following a duly noticed public hearing, the Ross Town Council voted unanimously (5 in favor; 0 against) to approve the project; and

WHEREAS, on September 12, 2013, the Town Council held a duly noticed public hearing to consider an amendment to the project to address pool area noise and screening; and

WHEREAS, the Town Council has carefully reviewed and considered the staff reports regarding the original and amended project, visited the subject property, reviewed story poles, correspondence, and other information contained in the project file, and has received public comment at the July 11 and September 12 hearings; and

WHEREAS, the Town Council determines that the proposed project and proposed amendments is in substantial compliance with (1) the Hillside Lot Review standards set forth in Chapter 18.39 of the Ross Municipal Code ("RMC"), including the criteria

supporting variances from (a) the minimum rear setback and (b) maximum floor area; (2) the Design Approval Review standards in RMC Chapter 18.41; (3) the Variance requirements in RMC Chapter 18.48; and (4) the Demolition Permit findings in RMC § 18.50.060.

NOW, THEREFORE, BE IT RESOLVED the Town Council of the Town of Ross hereby incorporates the recitals above; makes the findings set forth in Exhibit "A"; and approves the amended project for a Hillside Lot Permit, Design Review, Variances, and Demolition Permit to allow construction of an addition and modifications to the existing residence and associated improvements including a new pool, decks, driveway, and parking at 128 Winding Way subject to the amended Conditions of Approval attached as Exhibit "B".


The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 12th day of September 2013, by the following vote:

AYES: Councilmembers Kuhl, Brekhus, Hoertkorn, Russell, Small

NOES:

ABSENT:

ABSTAIN:



P. Beach Kuhl, Mayor Pro Tempore

ATTEST:



Linda Lopez, Town Clerk

EXHIBIT "A"
Findings In Support Of Project Approval
128 Winding Way, APN 072-250-03

A. DESIGN REVIEW FINDINGS (RMC § 18.41.070(b))

1. *The project is consistent with the purposes of the Design Review chapter as set forth in Ross Municipal Code Section 18.41.010, as follows:*

(a) To preserve and enhance the "small town" feel and the serene, quiet character of its neighborhoods are special qualities to the town. The existing scale and quality of architecture, the low density of development, the open and tree-covered hills, winding creeks and graciously landscaped streets and yards contribute to this ambience and to the beauty of a community in which the man-made and natural environment co-exist in harmony and to sustain the beauty of the town's environment.

(b)(1) Provide excellence of design for all new development which harmonizes style, intensity and type of construction with the natural environment and respects the unique needs and features of each site and area. Promote high-quality design that enhances the community, is consistent with the scale and quality of existing development and is harmoniously integrated with the natural environment;

(2) Preserve and enhance the historical "small town," low-density character and identity that is unique to the Town of Ross, and maintain the serene, quiet character of the town's neighborhoods through maintaining historic design character and scale, preserving natural features, minimizing overbuilding of existing lots and retaining densities consistent with existing development in Ross and in the surrounding area;

(3) Preserve lands which are unique environmental resources including scenic resources (ridgelines, hillsides and trees), vegetation and wildlife habitat, creeks, threatened and endangered species habitat, open space and areas necessary to protect community health and safety. Ensure that site design and intensity recognize site constraints and resources, preserve natural landforms and existing vegetation, and prevent excessive and unsightly hillside grading;

(4) Enhance important community entryways, local travel corridors and the area in which the project is located;

(5) Promote and implement the design goals, policies and criteria of the Ross general plan;

(6) Discourage the development of individual buildings which dominate the townscape or attract attention through color, mass or inappropriate architectural expression;

(7) Preserve buildings and areas with historic or aesthetic value and maintain the historic character and scale. Ensure that new construction respects and is compatible with historic character and architecture both within the site and neighborhood;

(8) Upgrade the appearance, quality and condition of existing improvements in conjunction with new development or remodeling of a site; and

(9) Preserve natural hydrology and drainage patterns and reduce stormwater runoff associated with development to reduce flooding, streambank erosion, sediment in stormwater drainage systems and creeks, and minimize damage to public and private facilities. Ensure that existing site features that naturally aid in stormwater management are protected and enhanced. Recognize that every site is in a watershed and stormwater management is important on both small and large sites to improve stormwater quality and reduce overall runoff.

The project is proposed in an area of the site that is developed with an existing residence that mixes a traditional 1920 Craftsman design with contemporary features. The proposed size of the renovated residence is compatible with other development in the area. The renovated residence will primarily maintain the character of the existing residence. The lot coverage will increase by only 0.8% to 10.3% leaving the vast majority of the property in the natural setting of the hillside.

The project renovations will correct the design defects caused by a 1990s flat roof addition and a confusing access to the front doorway. These improvements will make the design of the entire residence consistent in high-quality design and character. In general, the site improvements will maximize the value of the property by substantially enhancing its overall appearance. The proposed materials and colors, which include gray shingle siding; and green wood trim, doors, and windows, will integrate the residence with its setting and the neighborhood. The low-density of the neighborhood will be maintained.

The majority of the renovation and site improvements will not be easily visible to neighbors or the public from the street. The grading of the hillside is as minimal as reasonably possible and meets design review guidelines as set forth below. The topographic nature of this site -- a steep hillside -- limits options for placement of the site improvements, and the proposed location of the outdoor improvements minimizes noise impacts for adjacent sites, particularly the adjacent site at 10 Canyon.

The project will promote and implement the design goals, policies and criteria of the Ross general plan as set forth below and incorporated herein by reference.

The project generally preserves and maintains the existing drainage pattern at the property. A building permit is required and a drainage plan designed by an engineer is required to be submitted with the building permit application.

The project involves maintaining and improving the quality of an existing residence, which preserves native vegetation and materials. Town regulations require building materials to be recycled and limit construction days and hours. The project must meet the Cal Green Building Code requirements, including Title 24 Energy Conservation measures.

2. *The project is in substantial compliance with the design criteria of Ross Municipal Code Section 18.41.100, as follows.*

(a) Preservation of Natural Areas and Existing Site Conditions.

(1) The existing landscape should be preserved in its natural state by keeping the

removal of trees, vegetation, rocks and soil to a minimum. Development should minimize the amount of native vegetation clearing, grading, cutting and filling and maximize the retention and preservation of natural elevations, ridgelines and natural features, including lands too steep for development, geologically unstable areas, wooded canyons, areas containing significant native flora and fauna, rock outcroppings, view sites, watersheds and watercourses, considering zones of defensible space appropriate to prevent the spread of fire.

The project includes construction of a new driveway and pool area. Thus, the existing landscape will not be entirely preserved. However, more than 50 significant native trees will be preserved on site, and the majority of the existing landscape will be preserved. The new landscaping utilizes pervious surfaces to the maximum extent possible. In addition, some of the clearing, grading, cutting and filling is necessary to accommodate the concerns of 10 Canyon with respect to anticipated noise from activity at the pool area. Further, parking on Winding Way is difficult for guests; the new driveway and parking area will substantially improve access to the residence, which currently is accessed by outdated and unsafe steep brick stairs. Moreover, the pool, pool deck area, and walls are not readily visible from neighboring properties or by the public from the street.

(2) Sites should be kept in harmony with the general appearance of neighboring landscape. All disturbed areas should be finished to a natural-appearing configuration and planted or seeded to prevent erosion.

The adjacent neighbor at 126 Winding has constructed a driveway and pool area similar to what is proposed. Other neighboring sites also maintain natural contours and native landscaping while incorporating similar improvements. The project would be in harmony with the general appearance of neighboring landscape.

(3) Lot coverage and building footprints should be minimized where feasible, and development clustered, to minimize site disturbance area and preserve large areas of undisturbed space. Environmentally sensitive areas, such as areas along streams, forested areas, and steep slopes shall be a priority for preservation and open space.

Net additions to both lot coverage and building footprints are minimal. Building coverage will increase by 0.8% to 10.5% and Floor Area Ratio will increase by 0.5% to 12.8%. The structural additions are to the existing home. The pool and deck are to be located in an area that is already substantially developed with a sport court and patio and retaining walls. The driveway uses the existing path of brick stairs as much as possible. With regard to the extent of site disturbance, the project is similar to other existing and approved residences in the immediate neighborhood. In addition, development in the neighborhood is clustered, preserving large areas of undisturbed space.

(b) Relationship Between Structure and Site. There should be a balanced and harmonious relationship among structures on the site, between structures and the site itself, and between structures on the site and on neighboring properties. All new buildings or additions constructed on sloping land should be designed to relate to the natural land forms and step with the slope in order to minimize building mass, bulk and height and to integrate the structure with the site.

The project will result in a balanced and harmonious relationship between the structure

and the site itself, among the structures on the site, and between the structures on the site and neighboring properties. The project will result in a residence and site with improvements similar to other existing and approved residences/sites in the immediate neighborhood. The materials and colors proposed are natural materials and consistent with the surrounding neighborhood. Although new retaining walls are proposed to create new level areas on a sloping site, they step with the slope as much as possible to integrate the new pool and associated deck area with the site. Moreover, more than 50 significant native trees will be preserved on site. The property has significant setbacks of approximately 70 percent of the lot, the majority of which will preserve the existing landscape. The new landscaping utilizes permeable surfaces to the maximum extent possible with no net increase in impervious surfaces.

(c) Minimizing Bulk and Mass.

(1) New structures and additions should avoid monumental or excessively large size out of character with their setting or with other dwellings in the neighborhood. Buildings should be compatible with others in the neighborhood and not attract attention to themselves.

(2) To avoid monotony or an impression of bulk, large expanses of any one material on a single plane should be avoided, and large single-plane retaining walls should be avoided. Vertical and horizontal elements should be used to add architectural variety and to break up building plans. The development of dwellings or dwelling groups should not create excessive mass, bulk or repetition of design features.

The proposed retaining walls are terraced, which will allow landscaping to be installed to break up the mass of the walls when viewed from off site. The pool area is built into the hill and out of the sight of neighboring properties. Furthermore, the pool deck replaces an existing concrete sport court. The driveway turn-around is a substantial structure, however, it will be a single lane around an existing dominant oak. The improvements create more convenient access to the residence and an upgraded outdoor living area adjacent to the residence. The project will result in a residence and site with improvements similar to other existing and approved residences/sites in the immediate neighborhood. The materials and colors proposed are natural materials and consistent with the surrounding neighborhood.

(d) Materials and Colors.

(1) Buildings should use materials and colors that minimize visual impacts, blend with the existing land forms and vegetative cover, are compatible with structures in the neighborhood and do not attract attention to the structures. Colors and materials should be compatible with those in the surrounding area. High-quality building materials should be used.

(2) Natural materials such as wood and stone are preferred, and manufactured materials such as concrete, stucco or metal should be used in moderation to avoid visual conflicts with the natural setting of the structure.

