

To: Mayor and Ross Town Council  
From: Elise Semonian, Senior Planner  
Re: Sheppard, Design Review and Variances, 74 Baywood Road, File No 1779  
Date: February 2, 2012

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**I. Project Summary**

Owner: Charles and Renee Sheppard  
Location: 74 Baywood Avenue  
A.P. Number: 72-131-10  
Zoning: R-1:B-5-A (Single Family Residence, 5-Acre minimum lot size)  
General Plan: Very Low Density (.1 - 1 units per acre)  
Flood Zone: Zone X (outside 1-percent annual chance floodplain)

**II. Project Description:**

Demolition permit, design review, hillside lot and setback variance application for a significant remodel and 2-story addition to the existing 2,412 square foot residence, within the required hillside lot west side yard (45 feet required, 0 feet proposed) and east side yard (45 feet required, 25 feet proposed) setback areas. A total of 4,109 square feet of development is proposed.

Effective Lot Area	27,843 square feet
Existing Floor Area Ratio	8.7%
Proposed Floor Area Ratio	14.8% (15% permitted**)
Existing Lot Coverage	10.9%
Proposed Lot Coverage	14.2% (15% permitted)
Existing Impervious Areas	23.8%
Proposed Impervious Areas	23.7%

\*\*The average slope of the lot is under 30% and the floor area is not reduced under the Hillside Lot Ordinance.

*The existing residence is nonconforming in setbacks.*

**III. Background**

The site is developed with a ranch-style residence with a shake roof, built in the 1950's. The garage and part of the driveway are located on the adjacent site, 78 Baywood. The applicants have an agreement with the owners of that site regarding the off-site improvements. The developed area of the site is flat, but the majority of the site slopes down to the south. The site is subject to the Hillside Lot Ordinance (HLO) because it is in Hazard Zones 3 and 4 on the Town of Ross Relative Slope Stability Map. However, it is not subject to the more restrictive HLO floor area limits since the average slope of the site is less than 30% under the Town slope definition (the average slope is 40% under the Marinmap contour calculation, which would allow 1,860 sq. ft. of development).

There are special circumstances and conditions applicable to this lot since the upper portion of the site is flat, but the lot slopes down steeply to the south, limiting the developable area. The lot is undersized for the 5-acre zoning district. The lot is narrow compared to other sites in the zoning district. Strict application of the hillside lot side yard setbacks would preclude development of the site with a residence.

The applicant has provided a Google map to illustrate the location of adjacent residential development to the east and west.

This project includes a significant remodel of the residence, including demolition on each elevation except the west elevation, demolition of nearly every interior wall, reconstruction of the roof, and development of a two-story addition to the east of the existing residence. New siding would match existing siding and would be painted an earth tone color. Asphalt shingles would replace the wood shake roof. Aluminum clad windows are proposed.

The Advisory Design Review Group considered the design at two meetings. The ADR group requested story poles at the first meeting. The project was well received at the second meeting and no modifications were suggested. The ADR Group supported the materials identified on the plans.

#### **IV. Discussion**

The proposed project requires Town Council approval of a demolition permit, variance from Hillside Lot Ordinance side setback requirement, and approval of design review and hillside lot permit.

The existing residence and areas of new development would be located within the required side yard areas. The Ross Municipal Code provides that nonconforming structures cannot be enlarged, extended, reconstructed or structurally altered, unless they are brought into conformance with the regulations for the zoning district. (Ross Municipal Code §18.52.030). A variance is necessary to retain the existing structure within the 45-foot hillside lot side yard setbacks and to enlarge the structure within the side setback. Town design review guidelines recommend that applicants eliminate nonconforming situations when it is “feasible and reasonable.”

Strict application of the 45-foot hillside side yard setbacks would preclude development of this site. The applicants propose to retain the footprint and general configuration of the existing structure, while bringing it up to modern building codes. This is particularly important in this hillside area where access roads are narrow and water supply and pressure for firefighting purposes is limited.

Staff believes the project may be found to be in substantial compliance with the design review and hillside lot design guidelines. See discussion regarding the specific criteria under the findings section, below.

#### **VI. Recommendation**

Staff believes that the project, on a whole, is in substantial compliance with the design review guidelines, the hillside design standards, and complies with the policies and programs in the

Ross General Plan and that findings may be made to support the demolition permit and setback variance.

Staff recommends approval of the project based on the following Findings and Conditions of Approval.

### Findings

That the Town Council after carefully reviewing the facts and the arguments presented after a Council meetings, site visits, review of story poles, staff reports, correspondence, and other information contained in the project files, makes the following findings to approve the project at 74 Baywood Avenue:

#### A. CEQA

That the project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301, existing facilities, and 15303, new construction, and 15304, minor alternations to land, as a remodel and addition to a single family residence. No exception set forth in Section 15300.2 of the CEQA Guidelines (including but not limited to Subsection (a), which relates to impacts on environmental resources; (b), which relates to cumulative impacts; Subsection (c), which relates to unusual circumstances; or Subsection (f), which relates to historical resources, applies to the project.

