

To: Mayor, Ross Town Council and Council-elect
From: Elise Semonian, Senior Planner
Re: Santa, 662 Goodhill Road, Design Review and Hillside Lot Application, File 1784
Date: July 8, 2010

I. Project Summary

Owner: Donald Santa Family Trust
Location: 662 Goodhill Road
A.P. Number: 73-211-45
Zoning: R-1:B-5A (Single Family Residential, 5-acre min. lot size)
General Plan: Very Low Density (.1-1 Unit/Acre) and Limited Specialized
Recreational/Cultural
Flood Zone: Zone X

II. Project Description

Applications for design review and hillside lot approval and request to amend conditions of the 2001 Town Council design review, hillside lot hazard zone 3 & 4 use permit approval (Resolution 1462), which permitted construction of the two story residence, detached garage/guest bedroom, and accessory structures. The applicant requests the Council to: 1.) rescind a condition of approval that precludes construction at the site for five years following the date of project final; 2.) allow floor area over 9,142 square feet; 3.) permit the 395 square foot basement under the residence to be finished; and 4.) permit 400 square feet of attic area over the garage to be finished. The basement and attic project would increase the floor area at the site, but would result in no exterior modifications to the structures. Total development of 9,507 square feet is proposed.

Lot Area	776,675 sq. ft. (17.83 acres)
Existing Floor Area Ratio	1.1%
Proposed Floor Area Ratio	1.2% (15% permitted*)
Existing Lot Coverage	0.9%
Proposed Lot Coverage	0.9% (15% permitted)

*The slope of this lot is 41%. The current Hillside Lot Ordinance would recommend a maximum floor area of 6,534 square feet, or 0.8% floor area ratio, for the site. See discussion on lot slope, below.

III. Background

The Town Council approved a new house for this site in 1998. The Town Council considered a number of project revisions, some after-the-fact, and lot line adjustments that increased the size of the site. Staff has attached the site history.

The existing floor area consists of the following spaces:

Pool house	736
Garage	1,254
Bedroom over garage	467
Main residence - first floor	3,190
Main residence - second floor	2,623
Main residence - unenclosed terrace	442
Total floor area	8,710

The slope of the site varies. The site has a fairly large level area and slopes down to the north towards Lagunitas Road and also slopes down to the west towards Phoenix Lake. Only the first 3 acres of lot size are used to calculate the hillside lot floor area maximum, although the average slope of the entire site is considered to determine the guideline floor area under the Hillside Lot Ordinance (HLO).

This site illustrates the issues involved with the Town's current definition of average slope. The Town calculated the lot slope at 34.4% in 2001, which resulted in a guideline floor area maximum of 9,148 square feet under the HLO. The project was limited to that floor area. The site is much larger now. While the slope of the building area did not change, the low point of the site changed when the Council approved lot line adjustments that incorporated more steeply sloping areas downhill. The Town now estimates the average slope at 41-45%, which allows for a hillside guideline floor area maximum of 6,534 square feet. For informational purposes, the County MarinMap calculates the average slope of the full 17+ acres as 52.8% using the "contour method", which would put the site into the highest slope threshold, permitting only 3,920 square feet of floor area. In contrast, the applicant would be permitted over 10,000 square feet of floor area if the Town calculated the floor area on the approximately 2-acre more-level area surrounding the structures.

The basement was not shown on the Council-approved house plans and was added to the house during construction (see history). The applicant finished the space without permits and constructed a false wall to hide the work from staff. The applicant applied to legalize the floor area after-the-fact in 2006. The Town Council denied the request and, therefore, staff required the basement to be unfinished and the basement floor elevated to reduce the floor to ceiling height to less than 7 feet. In 2007, staff discovered that the applicant finished the attic area above the garage without permits. The applicant removed the finishes prior to a final inspection on the project in 2009.

IV. Discussion

The applicant would like to finish the basement below the residence and the attic area above the garage. The Town's floor area definition includes finished attic and basement area. Therefore, the project would add 795 square feet of new floor area to the site, although it is entirely within the mass of the existing structure. The project would bring the site floor area up to 9,507 square feet, 359 square feet over the floor area approved for the site in 2001.

The proposed Hillside Lot Ordinance 620 would preclude any additional floor area at the site without approval of a floor area ratio variance. Since Ordinance 620 has not been adopted, the

Council must consider if findings can be made to approve the proposed floor area, which exceeds the hillside lot ordinance guideline floor area, under the current provisions of the HLO, which provide:

Development above guideline floor area levels may be permitted if the town council finds that such development intensity is appropriate and consistent with this chapter. Factors which could support such a finding include, but are not limited to, excellence of design and site planning which minimizes environmental impacts.

Although the Council may approve a project that is over the hillside lot ordinance guideline floor area, the Council must be able to make the required findings to do so. The Council may deny the project because it does not comply with the hillside lot ordinance guideline floor area.