(3) Soft and muted colors in the earthtone and woodtone range are preferred and generally should predominate.

High quality materials are proposed including shingle siding in a gray color and green

painted wood windows, doors and trim.

(e) Drives, Parking and Circulation.

(1) Good access, circulation and off-street parking should be provided consistent with the natural features of the site. Walkways, driveways, curb cuts and off-street parking should allow smooth traffic flow and provide for safe ingress and egress to a site.

(2) Access ways and parking areas should be in scale with the design of buildings and structures on the site. They should be sited to minimize physical impacts on adjacent properties related to noise, light and emissions and be visually compatible with development on the site and on neighboring properties. Off-street parking should be screened from view. The area devoted to driveways, parking pads and parking facilities should be minimized through careful site planning.

(3) Incorporate natural drainage ways and vegetated channels, rather than the standard concrete curb and gutter configuration to decrease flow velocity and allow for stormwater infiltration, percolation and absorption.

Currently, the site does not have a convenient access, circulation, or off-street parking from the residence to the primary parking area. The project would improve this deficiency. The proposed access ways and parking area are in scale with the design of the buildings and structures on the site. They are sited to minimize physical impacts on adjacent properties related to noise, light, and emissions; and are visually compatible with development on the site, and on neighboring properties. Off-street parking is screened from view to the extent possible. The area devoted to driveways, parking pads and parking facilities has been minimized to the extent possible while still allowing improvement of the deficiencies noted above. The project incorporates natural drainage ways and vegetated channels to decrease flow velocity and allow for stormwater infiltration, percolation, and absorption.

(f) Exterior Lighting. Exterior lighting should not create glare, hazard or annoyance to adjacent property owners or passersby. Lighting should be shielded and directed downward, with the location of lights coordinated with the approved landscape plan. Lamps should be low wattage and should be incandescent.

Exterior lighting will be installed consistent with code requirements for access and entry ways. The attached Conditions of Approval reiterate the zoning code requirements on lighting that are consistent with this finding.

(g) Fences and Screening. Fences and walls should be designed and located to be architecturally compatible with the design of the building. They should be aesthetically attractive and not create a "walled-in" feeling or a harsh, solid expanse when viewed from adjacent vantage points. Front yard fences and walls should be set back sufficient distance from the property line to allow for installation of a landscape buffer to soften the visual appearance.

New deer fencing is proposed to match existing fencing. The fencing is upslope of Winding Way and would not create a walled in feeling at the street. The proposed 44 foot sound wall, while reasonably affording sound protection to the neighboring property at 10 Canyon, will leave an additional approximately 45 foot long open expanse adjacent to the deck,

between the sound wall and the house, so as not to create a "walled in" feeling.

(h) Views. Views of the hills and ridgelines from public streets and parks should be preserved where possible through appropriate siting of improvements and through selection of an appropriate building design including height, architectural style, roof pitch and number of stories.

The project will not impact views from public streets and parks.

(i) Natural Environment.

(1) The high-quality and fragile natural environment should be preserved and maintained through protecting scenic resources (ridgelines, hillsides, trees and tree groves), vegetation and wildlife habitat, creeks, drainageways threatened and endangered species habitat, open space and areas necessary to protect community health and safety.

(2) Development in upland areas shall maintain a setback from creeks or drainageways. The setback shall be maximized to protect the natural resource value of riparian areas and to protect residents from geologic and other hazards.

(3) Development in low-lying areas shall maintain a setback from creeks or drainageways consistent with the existing development pattern and intensity in the area and on the site, the riparian value along the site, geologic stability, and the development alternatives available on the site. The setback should be maximized to protect the natural resource value of the riparian area and to protect residents from geologic and flood hazards.

(4) The filling and development of land areas within the one-hundred-year flood plain is discouraged. Modification of natural channels of creeks is discouraged. Any modification shall retain and protect creekside vegetation in its natural state as much as possible. Reseeding or replanting with native plants of the habitat and removal of broom and other aggressive exotic plants should occur as soon as possible if vegetation removal or soil disturbance occurs.

(5) Safe and adequate drainage capacity should be provided for all watercourses.

The project is not near a watercourse and is not in a flood zone.

(j) Landscaping.

(1) Attractive, fire-resistant, native species are preferred. Landscaping should be integrated into the architectural scheme to accent and enhance the appearance of the development. Trees on the site, along public or private streets and within twenty feet of common property lines, should be protected and preserved in site planning. Replacement trees should be provided for trees removed or affected by development. Native trees should be replaced with the same or similar species. Landscaping should include planting of additional street trees as necessary.

(2) Landscaping should include appropriate plantings to soften or screen the appearance of structures as seen from off-site locations and to screen architectural and mechanical elements such as foundations, retaining walls, condensers and transformers.

(3) Landscape plans should include appropriate plantings to repair, reseed and/or

replant disturbed areas to prevent erosion.

(4) Landscape plans should create and maintain defensible spaces around buildings and structures as appropriate to prevent the spread of wildfire.

(5) Wherever possible, residential development should be designed to preserve, protect and restore native site vegetation and habitat. In addition, where possible and appropriate, invasive vegetation should be removed.

The project would result in removal of five trees, but more than 50 significant native trees will be retained. The landscape plan proposed is designed to soften and minimize the appearance of new retaining walls, would be fire-safe, and retains natural areas.

(k) Health and Safety. Project design should minimize the potential for loss of life, injury or damage to property due to natural and other hazards. New construction must, at a minimum, adhere to the fire safety standards in the Building and Fire Code and use measures such as fire-preventive site design, landscaping and building materials, and fire-suppression techniques and resources. Development on hillside areas should adhere to the wildland urban interface building standards in Chapter 7A of the California Building Code. New development in areas of geologic hazard must not be endangered by nor contribute to hazardous conditions on the site or on adjoining properties.

The project must comply with the current Fire and Building Codes, including the Wildland Urban Interface standards.

(l) Visual Focus.

(1) Where visibility exists from roadways and public vantage points, the primary residence should be the most prominent structure on a site. Accessory structures, including but not limited to garages, pool cabanas, accessory dwellings, parking pads, pools and tennis courts, should be sited to minimize their observed presence on the site, taking into consideration runoff impacts from driveways and impervious surfaces. Front yards and street side yards on corner lots should remain free of structures unless they can be sited where they will not visually detract from the public view of the residence.

(2) Accessory structures should generally be single-story units unless a clearly superior design results from a multilevel structure. Accessory structures should generally be small in floor area. The number of accessory structures should be minimized to avoid a feeling of overbuilding a site. Both the number and size of accessory structures may be regulated in order to minimize the overbuilding of existing lots and attain compliance with these criteria.

The residence will remain the primary structure on the site. The accessory structures are smaller in scale than the residence and the pool and driveway areas will be landscaped to soften their appearance from off site and maintain the residence as the primary focal point of the site.

(m) Privacy. Building placement and window size and placement should be selected with consideration given to protecting the privacy of surrounding properties. Decks, balconies and other outdoor areas should be sited to minimize noise to protect the privacy and quietude of surrounding properties. Landscaping should be provided to protect privacy between properties.

With respect to privacy, neither the expansion of the residence nor the pool area or associated improvements will be readily visible from the neighboring properties or the public from the street. The site will retain more than 50 native trees that provide ample privacy to the adjoining properties. The adjacent neighbors at 10 Canyon are concerned that the use of the proposed pool area will create noise for their site due to the topography. In response to this concern, the applicants have reasonably sought to minimize noise by elevating the pool area to the elevation of the main level, pushing it into and toward the hill as much as possible, using wood decking material, and incorporating a 44 foot long, six foot tall, engineered sound wall to suppress sound carried between the sites.

In addition, in the application for Amended Hillside Lot Review, Design Review, Variances, and a Demolition Permit, the applicant provided the following modifications, which are hereby approved, that further address the sound concerns stated by 10 Canyon:

- The west wall of the deck to be constructed of concrete with stone facing to replace the approved lattice wall.
- The enclosed pool equipment room to be designed with concrete walls and a solid door. The construction shall reasonably provide sound suppression to adjoining properties, provided, however, that the applicant may install reasonable ventilation as recommended by their engineer.

(n) Consideration of Existing Nonconforming Situations. Proposed work should be evaluated in relationship to existing nonconforming situations, and where determined to be feasible and reasonable, consideration should be given to eliminating nonconforming situations as a condition of project approval.

Elimination of the nonconforming garage/studio structure would not be reasonable due to the slope of the site and the Town requirements for covered parking.

(o) Relationship of Project to Entire Site.

(1) Development review should be a broad, overall site review, rather than with a narrow focus oriented only at the portion of the project specifically triggering design review. All information on site development submitted in support of an application constitutes the approved design review project and, once approved, may not be changed by current or future property owners without town approval.

(2) Proposed work should be viewed in relationship to existing on-site conditions. Pre-existing site conditions should be brought into further compliance with the purpose and design criteria of this chapter as a condition of project approval whenever reasonable and feasible.

The detached garage and studio are nonconforming in the side yard setback. The project does not involve the garage or studio structure except that a patio area adjacent to the studio is created due to a door being moved from the rear of the building to the front to improve safe access, which creates an additional modest nonconforming condition within the side yard setback.

(p) Relationship to Development Standards in Zoning District. The town council may impose more restrictive development standards than the standards contained in the zoning

turnaround areas, and driveways should be limited as much as possible, while conforming with traffic and safety concerns and requirements. Common driveways are encouraged. Projects should include appropriate subsurface conditions and plan for future maintenance to maintain the infiltration performance.

(2) Disperse Runoff On Site. Use drainage as a design element and design the landscaping to function as part of the stormwater management system. Discharge runoff from downspouts to landscaped areas. Include vegetative and landscaping controls, such as vegetated depressions, bioretention areas, or rain gardens, to decrease the velocity of runoff and allow for stormwater infiltration on-site. Avoid connecting impervious areas directly to the storm drain system.

(3) Include Small-Scale Stormwater Controls and Storage Facilities. As appropriate based on the scale of the development, projects should incorporate small-scale controls to store stormwater runoff for reuse or slow release, including vegetated swales, rooftop gardens or "green roofs", catch-basins retro-fitted with below-grade storage culverts, rain barrels, cisterns and dry wells. Such facilities may be necessary to meet minimum stormwater peak flow management standards, such as the no net increase standard. Facilities should be designed to minimize mosquito production.

The project proposes to maintain the existing site runoff and to disperse runoff on site. The project will be required to comply with the Town Stormwater Management Ordinance. Conditions of approval limit impervious surfaces to existing conditions.

3. The project is consistent with the Ross general plan and zoning ordinance.

General Plan Consistency

Ross General Plan Policy (RGP) 1.1 Protection of Environmental Resources. Protect environmental resources, such as hillsides, ridgelines, creeks, drainage ways, trees and tree groves, threatened and endangered species habitat, riparian vegetation, cultural places, and other resources. These resources are unique in the planning area because of their scarcity, scientific value, aesthetic quality and cultural significance.

The project includes construction of a new driveway and pool area. Thus, the existing landscape will not be entirely preserved. However, more than 50 native trees will be preserved on site and approximately 70 percent of the site will preserve the existing landscape. The new landscaping utilizes pervious surfaces to the maximum extent possible. In addition, some of the clearing, grading, cutting, and filling is necessary to accommodate the concerns of 10 Canyon with respect to anticipated noise from use of the pool area. Further, parking on Winding Way is limited, the existing access stairs are dangerous, and the new driveway and parking area and entry will provide more convenient access to the site, which is at high elevation from the street.

RGP 1.2 Tree Canopy Preservation. Protect and expand the tree canopy of Ross to enhance the beauty of the natural landscape. Recognize that the tree canopy is critical to provide shade, reduce ambient temperatures, improve the uptake of carbon dioxide, prevent erosion and excess stormwater runoff, provide habitat for wildlife and birds, and protect the ecosystem of the under-story vegetation.

district in which the project is located in order to meet these criteria.

Based on the scale of the residence and the proposed addition there is no need to impose more restrictive development standards to meet the design criteria. The proposed house is in keeping with the size of other development in the neighborhood. No additional side or rear yard setback requirement would improve the issues regarding noise for the adjacent neighbor.

(q) Project Reducing Housing Stock. Projects reducing the number of housing units in the town, whether involving the demolition of a single unit with no replacement unit or the demolition of multiple units with fewer replacement units, are discouraged; nonetheless, such projects may be approved if the council makes findings that the project is consistent with the neighborhood and town character and that the project is consistent with the Ross general plan.

The project does not reduce housing stock.

(r) Maximum Floor Area. Regardless of a residentially zoned parcel's lot area, a guideline maximum of ten thousand square feet of total floor area is recommended. Development above guideline floor area levels may be permitted if the town council finds that such development intensity is appropriate and consistent with this section, the Ross municipal Code and the Ross general plan. Factors which would support such a finding include, but are not limited to: excellence of design, site planning which minimizes environmental impacts and compatibility with the character of the surrounding area.

The proposed floor area is less than 10,000 square feet.

(s) Setbacks. All development shall maintain a setback from creeks, waterways and drainageways. The setback shall be maximized to protect the natural resource value of riparian areas and to protect residents from geologic and other hazards. A minimum fifty-foot setback from the top of bank is recommended for all new buildings. At least twenty-five feet from the top of bank should be provided for all improvements, when feasible. The area along the top of bank of a creek or waterway should be maintained in a natural state or restored to a natural condition, when feasible.

No creek is near the development.

(t) Low Impact Development for Stormwater Management. Development plans should strive to replicate natural, predevelopment hydrology. To the maximum extent possible, the post-development stormwater runoff rates from the site should be no greater than pre-project rates. Development should include plans to manage stormwater runoff to maintain the natural drainage patterns and infiltrate runoff to the maximum extent practical given the site's soil characteristics, slope, and other relevant factors. An applicant may be required to provide a full justification and demonstrate why the use of Low Impact Development (LID) design approaches is not possible before proposing to use conventional structural stormwater management measures which channel stormwater away from the development site.

(1) Maximize Permeability and Reduce Impervious Surfaces. Use permeable materials for driveways, parking areas, patios and paths. Reduce building footprints by using more than one floor level. Pre-existing impervious surfaces should be reduced. The width and length of streets,

Although the project will result in the reduction of native trees on site by three, more than 50 native trees will be preserved on site and approximately 70 percent of the site will preserve the existing landscape. Reduction of the tree canopy is recommended by the fire clearance requirements for high fire hazard areas.

RGP 1.3 Tree Maintenance and Replacement. Assure proper tree maintenance and replacement.

See RGP 1.2 above.

RGP 1.4 Natural Areas Retention. Maximize the amount of land retained in its natural state. Wherever possible, residential development should be designed to preserve, protect and restore native site vegetation and habitat. In addition, where possible and appropriate, invasive vegetation should be removed.

The project includes construction of a new driveway and pool area. Thus, the existing landscape will not be entirely preserved. However, more than 50 native trees will be preserved on site and the vast majority of the site will preserve the existing landscape. The new landscaping utilizes permeable surfaces to the maximum extent possible. In addition, some of the clearing, grading, cutting, and filling is necessary to accommodate the concerns of 10 Canyon with respect to anticipated noise from use of the pool area. Further, the project allows for more convenient parking and a new, safer, stair access to the residence, which is at a high elevation from the street and existing parking area.

RGP 2.1 Sustainable Practices. Support measures to reduce resource consumption and improve energy efficiency through all elements of the Ross General Plan and Town regulations and practices, including:

- (a) Require large houses to limit the energy usage to that of a more moderately sized house as established in design guidelines.*
- (b) Choose the most sustainable portion of a site for development and leaving more of a site in its natural condition to reduce land impacts on the natural environment.*
- (c) Use green materials and resources.*
- (d) Conserve water, especially in landscaping.*
- (e) Increase the use of renewable energy sources, including solar energy.*
- (f) Recycle building materials.*

Town regulations require the construction materials to be recycled. The house will be more energy efficient than existing development with the replacement of windows with new windows and compliance with Title 24. The landscaping is required to comply with Marin Municipal Water District (MMWD) water conserving landscape requirements.

RGP 2.2 Incorporation of Resource Conservation Measures. To the extent consistent with other design considerations, public and private projects should be designed to be efficient and innovative in their use of materials, site construction, and water irrigation standards for new landscaping to minimize resource consumption, including energy and water.

See RGP 2.1 above.

RGP 2.3 Reduction in the Use of Chemicals and Non-Natural Substances. Support efforts to use chemical-free and toxic-free building materials, reduce waste and recycle building waste and residential garbage. Encourage landscape designs that minimize pesticide and herbicide use.

It is unknown whether materials are chemical-free or toxic free. Construction and demolition debris must be recycled under existing Town regulations. Proposed landscaping may not minimize pesticide and herbicide use.

RGP 2.4 Footprints of Buildings. Utilize smaller footprints to minimize the built area of a site and to allow the maximum amount of landscaped and/or permeable surfaces.

The project minimally expands the footprint of structures and reduces landscaped area in a natural state as minimally as reasonably possible. However, more than 50 native trees will be preserved on site and the majority of the site will preserve the existing landscape. The new landscaping utilizes permeable surfaces to the maximum extent possible. In addition, some of the clearing, grading, cutting and filling is necessary to accommodate the concerns of 10 Canyon with respect to anticipated noise from use of the pool area. Further, parking on Winding Way is difficult and far from the house; the new driveway and parking area will create more convenient access to the residence, which is at a high elevation from the street.

RGP 3.1 Building and Site Design. Design all structures and improvements to respect existing natural topographic contours. Open areas and buildings shall be located to protect land forms and natural site features, including cultural places and resources, wherever possible. Where feasible, site development must avoid intact or previously disturbed cultural resources during excavation and grading.

The project creates some new level areas on sloping land, however, approximately 70 percent of the site will preserve the existing topographic contours. The discovery of cultural resources is unlikely.

RGP 3.2 Landscape Design. Where appropriate, encourage landscape designs that incorporate existing native vegetation, enhance the cohesiveness of the Town's lush, organic landscape and integrate new planting with existing site features. Plans shall recognize the importance of open space on a lot and shall address the look and feel of the space between structures so as to avoid overbuilding.

The landscape design incorporates existing native vegetation, enhances the cohesiveness of the Town's lush, organic landscape, and integrates new planting with existing site features. More than 50 significant native trees will be preserved on site and the majority of the site will preserve the existing landscape. The new landscaping utilizes permeable surfaces to the maximum extent possible. Moreover, the proposed retaining walls are terraced and landscaping will be installed to break up the mass of the walls.

RGP 3.3 Buildings on Sloping Land. New buildings and additions to existing residential buildings constructed on sloping land should be designed to relate to the current landforms with the goal of integrating the building with the site (e.g., step with the slope). Low retaining walls

retaining walls, and to protect water quality. Permeable materials should be used to increase water infiltration. Driveways and parking areas should be graded to minimize stormwater runoff.

Currently, the site does not have a safe pedestrian access and parking is inconveniently located far from the residence down a long brick stairs and paths. The proposed project would improve the access deficiencies. The proposed access ways and parking area is in scale with the design of the buildings and structures on the site. They are sited to minimize physical impacts on adjacent properties related to noise, light, and emissions and are visually compatible with development on the site and on neighboring properties. Off-street parking is screened from view to the extent possible. The area devoted to driveways, parking pads and parking facilities has been minimized to the furthest extent possible while still allowing to improve the access and convenience of parking closer to the residence. The project incorporates natural drainage ways and vegetated channels to decrease flow velocity and allow for stormwater infiltration, percolation and absorption.

The project will generally maintain the existing drainage pattern and impervious surfaces. A drainage plan in compliance with the Town Stormwater Management Ordinance will be required prior to building permit issuance.

RGP 4.1 Historic Heritage. Maintain the historic feel of Ross by preserving and maintaining historic buildings, resources and areas with recognized historic or aesthetic value that serve as significant reminders of the past.

The building is not historic and the area does not have historic value.

RGP 4.2 Design Compatibility with Historic Resources. Require new construction to harmonize with existing historic buildings and resources, and ensure a compatibility of landscaping with Ross' historic character.

The building is not historic and the area does not have historic value.

RGP 4.4 Preservation of Existing Housing Supply. Discourage the demolition or combining of existing residential units that will reduce the supply of housing in Ross.

The project will not eliminate any housing units.

RGP 4.5 Archaeological Resources. Implement measures to preserve and protect archaeological resources. Whenever possible, identify archaeological resources and potential impacts on such resources. Provide information and direction to property owners in order to make them aware of these resources. Require archaeological surveys, conducted by an archaeologist who appears on the Northwest Information Center's list of archaeologists qualified to do historic preservation fieldwork in Marin County, in areas of documented archaeological sensitivity. Develop design review standards for projects that may potentially impact cultural resources.

The discovery of cultural resources is unlikely.

are encouraged where their use would minimize uphill cutting, and large single-plane retaining walls should be avoided. Cut and fill areas and on/off-hauling should be minimized, especially in locations of limited or difficult access. Special care should be taken to final grade all disturbed areas to a natural appearing configuration and to direct stormwater runoff to areas where water can naturally infiltrate the soil.