The current Hillside Lot Ordinance contains policies that allow the Town to exempt from hillside lot review small projects and those that do not have significant impacts. The Town may exempt additions less than 1,000 square feet and “any project which will not result in environmental impacts and which is consistent with the intent and design standards of this chapter and with zoning ordinance regulations. Such administrative exemption may include, but is not limited to, the improvement of existing unfinished attic or basement space not requiring excavation, grading or filling.” (R.M.C. Sec. 18.39.080) These exceptions are intended for residences that were built prior to the hillside lot regulations and, therefore, staff does not recommend exempting this project from HLO review. However, the Council may consider that the current regulations do provide exceptions for small projects, such as the one proposed, since presumably they were not seen as creating significant impacts to hillside areas.

The Town adopted the hillside lot floor area guidelines in 1989. A review of the hillside lot applications approved over the last 10 years indicates that the Council approved at least 18 projects that were over the hillside lot guideline floor area. Many of the exceptions made by the Town Council were for projects on developed sites that did not add to the mass of a structure, such as enclosure of existing areas.

The project involves improvement of existing unfinished attic and basement areas on a very large (over 17-acre) site. The proposed addition would add no visible mass to the structure. The addition would not change the design of the residence. The construction work involved with finishing the attic and basement areas is minimal, and the Town could consider the project exempt from the HLO. The project would not result in any physical change to the environment. There is adequate access to the site and adequate on site parking for many vehicles. The development at the site is difficult to see from any public or private vantage points.

The existing floor area includes 442 square feet of unenclosed terrace area outside of the living room that is considered a “porch”. Finishing the basement and attic would result in 9,065 square feet of enclosed and finished area at the site, within the limit established by the Council in 2001.

Staff believes the proposed project complies with all of the provisions of the design review chapter and the Ross General Plan and approval of the project would be consistent with Council decisions applying the current provisions of the Hillside Lot Ordinance.

The building code requirements may restrict the finished attic and basement areas to non-habitable space (closet, bath, laundry, storage, utility, etc.) unless habitable space light, ventilation and egress requirements may be met.

Deletion of Restriction on Building Permits

The applicant also requests the Council to delete a condition that restricts any building permits to be issued for five years from the date of the project final for the house, which would allow a permit to be issued for the work. The Council resolution approving the residence included a condition that provides as follows:

As agreed to by Donald Santa, no building permits for new construction shall be applied for nor issued by the Town of Ross for a minimum period of 5 years following the date of project final. No significant construction, grading or filling activity, except the required landscape installation, shall be permitted within this five year period.

Staff has no objection to deleting this condition. The Santa project received a final from the Town of Ross in 2009. The applicant completed the majority of the construction over five years ago. The Town Council adopted amendments to the construction completion ordinance since the project was originally approved. The ordinance now limits the time for completing construction in order to encourage applicants to complete projects in a timely fashion and to discourage multiple design changes. The ordinance imposes financial penalties on residents that drag out construction. The ordinance also requires a 9-month delay between permits.

V. Recommendation, Findings and Conditions

Staff recommends approval of the project subject to the findings and conditions below.

Findings

1. This project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301, existing facilities.
2. As approved, the project is consistent with the purpose of the Design Review Chapter as outlined in RMC Section 18.41.010 and the design criteria of Section 18.41.100, the Ross General Plan, and the Zoning Ordinance.
3. Floor area above the hillside guideline floor area is warranted for this site based on: 1.) the large size of the site, which would allow up to 10,000 square feet of development under the standard zoning regulations and the design guidelines; 2.) the remote location, which is not visible to the public; 3.) the floor area of existing enclosed spaces, which comply with the limit; 4.) the improvements are completely within the mass of existing structures and could be considered exempt from the hillside lot ordinance; and 5.) the project will not alter that hillside environment at the site.

Conditions of Project Approval

1. Except as modified by these conditions, all prior conditions of approval for the site, including the Hillside Protection Zone, shall have full force and effect. Town Council approval shall be required for any modifications to the protected areas of the site.
2. The site is zoned for single family residential use only. No commercial farming use or use of the residence for events not associated with standard single-family use is permitted under the Ross Zoning Code.
3. The site is limited to 9,507 square feet of floor area, calculated as follows:

Pool house	736
Garage	1,254
Bedroom over garage with finished attic	867
Main residence first floor	3,190
Main residence second floor	2,623
Main residence first floor terrace	442
Finished basement	395
	9,507

4. The basement, terrace and attic floor area may not be “traded in” for other floor area without Town Council approval.
5. Condition number 8 of Resolution 1597, which prohibited construction within 5 years of the project final, is hereby deleted and not applicable to the site.
6. A building permit is required for the work. The attic and basement areas shall meet the requirements for habitable space if they are to be used as habitable space. Staff may approve minor modifications to the approved plans to allow the areas to comply with building code habitable space requirements.
7. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
8. The project shall be subject to the conditions of the Town of Ross Construction Completion Ordinance. The construction shall not be deemed complete until final sign off is received from representatives of the building/public works, planning and public safety departments.
9. **NO CHANGES FROM THE APPROVED PLANS, BEFORE OR AFTER PROJECT FINAL, SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. RED-LINED PLANS SHOWING ANY PROPOSED CHANGES SHALL BE SUBMITTED TO THE TOWN PLANNER FOR REVIEW AND APPROVAL PRIOR TO ANY CHANGE.**
10. **FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY JULY 15, 2011 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**
11. 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.