The project includes construction of a new driveway and pool area. More than 50 native trees will be preserved on site and the majority of the site will preserve the existing landscape. The new landscaping utilizes permeable surfaces and minimizes cut and fill as much as reasonably possible. Some of the clearing, grading, cutting and filling is necessary to move the pool further away from 10 Canyon to reduce potential noise from use of the pool area. The project will generally maintain the existing drainage pattern and will provide a net reduction in impervious surfaces. A drainage plan in compliance with the Town Stormwater Management Ordinance will be required prior to building permit issuance. Retaining walls are terraced to provide additional landscaping area and to leave the site in the most natural appearing configuration.

RGP 3.4 Bulk, Mass and Scale. Minimize the perception of building bulk and mass so that homes are not out of scale, visually or structurally, with neighboring residences and their setting. Consider building bulk and mass during the design review process, and when applying requirements and guidelines addressing Floor Area Ratio (FAR), maximum home floor area and other development standards. Building heights should stay in scale with surrounding vegetation and buildings.

The remodeled residence will remain in keeping with the existing residence and the size of neighboring structures.

RGP 3.5 View Protection. Preserve views and access to views of hillsides, ridgelines, Mt. Tamalpais and Bald Hill from the public right-of-way and public property. Ensure that the design look and feel along major thoroughfares maintains the "greenness" of the Town.

The project is not along major thoroughfare and does not impair views of hillsides and ridgelines.

RGP 3.6 Windows, Roofs, and Skylights. Window and skylight size, placement and design should be selected to maximize the privacy between adjacent properties. To the extent consistent with other design considerations, the placement and size of windows and skylights should minimize light pollution and/or glare.

The site is far from adjacent residences. None of the windows impact privacy enjoyed by adjoining properties.

RGP 3.7 Materials and Colors. Buildings should be designed using high-quality materials and colors appropriate to their neighborhood and natural setting.

High quality materials are proposed including shingle siding in a gray color and green painted wood windows, doors and trim.

RGP 3.8 Driveways and Parking Areas. Driveways and parking areas should be designed to minimize visibility from the street and to provide safe access, minimal grading and/or

RGP 5.2 Geologic Review Procedures. At the time a development is proposed, Ross geologic and slope stability maps should be reviewed to assess potential geologic hazards. In addition, suitability for development must be based on site-specific geotechnical investigations.

The proposed construction is not within areas that have been identified as instable and the Geotechnical report for the site states that the area is quite stable.

RGP 5.3 Fire Resistant Design. Buildings should be designed to be fire defensive. Designs should minimize risk of fire by a combination of factors including, but not limited to, the use of fire-resistant building materials, fire sprinklers, noncombustible roofing and defensible landscaping space.

The project will comply with the Wildland Urban Interface Standards. The residence will have sprinklers. Defensible landscaping is required.

RGP 5.4 Maintenance and Landscaping for Fire Safety. Ensure that appropriate fire safety and landscaping practices are used to minimize fire danger, especially in steeper areas. Due to the high fire hazard in the steeper areas of Town, special planting and maintenance programs will be required to reduce fire hazards in the hills and wildland areas, including removal of invasive non-native vegetation such as broom, acacia and eucalyptus.

An effective firebreak around the structure is required.

RGP 5.5 Fire Safety in New Development. New construction will adhere to all safety standards contained in the Building and Fire Code. Hazards to life and property shall be minimized by such measures as fire preventive site design, fire resistant landscaping and building materials, and the use of fire suppression techniques and resources.

See RGP 5.3 above.

RGP 5.12 Access for Emergency Vehicles. New construction shall be denied unless designed to provide adequate access for emergency vehicles, particularly fire fighting equipment.

The project will include alternate methods to provide adequate fire safety. Existing conditions will be improved from a fire safety perspective.

RGP 6.4 Runoff and Drainage. Stormwater runoff should be maintained in its natural path. Water should not be concentrated and flow onto adjacent property. Instead, runoff should be directed toward storm drains or, preferably to other areas where it can be retained, detained, and/or absorbed into the ground.

An engineered drainage plan is required.

RGP 6.5 Permeable Surfaces. To the greatest extent possible, development should use permeable surfaces and other techniques to minimize runoff into underground drain systems and to allow water to percolate into the ground. Landscaped areas should be designed to provide potential runoff absorption and infiltration.

An engineered drainage plan is required.

RGP 6.6 Creek and Drainageway Setbacks, Maintenance and Restoration. Keep development away from creeks and drainageways. Setbacks from creeks shall be maximized to protect riparian areas and to protect residents from flooding and other hazards. Encourage restoration of runoff areas, to include but not be limited to such actions as sloping banks, providing native Creek access vegetation, protecting habitat, etc., and work with property owners to identify means of keeping debris from blocking drainageways.

Work is not proposed near riparian areas.

Zoning Ordinance Consistency

The project is consistent with the zoning ordinance for the reasons stated herein. Two variances are required, and are hereby granted for the reasons and based upon the findings stated herein.

B. HILLSIDE LOT REVIEW FINDINGS (RMC § 18.39.060)

1. *The project complies with the stated purposes of RMC Chapter 18.39 as follows:*

(a) Ensure that development is consistent with the goals, policies and criteria of the general plan.

The development is consistent with the goals, policies, and criteria of the general plan as set forth in detail in the above Design Review Findings.

(b) Protect and preserve public and private open space as a limited and valuable resource.

The project includes construction of a new driveway and pool area. Thus, the existing landscape will not be entirely preserved. However, more than 50 significant native trees will be preserved on site, and the majority of the site will preserve the existing landscape. The new landscaping utilizes permeable surfaces to the maximum extent possible. In addition, some of the clearing, grading, cutting and filling is necessary to accommodate the concerns of 10 Canyon with respect to potential noise from use of the pool area. Further, parking on Winding Way is difficult; the new driveway and parking area will substantially improve a safe access to the residence, which currently is accessed by outdated and unsafe steep brick stairs. Moreover, the pool, pool deck area, and walls are not readily visible from neighboring properties or by the public from the street.

(c) Preserve significant features of the natural environment including watersheds, watercourses, canyons, knolls, ridgelines and rock outcroppings and minimize disturbance to the natural terrain.

There are no significant features of the natural environment that will be affected by this project. The project includes construction of a new driveway and a pool and decking. The pool is being placed in an area that already is developed with a sport court, patio, and play area. The driveway is being located in an area with existing brick access stairs, and utilizes only a single lane to maximize the retention of significant trees.

(d) Protect steep slopes, creeks, significant native vegetation, wildlife and other environmental resources.

The project will require elimination of five significant trees, however, the property will retain more than 50 significant trees and 11 replacement trees will be added to the property as part of the vegetation and landscaping management plan. Existing retaining walls on the north side of the house are in poor condition; new engineered retaining walls will stabilize the slope.

(e) Limit development to a level consistent with available public services and road access that can be reasonably provided to and within the parcel.

The existing residence is adequately served by the available public services and road access. The plans do not increase the living capacity of the home, but rather improve the quality of the existing home. No additional bedrooms or bathrooms are being added. The plans have been approved by Ross Valley Fire Department subject to certain conditions to meet fire code requirements.

(f) Ensure that development will not create or increase fire, flood, slide or other hazards to public health and safety.

The project will result in a structure that is consistent with current code requirements. The pedestrian access is being improved and will be far safer than the current access, and the renovations will include fire sprinklers and a seismic upgrade to the structure.

(g) Protect the public health, safety and general welfare and the property of people in the vicinity of steep hillside building sites.

The project will result in a structure that is more compliant with current safety codes. The Conditions of Approval imposed on the project ensure that the public health, safety and general welfare and the property of people in the vicinity of steep hillside building sites are protected.

(h) Ensure that development will not create or increase the potential of major financial loss to the town or any other governmental entity through claim or litigation related to physical development of the site.

The development will not create or increase the potential of major financial loss to the town or any other governmental entity through claim or litigation related to physical development of the site. 10 Canyon has complained about the potential for noise impacts resulting from use of the pool area, but the applicant has made a substantial and reasonable effort to address those concerns by pushing the pool location back into the hillside and adding a six foot tall, one foot thick, 44 foot wide sound suppression wall adjacent to the pool area.

In addition, in the application for Amended Hillside Lot Review, Design Review, Variances, and a Demolition Permit, the applicant provided the following modifications, which are hereby approved, that further address the sound concerns stated by 10 Canyon:

- The west wall of the deck to be constructed of concrete with stone facing to replace the approved lattice wall.
- The enclosed pool equipment room to be designed with concrete walls and a solid door. The construction shall reasonably provide sound suppression to adjoining properties, provided, however, that the applicant may install reasonable ventilation as recommended by their engineer.

(i) Reduce the visual impacts of construction on hillsides and encourage building designs compatible with hillside areas.

The project development is proposed in an area of existing development and a previously disturbed area. The proposed residence is designed with darker tones so that it will recede into the hillside setting.

- 2. *The project complies with the development regulations of RMC Section 18.39.090, or the Town Council has considered and approved a variance; and***
- 3. *The project substantially conforms to the hillside development guidelines in RMC Section 18.39.090.***

For the reasons stated below, the project complies with the Hillside Lot development regulations and substantially conforms to the development guidelines. RMC Section 18.39.090 section provides both regulations and guidelines for hillside development. (Regulations are identified by use of the term “shall” and compliance is mandatory. Guidelines are identified by use of the term “should” and compliance is not mandatory but is strongly recommended.)

In addition, the Town Council hereby grants variances from the provisions of Sections 18.39.090(a) (maximum floor area) and 18.39.090(b) (building setbacks) based on the Variance Findings set forth below.

(a) Maximum Floor area. The maximum floor area for lots having thirty percent or greater overall natural slope shall be limited based on the lot slope and lot size using the following formula: Maximum floor area = $(0.15 - 0.002S)A - 0.005 (A^2/43,560)$ with A = lot area in square feet, up to a maximum of 3 acres S = slope of the lot, up to a maximum of 55%.

The Town Council hereby grants a variance from this requirement based on the Variance Findings set forth below.

(b) Building setbacks. Minimum yards shall be provided as follows. Building sq. ft. 0-3500 sq. ft. in size: Front 25/Side 25/ Rear 50. Building over 3,501 square feet: Front 25/Side 45/Rear 70.

The Town Council hereby grants a variance from this requirement based on the Variance Findings set forth below.

(c) Grading and retaining walls. Grading, cutting and filling and retaining walls should be minimized for hillside development by using building techniques which reflect the natural topography of the site. Applicants should balance cut and fill on site. Graded slopes shall not exceed 2:1. Individual retaining walls shall not exceed a height of six feet. Terraced retaining walls should be at least three feet apart to allow for screening vegetation. The aggregate height of retaining walls should not exceed eighteen feet for any particular slope. Upslope walls up to four feet in height may be constructed of pressure-treated timber. All walls up to six feet in height may be constructed of reinforced concrete block. All other walls shall be constructed of reinforced concrete. Visible concrete and concrete block walls should have an appropriate architectural finish.

The project reasonably minimizes cutting and filling and retaining walls. A new retaining wall is required to locate the new swimming pool at a location adjacent to and pushed back into the hillside to reduce its impact on 10 Canyon. New driveway retaining walls are necessary to

allow for the current unsafe brick stairs access to be replaced by a safe access from a more convenient driveway area and to improve offstreet parking. Cut and fill activities are reasonably balanced; a relatively modest amount of material will be removed from the site. The graded slopes do not exceed 2:1. The individual retaining walls do not exceed a height of six feet, and the aggregate height of walls on any particular slope does not exceed 18 feet. Terraced retaining walls are far greater than three feet apart. The walls have an appropriate finish and are consistent with the guidelines set forth above.

(d) Architecture.

(1) Architectural design should complement the form of the natural landscape.

(2) Designs should be well-articulated to minimize the appearance of bulk.

(3) Materials and colors should be of subdued tones to blend with the natural landscape.

(4) Building design and the placement of driveways should conform to the natural contours of the site.

(5) The town council may consider limiting floor area to account for tall wall heights and other volumes that exaggerate the height, bulk and mass of a building but are not included in floor area.

The above Design Review Findings are incorporated herein by this reference. The approval herein of a modest floor area variance is consistent with the above guideline (d)(5), because the height, bulk, and mass of the building will not be materially impacted by the variance.

(6) Decks, particularly elevated decks, should enhance the appearance of a house and be of a scale and style which are compatible with the house, adjacent development, and the surroundings. The town council may limit deck and patio area based on considerations of aesthetics, potential for noise, bulk and mass, privacy of adjacent sites, and visibility. The maximum guideline area of decks over 18 inches in height (including car decks) is 25% of the maximum permitted floor area for the site under this chapter.

The proposed total of elevated decks over 18" above grade is 1940 square feet versus the guideline maximum of 656 feet (25% of the permitted floor area under the HLO of 2,623 square feet). The Town Council has approved deck area over the guideline maximum since the guideline was established, most recently for 16 Canyon/Mortimer (2012, deck area equal to 43-45% of the maximum floor area approved).

The proposed decks are consistent with the scale of the existing building that has a total existing floor area of 5,706. The front porch and west balcony are both consistent with the scale of the existing architecture and represent a significant enhancement to the property that is consistent with the general plan for design excellence.

The design and location of the decks satisfy the recommendation in the guideline to consider aesthetics, potential for noise, bulk and mass, privacy of adjacent sites, and visibility. The decks will enhance the appearance of the residence and are of a scale that is compatible with the residence, adjacent development and surroundings. Exceeding the guideline deck area

for the project site is reasonable taking into consideration the size of the existing residence, topography adjacent to the residence, and the location of development in the area. Limiting decks over 18" in height to the guideline maximum would preclude the property owners from having reasonable, level, outdoor areas adjacent to living space on which to recreate and to enjoy views of the surrounding area. The residence is far from development on adjacent sites and there is adequate room for screening landscaping, unlike certain neighborhoods with more narrow and steep sites, where houses are closer together and at the same elevation, and decks have the potential to create noise and privacy concerns that are difficult to mitigate.

The proposed pool deck and dining area total 2038 square feet. This proposed pool deck and dining area replaces an existing sport court, play area, and dining area which together total 2105 square feet.

The decks will enhance the appearance of the house and are of a style that is compatible with the house, adjacent development, and the surroundings. The scale of development is consistent with other properties in the area that have significant deck and patio areas.

The property has significant tree cover and the proposed decks are not in the direct view of any other property. The pool area has been placed further into the hillside relative to the existing sport court and represents an improvement to the status quo.

Moreover, the decking is at a higher elevation than the adjacent development and is not anticipated to significantly increase the mass of the structure or create noise impacts for neighbors. The sound from the pool deck, already mitigated by the use of wood, will be further mitigated by the installation of a six foot tall, one foot thick, 44 foot long sound wall.

In summary regarding this finding, the Town Council has considered the plans for the deck and patio areas and determines that they are appropriate and substantially consistent with the hillside lot ordinance. The Council further determines that it is appropriate to exceed the guideline of 656 square feet of elevated decks due to the nature of the improvements, the existing building and lot coverage and the location of development on the project site and other sites in the neighborhood.

(e) Landscape Architecture.

(1) Native shrubs and trees should be retained on hillside terrain wherever possible to help reduce erosion and preserve the character of the hillside environment. Newly introduced landscaping shall blend with the site setting.

(2) Drought and fire-resistant plantings are recommended.

(3) Native vegetation and trees shall be protected from damage during construction.

(4) An irrigation system shall be required to establish new hillside landscaping.

(5) Landscaping should preserve the penetration of sunlight to neighboring properties.

(6) Small patios, terraces and pathways are allowed. They should be porous in nature wherever possible.

(7) Fences and walls enclosing a parcel are not recommended. All fences and walls are subject to review as part of the landscaping plan or design review as mandated.

(8) Railings should be transparent and compatible with the architectural design.

The above Design Review Findings are incorporated herein by this reference.

(f) Views.

(1) Hillside development should minimize the obstruction of views from surrounding properties and public vantage points, with particular care taken to protect primary views.

The development does not impact primary views from surrounding properties or public vantage points.

(2) No building shall be located on a ridge.

The development will not obstruct views from surrounding property or public vantage points. No part of the development is located on a ridge.

(g) Public Safety.

(1) Class A roofing assembly is required.

(2) The fire official shall ensure the adequacy of the water supply for fire fighting purposes by requiring water mains and the upgrade of fire hydrants as necessary.

(3) Sprinkler systems shall be provided as required by the fire official.

(4) Clearance of brush or vegetative growth from structures and driveways shall be in accordance with the California Fire Code and approved by the fire official.

(5) Defensible spaces around each building and structure shall be created in accordance with the vegetation clearance requirements prescribed in California Public Resource Code 4291 and California Government Code 51182.

(6) Development shall adhere to the wildland urban interface building standards in Chapter 7A of the California Building Code.

This project represents a substantial upgrade in fire safety for the property. The Conditions of Approval will ensure that all Fire Code requirements are met.

(h) Geology.

(1) All newly created slopes shall be planted or otherwise protected from the effects of storm runoff and erosion within thirty days after completion of grading.

(2) Development shall avoid unstable areas on the site, such as slides, severe creep areas and debris flows. Locating improvements in such areas shall be grounds for project denial. Projects plans should include repair of all unstable areas on the site, such as slides, severe creep areas and debris flows, both in the immediate area of the proposed development and elsewhere on the site including any roadways traversing undeveloped areas as required by the town or project engineers.

(3) All slide repair work shall be accomplished under a building permit and the direction of a registered civil engineer specializing in soils engineering or a certified engineering geologist. At the conclusion of work, the engineer or geologist shall submit written confirmation to the town that all work accomplished under his jurisdiction is acceptable.

(4) Erosion control measures shall be required for all development. Erosion control plans shall comply with the County of Marin stormwater regulations and shall meet the National Pollutant Discharge Elimination System (NPDES) permit requirements for Marin County.

All site work will be performed consistent with the attached Conditions of Approval. Slope stability at the site will be improved by the new engineered retaining walls.

(i) Hydrology.

(1) Residences and accessory structures shall not traverse, encroach or impede a natural watercourse or drainage swale.

(2) Site drainage shall be designed by a licensed engineer. The plan shall be designed to produce no net increase in peak runoff from the site compared to pre-project conditions. Site plans should include techniques for low impact development for stormwater management (see design review guideline 18.41.100(t)).

The project does not impair a watercourse or drainage swale and Conditions of Approval require a licensed engineer to design a drainage plan in conformance with the Town's Stormwater Ordinance.

(j) Circulation.

(1) The design of the circulation system should provide for an adequate transition and maximum compatibility with adjoining patterns of development and open space.

(2) The design of the circulation system should follow the natural contours of the land.

(3) The points of ingress and egress to a street shall have a minimum visual clearance commensurate with adequate safety requirements. In any event, the visual clearance shall not be less than one hundred feet.

(4) All roadway improvements shall meet the specifications determined by the director of public works and town engineer.

The project will create a substantially safer pedestrian access to the house and will provide additional off-street parking that is more convenient to residents. Some retaining walls are required to accommodate the new driveway, however, the design of the circulation system reasonably follows the natural contours of the land, and it is compatible with adjoining development.

C. HILLSIDE LOT MAXIMUM FLOOR AREA (RMC § 18.30.090(a)) and MINIMUM REAR YARD SETBACK (RMC § 18.30.090(b)) VARIANCE FINDINGS (RMC CHAPTER 18.48)

Pursuant to the provisions of RMC Section 18.48.010, the Town Council hereby finds that practical difficulties, unnecessary hardships, and results inconsistent with the general purpose of RMC Title 18 will result from the strict application of RMC Sections 18.30.090(a) and

(b) (Hillside Lot maximum floor area and minimum rear yard setback) to the project. The Town Council therefore grants variances from said requirements because, based on the below described special circumstances applicable to the property (including size, shape, topography, location and surroundings), the strict application of the zoning ordinance would deprive the subject property of privileges enjoyed by other property in the vicinity and under the identical zoning classification.

The attached Conditions of Approval will assure that the adjustment hereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated. In addition, all homes in the immediate area have swimming pools or have approvals for a swimming pool. Many homes in the immediate area have significant structures within the setbacks. Thus, the applicant should be allowed to develop the site's potential as the surrounding neighbors have been allowed to do.

The property use granted herein for a single family residence is expressly authorized by the zone regulation governing the parcel.

In addition, pursuant to RMC Section 18.48.030, the Town Council finds that the qualifications under Section 18.48.020 apply to the land, building, or use for which variance, exception or adjustment is sought, based on the following:

(1) There are special circumstances or conditions applicable to the land, building, or use referred to in the application.

The existing structure is a charming 1920s Craftsman-style Ross home. An unfortunate result, however, was caused in connection with a 1990s-remodeling project that included a flat roof kitchen addition that has no architectural connection to the remainder of the residence. This now-unique condition substantially detracts from the appearance of the northeastern portion of the residence. In addition, the entry to the home was altered in that same 1990s remodel, resulting in an access that is confusing to guests and visitors who cannot discern where to find the front door of the home. The house is approached from the southwest, yet the front door faces due east. These unique and problematic conditions are remedied through a floor area variance that will increase the existing floor area ratio by 0.5%. The result of this modest variance will be to correct the asymmetric roofline of the kitchen and cause that portion of the home to cohere with the remainder of the structure. The new covered front entry way will cause the front door now to be easily perceived and accessed by guests.

In addition, the site topography substantially limits the possibilities for placement of a pool, which is an outdoor feature common to the neighborhood and the Town at large. The applicant initially had considered placing the pool and pool deck in the area of an existing sports court and west, but the neighbors at 10 Canyon expressed concern regarding the potential noise that use of the pool area could generate. To address the concerns, the applicant pulled the pool area as far from 10 Canyon as possible by proposing to dig into the hillside and install a new retaining wall, which resulted in a portion of the pool area being pushed into the rear yard setback. With regard to topography, the relative proximity of the two

properties, combined with the desire to reasonably limit sound carrying to 10 Canyon, constitutes a unique condition that supports the rear yard setback variance.

(2) The granting of the application is necessary for the preservation and enjoyment of substantial property rights;

Granting the application permits the property owners to greatly improve the appearance of a 1990s addition and bring it into conformance with the design of the main residence. An appealing and consistent architectural design is important to the value, use and enjoyment of the property. The original residence was constructed in the 1920s and there is a historical precedent of structures within the setbacks for this and neighboring properties.

(3) The granting of the application will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

The improvements will substantially enhance the appearance and assessed value of the property, which will benefit the neighborhood and the Town of Ross.

With regard to the rear yard setback variance, the proposed pool location is very private, wooded, and the least impactful to the surrounding area. The pool area is not readily visible from neighboring properties and the design of the pool, deck, and sound wall minimizes the noise level to the neighbor's property. The applicant will eliminate the existing sports court with concrete impervious surfaces and high retaining structures. Dating back to its use by prior owners, the sport court has been a historical source of nuisance for 10 Canyon, due to ball noise. The proposed pool location and sound wall are designed to minimize noise levels to the neighbors. The proposed pool location is surrounded by trees and is not easily visible from any adjoining property or the road.

Moreover, the pool is nearly 200 feet from any of the main buildings at 4 Canyon, 10 Canyon, 124 Winding Way or 126 Winding Way. Further, the total area of the property is 50,556 square feet.

With regard to the floor area variance: (1) most of the modest amount of the additional enclosed floor area will not be visible to the public or neighbors; (2) the living capacity of the home is not being increased (no bedrooms or baths are being added); (3) the portion of the addition that is visible from the street will be an attractive entryway that will clarify the access to the residence; and (4) all of the improvements will be constructed consistent with Uniform Building Code requirements.

In addition, pursuant to RMC Section 18.48.030, the Town Council hereby finds:

The variance is in harmony with the general purpose of this title 18 - Zoning.

The floor area variance grants a modest additional 232 square feet over the existing floor area that will greatly improve the design of the residence. This improvement will, in turn, benefit the neighborhood and fulfill the General Plan Goal 3 that supports excellence of design. Given the limited topography of the site, the rear yard set back variance similarly is in harmony with the general purpose of the Zoning Ordinance.

D. DEMOLITION PERMIT FINDINGS (RMC CHAPTER 18.48)

Pursuant to the provisions of RMC Section 18.50.060, the Town Council hereby makes the following findings:

(1) The demolition will not remove from the neighborhood or town, nor adversely affect, a building of historical, architectural, cultural or aesthetic value. The demolition will not adversely affect nor diminish the character or qualities of the site, the neighborhood or the community.

The Town does not have a historic resource inventory and considers discretionary projects on a case by case basis against federal and state historic listing standards. The proposed demolition will alter the appearance of the last remaining portion of the existing residence, which was built in the 1920s. It is unlikely that the original residence would qualify for listing in any state or federal register and the residence has been so significantly altered by a 1990 remodel that it no longer retains any historic integrity.

The demolition will not adversely affect nor diminish the character or qualities of the site, the neighborhood or the community, but will improve such character or qualities because the existing building suffers from a 1990s flat roof addition which is inconsistent with the rest of the building's design. Granting the application will allow the applicant to correct the design defect and bring the 1990s addition in conformance with the design of the main residence. Appealing architectural design is not only integral to the enjoyment of the property but will also allow the property owner to increase the value of the property to the maximum extent.

(2) The proposed redevelopment of the site protects the attributes, integrity, historical character and design scale of the neighborhood and preserves the "small town" qualities and feeling of the town.

The proposed redevelopment of the site protects the attributes, integrity, historical character, and design scale of the neighborhood and preserves the "small town" qualities and feeling of the town because the proposed residence primarily maintains the mass and design of the existing development and uses traditional materials and colors that are in keeping with the site setting and the neighborhood.

(3) The project is consistent with the Ross general plan and zoning ordinance.

The Design Review Approval findings set forth above are incorporated herein by this reference.

(4) The project will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood and will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

The improvements will substantially enhance the appearance and assessed value of the property, which will benefit the neighborhood and the Town of Ross. Moreover, construction will be governed by the uniform Building Code requirements as well as regulations and conditions imposed by the Town Council in the Conditions of Approval.

EXHIBIT "B"
128 Winding Way Conditions of Approval

Modifications to Conditions approved by Town Council on July 11, 2013 are shown by underline (additions) and strike through (deletions).

Approve the amended project subject to the following conditions of approval, which shall be reproduced on the cover sheet of the plans submitted for a building permit:

1. Except as otherwise provided in these conditions, the project shall comply with the plans approved by the Town Council on July 11, 2013. Plans submitted for the building permit shall reflect any modifications required by the Town Council and these conditions.

2. The applicant shall pay for all known costs for the Town attorney time spent on this application prior to building permit issuance. The Town may collect a deposit in advance of building permit issuance to cover the anticipated cost for any Town consultants, such as the town attorney, town hydrologist and town arborist. Any additional costs incurred by the Town, including costs to inspect or review the project, shall be paid as incurred and prior to project final.

3. The applicant shall close "barrier gaps" in the wall material adjoining the pool deck by replacing the trellis material originally approved to screen the area under the surface of the pool deck with a stone-faced wall. The materials for the wall shall match the materials of the retaining wall on the east side of the pool deck.

4. The pool equipment room shall be built with concrete walls and a solid door and vented as required by building codes. Any vents shall be located to minimize any noise impacts to 10 Canyon Road. Any enclosed space shall be less than 7 feet in height so that the area does not count as new floor area.

5. The proposed 6 ft. high and 47 ft. long curved sound wall shall be erected to run the full length of the north deck edge (the edge of the deck that is roughly parallel to the property line that is shared between 10 Canyon and 128 Winding Way) extending no closer than 45ft. to the property line, and shall continue 10 feet south at 6 ft. high along the west edge of the deck, as proposed to mitigate noise towards 10 Canyon Road. The wall shall not be removed without prior approval of the Town Council after a public meeting or the written consent of the owners of 10 Canyon Road. After the 10 feet of solid wall, the remainder of the railing along the west edge of the deck may be an open material.

6. Impervious surfaces shall be limited to the existing conditions level of impervious surfaces. Pervious surfaces shall not be converted to impervious surfaces, even after project final, without prior Town Council approval.

7. ~~Retaining walls that may be visible from off site shall be finished with an earth tone material or finish so that they recede into the hillside setting until landscape screening is mature.~~ Retaining walls shall be finished and landscaped as proposed. As required by the Hillside Lot Ordinance, all retaining walls (walls used to resist the lateral displacement of any material on at least eighty percent of the area of one side of the wall) shall be limited to 6 feet of visible height.

8. Applicants may be required to return for additional Town Council review,

which requires payment of additional application fees, for any roof projections that are not identified on the plans submitted for Town Council review. Where a roof area is visible from off site, roof projections shall be located to minimize their appearance. Exposed galvanized material is discouraged. All vents and flue pipes shall utilize a finish to blend into adjacent surfaces. If possible, vents may be concealed from view in forms compatible with the structure. Vents for cooking appliances should be located or directed to avoid noise and odor impacts to adjacent sites and shall be located out of required setback areas.

9. The plans submitted for the building permit shall detail the gutter and downspout design and location for review and approval by the planning department. Applicants may be required to return for additional Town Council review, which requires payment of additional application fees, for any gutters or downspouts that are not identified on the plans submitted for Town Council review. A specification sheet shall be provided and the proposed color and finish material shall be specified. Downspouts should be located to minimize their appearance from off site locations. Gutters and downspouts should have a finish to blend into adjacent surfaces or underlying trim. Exposed galvanized material is not permitted.

10. Landscaping shall be installed in substantial conformance with the approved landscape plan prior to project final. The Town staff reserves the right to require modifications to the landscape to protect mature trees and to comply with MMWD water conserving landscape requirements or fire code clearance requirements. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.

11. No trees shall be removed prior to issuance of the building permit. A tree protection plan for all protected trees on or near the project site is required with the building permit application. The plan shall comply with the requirements of Ross Municipal Code Section 12.24.100. The applicants'/project arborist shall review the final construction-level drawings and landscape plans, including civil, structural, grading, drainage, irrigation and utility plans (arborist should note the dates of the plans reviewed). The arborist shall review the construction management plan including all paths that will be used for equipment, grading and off haul. All tree protection conditions recommended by the project arborist shall be included on all relevant sheets of the building permit plans to ensure compliance with the arborist recommendations. The plan shall include a schedule of when the consulting arborist should inspect the site or be present for activities such as trenching in the tree protection area. The applicant shall submit a deposit to cover the cost of town arborist review of the Tree Protection Plan and periodic site inspections.

12. Tree protection fencing and other tree protections, such as mulch, steel plates or other protection against compaction around un-fenced trees, shall be installed prior after tree removal and prior to any work in the tree protection areas to building permit issuance as recommended by the project arborist ~~on the tree protection plan~~. Tree protection fencing shall be constructed of sturdy material and identified with signs that include the words, "tree protection fence" and "do not remove without permission from the Town of Ross." The project arborist shall inspect the site prior to issuance of a building permit to determine if tree protection fencing has been properly installed and shall submit written confirmation to the town planner that the tree protection is in place prior to building permit issuance.

13. No changes from the approved plans, before or after project final, including changes to the materials and material colors, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town for review and approval prior to any change. The applicant is advised that changes made to the design during construction may delay the completion of the project and will not extend the permitted construction period.

14. ~~The Town may collect a deposit in advance of building permit issuance to cover the anticipated cost for any Town consultants, such as the town hydrologist and town arborist. Any additional costs incurred by the Town, including costs to inspect or review the project, shall be paid as incurred and prior to project final.~~

15. Any exterior lighting shall be included on plans submitted for the building permit and is subject to the review and approval of the town planner. Lighting shall be shielded (no bare bulb light fixtures or down lights that may be visible from down-slope sites). Exterior lighting of landscaping by any means shall not be permitted if it creates glare, hazard or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public right-of-ways is prohibited. No up lighting is permitted. Interior and exterior lighting fixtures shall be selected to enable maximum "cut-off" appropriate for the light source so as to strictly control the direction and pattern of light and eliminate spill light to neighboring properties or a glowing night time character.

16. The applicant shall submit an erosion control plan with the building permit application for review by the building official/director of public works. The plan shall include a signed statement by the soils engineer that erosion control is in accordance with Marin County Stormwater Pollution Prevention Program (MCSTOPPP) standards. The erosion control plan shall demonstrate protection of disturbed soil from rain and surface runoff and demonstrate sediments controls as a "back-up" system. (Temporary seeding and mulching or straw matting are effective controls.).

17. No grading shall be permitted during the rainy season between October 15 and April 15 unless permitted in writing by the Building Official/Director of Public Works. Grading is considered to be any movement of earthen materials necessary for the completion of the project. This includes, but is not limited to cutting, filling, excavation for foundations, and the drilling of pier holes. It does not include the boring or test excavations necessary for a soils engineering investigation. All temporary and permanent erosion control measures shall be in place prior to October 1.

18. Prior to any demolition or issuance of a building permit for the new structure, which was constructed prior to 1985, an asbestos and lead-based paint survey shall be provided to the Town building department. If asbestos-containing materials are determined to be present, the materials should be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District. If lead-based paint is identified, then federal and state construction worker health and safety regulations should be followed during renovation or demolition activities. If loose or peeling lead-based paint is identified, it should be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations.

19. The drainage design shall comply with the Town's stormwater ordinance (Ross Municipal Code Chapter 15.54). A drainage plan and hydrologic/hydraulic analysis prepared by a licensed engineer may be required to be submitted with the building permit application for review and approval by the building official/public works director, who may consult with the town hydrologist at the applicants' expense (a deposit may be required). The plan shall be designed, at a minimum, to produce no net increase in peak runoff from the site compared to pre-project conditions (no net increase standard). As far as practically feasible, the plan shall be designed to produce a net decrease in peak runoff from the site compared to pre-project conditions. Applicants are encouraged to submit a drainage plan designed to produce peak runoff from the site that is the same or less than estimated natural, predevelopment conditions which existed at the site prior to installation of impermeable surfaces and other landscape changes (natural predevelopment rate standard). Construction of the drainage system shall be supervised, inspected and accepted by a professional engineer and certified as-built drawings of the constructed facilities and a letter of certification shall be provided to the Town prior to project final.

20. The plans submitted for a building permit shall include a detailed construction and traffic management plan for review and approval of the building official, in consultation with the police chief and fire department. The plan shall include as a minimum:

a) Working Hours are limited to Monday to Friday 8:00 a.m. to 5:00 p.m. Construction is not permitted at any time on Saturday and Sunday or the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. If the holiday falls on a Sunday, the following Monday shall be considered the holiday. If the holiday falls on a Saturday, the Friday immediately preceding shall be considered the holiday. Exception: work done solely in the interior of a building or structure which does not create any noise which is audible from the exterior.

b) No road closures are permitted. If the road has to be closed temporarily, a minimum of 24 hours notice shall be provided to the neighbors.

c) The applicant shall clearly document the condition of Canyon Road from Laurel Grove Avenue to the project site, taken at a slow speed and provided to the Town for review prior to issuance of the permit, by video on CD and shall submit the information to the Public Works department prior to issuance of a building permit. The applicant shall repair any damage caused by the construction. The public works department shall consider neighbor input regarding the condition of the roadway and repairs that may be necessary.

d) The applicant shall provide details on the size of construction vehicles to be used during the project. The Town Engineer may limit the size and/or weight of construction vehicles and will require the applicant to make any repairs necessary to ensure road stability for construction vehicles. The Town may also require as a condition to the granting of a permit that the applicant submit a certificate of a responsible insurance company showing that the applicant is insured in an amount to be fixed by the Town against any loss or damage to persons or property arising directly or indirectly from the construction project.

e) Temporary toilet facilities shall be screened from public view.

f) The owner/applicant shall spray all disturbed soil with water to control dust. Dust control shall be required as necessary on the site or apply (non-toxic) soil stabilizers

on all unpaved access roads, parking areas and staging areas at site. Cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.

g) Materials and vehicles shall not be stored in the public right-of-way. 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. All loads carried to and from the site shall be securely covered, and the private road and public right-of-way must be kept free of dirt and debris at all times.

21. The applicant shall submit a schedule that outlines the scheduling of the site development. This should clearly show completion of all site grading activities prior to the winter storm season and include implementation of an erosion control plan. The construction schedule shall detail how the project will be completed within the construction completion date provided for in the construction completion chapter of the Ross Municipal Code (Chapter 15.50).

22. A copy of the building permit shall be posted at the site and emergency contact information shall be up to date at all times.

23. The Building Official and other Town staff shall have the right to enter the property at all times during construction to review or inspect construction, progress, compliance with the approved plans and applicable codes.

24. Inspections shall not be provided unless the Town-approved building permit plans are available on site.

25. Failure to comply in any respect with the conditions or approved plans constitutes grounds for Town staff to immediately stop work related to the noncompliance until the matter is resolved. (Ross Municipal Code Section 18.39.100). The violations may be subject to additional penalties as provided in the Ross Municipal Code and State law. If a stop work order is issued, the Town may retain an independent site monitor at the expense of the property owner prior to allowing any further grading and/or construction activities at the site.

26. A single geotechnical engineering report, containing all recommended geotechnical design criteria for the project, shall be submitted with the building permit plans. All geotechnical aspects of the proposed project and preliminary development of plans shall continue to be evaluated by the project geotechnical consultant. A letter from the project geotechnical consultant shall be prepared that approves all geotechnical aspects of the proposed site development layout, verifies project geotechnical feasibility, and verifies conformance with the geotechnical consultant's design recommendations.

27. Applicants shall comply with all requirements of PG&E prior to project final. Letter or email confirming compliance shall be submitted to the building department prior to project final.

28. The applicant shall comply with all requirements of the Marin Municipal Water District (MMWD) for water service prior to project final including compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape plans shall be submitted, and reviewed to confirm compliance. The Code requires a landscape plan, an irrigation plan, and a grading plan. Any questions regarding District Code Title 13 - Water Conservation should be directed to the Water Conservation Department at (415) 945-1497. You

can also find information about the District's water conservation requirements online at www.marinwater.org. Should backflow protection be required, said protection shall be installed as a condition of water service. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559. For questions contact Joseph Eischens, Engineering Technician, at (415) 945-1531. Letter or email confirming compliance shall be submitted to the building department prior to project final.

29. Applicants shall comply with the following requirements of the Ross Valley Sanitary District No. 1 prior to project final: since this project involves an extensive demolition and rebuild, the Ross Valley Sanitary District (415) 259-2949 will require a connection permit from the District. The size of the sewer lateral will depend on the fixture count calculated during the permitting process. If the existing lateral meets the size requirement of the fixture count, the applicant has the option of installing a new lateral or the old sewer lateral needs to be tested in the presence of a District Inspector and found to meet all current District requirements. Sanitary District No. 1 will place a hold on the property once the building permit is issued. This hold prevents the new building from being released for occupancy until the District's permit and sewer requirements are fulfilled. It is the owner's responsibility to obtain a sewer connection permit from this office and meet all District requirements pertaining to the private side sewer/lateral prior to project final. Letter or email confirming compliance shall be submitted to the building department prior to project final.

30. Landscaping shall be installed in substantial conformance with the approved landscape plan prior to project final. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.

31. The director of public works may require all electric, communication and television service laterals to be placed underground.

32. The project shall comply with the Fire Code and comments of the Ross Valley Fire Department (RVFD):

a) Site plan shall include the nearest fire hydrant.

b) All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of sleeping rooms centrally located in the corridor and over the center of all stairways with a minimum of one detector per story of the occupied portion of the residence.

c) Carbon monoxide alarms shall be provided outside of each dwelling unit sleeping area in the immediate vicinity of the bedroom(s) and on every level of a dwelling unit.

d) The applicant shall maintain an effective firebreak around the structure by removing and clearing all flammable vegetation and/or other combustible growth. Consult the Ross Valley Fire Department Fire Protection Standard 220 Vegetation/Fuels Management Plan available online at Rossvalleyfire.org.

e) Address numbers at least 4" tall shall be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. The address numbers shall be backlit or illuminated by an adjacent light controlled by a photocell and switched only by a breaker so the numbers will remain illuminated all night.

f) Applicant may propose alternate materials or method in accordance with Section 103.3. All approved alternates requests and supporting documentation shall be included in the plan set submitted for building department approval.

33. Based on the scope of the project, the Town shall require sprinklers to be installed in the structure.

34. Development shall adhere to the wildland urban interface building standards in Chapter 7A of the California Building Code, even if the project is otherwise considered exempt under the provisions of the code.

35. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance (copies available at www.townofross.org). 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. As provided in the Town of Ross Municipal Code Section 15.50.040, construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.

~~36. 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.~~

37. The 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, 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 attorneys fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.



Town of Ross

Planning Department

Post Office Box 320, Ross, CA 94957

Phone (415) 453-1453, Ext. 121 Fax (415) 453-1950

Web www.townofross.org

Email esemonian@townofross.org

Staff Use Only

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Fees Paid: _____

Date: _____

VARIANCE/DESIGN REVIEW/DEMOLITION APPLICATION

Parcel Address and Assessor's Parcel No. 128 Winding Way

Owner(s) of Parcel Norman & Mette Hardie

Mailing Address (PO Box in Ross) P.O. Box 1175

City ROSS State CA ZIP 94957

Day Phone 415-465-3045 Evening Phone 415 465 8045

Email norman@hardie.dk

Architect (Or applicant if not owner) _____

Mailing Address _____

City _____ State _____ ZIP _____

Phone _____

Email _____

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

Gross Lot Size 50.556 sq. ft. Lot Area 46.277 sq. ft.

Approved Existing Lot Coverage 4764 sq. ft. Approved Existing Floor Area 5938 sq. ft.

Approved Existing Lot Coverage 10.3 % Approved Existing Floor Area Ratio 12.8 %

Coverage Removed N/C sq. ft. Floor Area Removed -210 sq. ft.

Coverage Added N/C sq. ft. Floor Area Added 270 sq. ft.

Net Change- Coverage 0 sq. ft. Net Change- Floor Area +60 sq. ft.

Proposed Lot Coverage 4764 sq. ft. Proposed Floor Area 5998 sq. ft.

Proposed Lot Coverage 10.3 % Proposed Floor Area Ratio 12.9 %

Approved Existing Impervious Areas 4017 sq. ft. Proposed Impervious Areas 3600 sq. ft.

Approved Existing Impervious Areas 8.6 % Proposed Impervious Areas 7.9 %

Proposed New Retaining Wall Construction 672 ft. (length) 7'10" ft. (max height)

Proposed Cut N/C cubic yards Proposed Fill N/C cubic yards

Written Project Description – *may be attached.*

A complete description of the proposed project, including all requested variances, 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. For design review applications, please provide a summary of how the project relates to the design review criteria in the Town zoning ordinance (RMC §18.41.100).

See Attached

Mandatory Findings for Variance Applications

In order for a variance to be granted, the following mandatory findings must be made:

Special Circumstances

That because of special circumstances applicable to the property, including size, shape, topography, location, and surroundings, the strict application of the Zoning Ordinance deprives the property of privileges enjoyed by other properties in the vicinity and under identical zoning classification. **Describe the special circumstances that prevent conformance to pertinent zoning regulations.**

See Attached

Substantial Property Rights

That the variance is necessary for the preservation and enjoyment of substantial property rights. **Describe why the project is needed to enjoy substantial property rights.**

See a Attached

Public Welfare

That the granting of a variance will not be detrimental to the public welfare or injurious to other property in the neighborhood in which said property is situated. **Describe why the variance will not be harmful to or incompatible with other nearby properties.**

See Attached

Special Privilege

That the granting of this variance shall not constitute a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the subject property is situated.

Describe why the variance would not be a grant of special privilege.

See Attached

Project Architect's Signature

I HEREBY CERTIFY under penalty of perjury that I have made every reasonable effort to ascertain the accuracy of the data contained in the statements, maps, drawings, plans, and specifications submitted with this application and that said information is true and correct to the best of my knowledge and belief. I understand that any permit issued in reliance thereon may be declared by the Town Council to be null and void in the event that anything contained therein is found to be erroneous because of an intentional or negligent misstatement of fact.

I further certify that I have read the attached Variance/ Design Review/ Demolition Fact Sheet and understand the processing procedures, fees, and application submittal requirements.

Signature of Architect

Date

Owner's Signature

I HEREBY CERTIFY under penalty of perjury that I have made every reasonable effort to ascertain the accuracy of the data contained in the statements, maps, drawings, plans, and specifications submitted with this application and that said information is true and correct to the best of my knowledge and belief. I further consent to any permit issued in reliance thereon being declared by the Town Council to be null and void in the event that anything contained therein is found to be erroneous because of an intentional or negligent misstatement of fact.

I further certify that I have read the attached Variance/ Design Review/ Demolition Fact Sheet and understand the processing procedures, fees, and application submittal requirements.

Signature of Owner

Signature of Owner

4-2-2015

Date

Signature of Co-Owner (if applicable)

Signature of Co-Owner (if applicable)

4-2-15

Date

Notice of Ordinance/Plan Modifications

- ☐ Pursuant to Government Code Section 65945(a), please indicate, by checking this box, if you would like to receive a notice from the Town of any proposal to adopt or amend the General Plan, a specific plan, zoning ordinance, or an ordinance affecting building permits or grading permits, if the Town determines that the proposal is reasonably related to your request for a development permit:

Variance/ Design Review/ Demolition approvals expire 365 days after the granting thereof.

Norman & Mette Hardie
128 Winding Way
Ross CA 94957

2 April 2015

Ross Town Council

Re: 128 Winding Way

Dear Mayor and Ross Town Council,

We are please to report that our project is substantially complete and that it is our intention to obtain a final sign off from the Town of Ross by April 16th 2015.

We believe the project to be a success in that we have improved the quality of the existing home returning much of its 1920s charm while also addressing the vehicle & pedestrian access and the lack of outside living space. Informal feedback from our neighbors has been positive. Furthermore we reduced impervious surfaces more than planned by using permeable asphalt on the entire driveway.

We have planted nearly 30 trees as compared to the 11 new replacement trees in our plan. Our property will continue to be a very natural hillside; especially as the new trees mature.

While our plan required all retaining walls to be less than 6', we came across four pinch points in the construction process that made holding to this requirement impractical based on advice from our engineers, contractors and arborist as it would have adversely affected the trees or cause future drainage and erosion problems.

We communicated these issues with the Building Inspector and discussed potential remedies to bring the project under strict compliance with the approved plans. We do not believe that the potential remedies are in the best interest of the property or provide any incremental benefit to the Town of Ross. We have therefore elected to seek Council approval for these changes to our plans.

Thank you in advance for your consideration.

Sincerely,



Norman Hardie



Mette Hardie

Retaining Walls

All retaining wall heights at 6' but requesting a variance for wall heights above 6' in four specific areas up to a maximum of 7' 10".

Overview

There are four areas outlined on the site map where the walls exceed the 6' maximum as outlined in the approved plans. They are marked as A, B, C and D on the attached site plan. Details are outlined below and pictures are included.

A North Driveway Circular behind oak: The wall height behind the oak tree is 7' 8"

The retaining walls of the driveway circular are consistent with the plan except for the area directly next to the large oak tree to the north. We can remedy this by grading the soil up to limit the exposed wall to 6' however this would pose a health risk to the existing oak. The oak substantially covers this wall area.

B Bottom of main stairs – North wall: The max wall height is 7'6" just at the driveway.

The stairs pass close to a significant oak just to the north. It was determined that grading the hill to accommodate the 6' wall maximum would have risked the health of this tree and caused drainage issues. The drainage is designed to flow along the wall and north to a drainage box. It was determined that reducing the wall height at the bottom of the stairs would result in mud and water flowing over into the stairs and driveway as opposed to the drainage path designed by our civil engineer. The only possible remedies here would be to cut the wall down and accept mud into the stairs and driveway or raise the level of the driveway against the wall.

C Curved Retaining Wall to East of Home – The wall height is 7'10". This curved retaining wall was built specifically to protect the oak tree at its center. The original plan was to grade the hill down to 6' but it was determined that this grading had the potential to damage the health of the tree. A potential remedy would be to grade build a planter box below the wall. This would have a negative impact on the landscape design of the area. This wall is completely hidden behind the home.

D Retaining wall around cottage patio area - The maximum wall height is 6'-7". It was determined that this wall needed the extra inches to avoid erosion and mud and debris from flowing into the patio area. This wall is not visible from the street or adjoining properties. The only practical remedy in this area would be to slope the patio area up around the wall or cut the wall down and live with the erosion.

We have surfaced our walls with granite stone quarried in upstate New York. The walls are covered in a 1.5 - 2" veneer whereas the ends, corners and tops are completed in full 5-6" stone. Because of the large stone size some of the exposed walls slightly exceed 6' but in no instance more than 6' 3". This height deviation could be remedied by adding additional mulch; an expense we would prefer to avoid. We ask that the Town accept these as being within an acceptable tolerance of the specified 6'.

Special Circumstances

The home is situated on a steep slope with a grove of significant oak trees. The protection of the trees, the drainage and erosion control presented complexities. Except for these four areas, the retaining walls fall within the guidelines. We are seeking a variance in order to both accommodate the complexities of the property while maintaining a high standard of design.

Substantial Property Rights

Other hillside properties have received variances for walls exceeding 6' including our neighbor to the south. The site renovations have been completed to improve the outside living space and improve the outdated vehicle and pedestrian access.

Public Welfare

The improvements have been done with high quality materials including natural stone on the walls and we have used considerable care to landscape the property. We believe that the renovations to the property represent improvements that benefit the entire community. None of the walls for which we are seeking a variance present themselves as massive nor are they in direct view of adjoining properties or the road.

Special Privilege

The variance requested is consistent with variances given to other hillside properties by the Town of Ross.

FAR

We request a net increase in floor area of 60 sq. ft. to 5998 sq. ft.

We elected not to extend the kitchen and therefore did not use 210 square feet of FAR approved by the Council. In the building process we determined that extending the kitchen had the potential to crowd the pool and deck area and therefore would result in a less desirable outdoor design.

Our subterranean pool equipment room (below our pool deck) is used for our pool heater and filter equipment as well as storage. The room is 270 square feet, has unfinished concrete floors and walls and open rafters on the ceiling. The room height is 7' 7" and therefore we understand that it is technically FAR. We do not wish to spend further financial resources to finish the ceiling and reduce the ceiling height. We therefore ask that the Council approve an additional 60 square feet and accept this room as FAR instead of the planned expanded kitchen that was removed from our project.

Special Circumstances

This is a very small addition to FAR for a subterranean equipment room. The room has no practical use as living space as it has no windows and contains the pool equipment and plumbing.

Substantial Property Rights

The owner is 6'3" in height and does not wish to reduce the ceiling height as it already feels quite low. A lower ceiling requirement would reduce the enjoyment of the space.

Public Welfare

The equipment room is there; this is simply a question of ceiling height. There is no adverse effect to any other person or property.

Special Privilege

Other properties in Ross have received additional FAR allowances for basement and attic space.

SYMBOLS LEGEND

- 1 Low Voltage Primary Light Fixture
- 2 Low Voltage Strip Light

SITE PLAN NOTES

- For landscaping in the scope of work for this permit refer to L1.
- Locations of gas & electric meters is existing to remain.
- Locations of electric grade are existing to remain.
- See Drainage Plan for all surface drainage.
- See Grading Plan for all top and bottom of wall elevations, finished grade elevation & finished surface elevation.

REVISIONS

Improvements: 634 sq. ft.
Removal: 1060 sq. ft.
New lawn area: 633 sq. ft. (reduction)
Change in impervious surface: 633 sq. ft. (reduction)
Retaining Wall: 71 linear feet
Addition of (S) retaining wall: 71 linear feet
Reduction of (S) retaining wall: 22 linear feet
Change in existing wall: 22 linear feet (reduction)
Change in existing wall: 22 linear feet (reduction)
Additional out on the lot: ~+/- 85 cubic yards

WENDY POSARD
J. W. Posard
1111 W. 1st St.
Portland, OR 97209
503.445.8000

HARDIE RESIDENCE SITEWORK

AWP # 003-20-03
1111 W. 1st St.
Portland, OR 97209

Building Permit: 6849013
Owner Revision: 12/12/13



Drawn By	W. Posard	Scale	1" = 16'-0"
Check By	W. Posard	Date	01/06/13
Issue By	W. Posard	Date	12/12/13
Issue By	W. Posard	Date	12/12/13

DISCLAIMER:
Wendy Posard & Associates, Inc. has no responsibility for the accuracy of any and all of the as-built information included on this plan. The information is provided for informational purposes only. The user of this information is responsible for verifying all as-built conditions with respect to new construction.



SCALE 1" = 16'-0"

1 SITE PLAN













From: [Norman Hardie](#)
To: [Elise Semonian](#)
Cc: [Norman A Hardie](#); [Rob Brawlik](#)
Subject: Hardie North Steps
Date: Tuesday, March 31, 2015 2:22:10 PM

Dear Elise,

Here are pictures of the steps on the North side of our property before we started repair work, mid repair and final outcome. This repair work was done prior to our pulling of a permit for works on the property.

In summary

- 1) We have repaired stone steps that have been a part of the property for nearly 100 years
- 2) We added handrails for additional safety but did not extend the rails into the Town's right of way
- 3) The final product looks natural and is consistent with the property

I cannot for the life of me understand why the Town of Ross has decided to make an issue of this.

Best regards,

Norman