#### B. DEMOLITION PERMIT

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 structure has no historical, architectural, cultural or aesthetic value. The project involves retaining areas of the existing residence and the proposed modifications would be in character with the retained structure.
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 additions are in keeping with the style of the residence.
3. Since the residence is not a structure of historic significance, demolition of the structure as proposed is consistent with the Ross general plan and zoning ordinance.
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. Any impacts associated with demolition of the structure will be temporary.

#### C. Side Setback Variance

There are special circumstances or conditions applicable to the land, building or use referred to in the application. There are special circumstances and conditions applicable to this lot. The lot has an unusual shape, is undersized for the zoning district, has unusual topography that limits the development area to the upper area of the site. There is value in allowing modifications to the structure within the side yard setback, where the existing residence has

been sited for over 50 years. The property owner could not develop the site with a single-family residence if the required hillside lot setbacks are strictly applied. Retention of the existing structure furthers Town goals regarding sustainability by preserving materials and limiting site disturbance.

#### D. Hillside Lot

1. The project complies with the stated purposes of the Hillside Lot Ordinance:
  - a. Ensure that development is consistent with the goals, policies and criteria of the general plan. *See discussion, below.*
  - b. Protect and preserve public and private open space as a limited and valuable resource. *The development is sited in an area that has been previously disturbed and not viewed as public or private open space area.*
  - c. Preserve significant features of the natural environment including watersheds, watercourses, canyons, knolls, ridgelines and rock outcroppings and minimize disturbance to the natural terrain. *The development is sited in an area that has been previously disturbed and preserves significant natural features of the site.*
  - d. Protect steep slopes, creeks, significant native vegetation, wildlife and other environmental resources *The development is sited in an area that has been previously disturbed.*
  - 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 site is already served by public sewer and water and accessed from a private road. The improvements will make the structure more fire-safe.*
  - f. Ensure that development will not create or increase fire, flood, slide or other hazards to public health and safety. *The new residence will be sited in an area previously developed with structures and is feasible from a structural standpoint and will not create slides or other hazards. The project would include mitigation for runoff. With the proposed conditions of approval, the project will result in a structure that is more fire resistant.*
  - g. Protect the public health, safety and general welfare and the property of people in the vicinity of steep hillside building sites. *The project is proposed in areas of the site with an average slope less than 30%.*
  - 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. *A building permit will be required for the project and approved structural plans.*
  - i. Reduce the visual impacts of construction on hillsides and encourage building designs compatible with hillside areas. *The site is developed with a residence and the proposed structure would be consistent with the design of the existing residence. No new large understory volumes are created that are not counted towards floor area. The materials are neutral in tone to blend with the hillside setting.*

2. The project complies with the development regulations of Section 18.39.090, or that the Town Council has considered and approved a variance. *See variance findings above and discussion below.*
3. The project substantially conforms to the hillside development guidelines in R.M.C. Section 18.39.090.
  - a. Maximum Floor area. *Not applicable.*
  - b. Building setbacks. *The existing residence was constructed before mandatory hillside lot side yard setbacks took effect in 2010 and the existing building is located within the required side yard setback. Certain areas of the new structure would be located within the required 45-foot side yard setback from the west and east property lines. See variance findings above.*
  - 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.

*No grading or new retaining wall are proposed.*

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.

*The project design is well articulated and windows break up large expanses of material on each elevation. The design was reviewed by the Advisory Design Review group and found to comply with the design criteria and to be appropriate for the site. Materials and colors are in neutral earth tones to blend with the natural landscape.*

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

*An existing driveway will not be modified.*

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.

*Based on the project plans, there are no areas with tall wall heights that are not included in floor area.*

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 design guideline recommends a maximum deck area of 1,044 sq. ft. based on the 4,177 sq. ft. maximum permitted floor area for the site. The project proposes less than 1,044 sq. ft. of deck area, which is within the guideline limit.*

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 project does not include significant new landscaping. Due to the fire hazards, the minimal landscaping provides a firebreak.*

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 project will not obstruct views for adjacent sites or the public.*

2. No building shall be located on a ridge.

*The existing residence is already located on the ridge.*

g. Public Safety.

1. Class A roofing assembly is required.
2. The fire official shall ensure the adequacy of the water supply for firefighting 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.

*The project conditions require Class A roofing. The site has connection to a domestic water supply and sprinklers are required. Conditions of approval require clearance of brush and vegetation, defensible spaces, and compliance with Chapter 7A of the C.B.C.*

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. Prior to any approval of a final subdivision map, all slides to be repaired shall be bonded to guarantee the repair during the normal construction of subdivision improvements. In the case of parcel maps, bonding shall be provided prior to the recordation of the parcel map.
4. 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.
5. Erosion control measures shall be required for all development. Erosion control plans shall comply with the County of Marin storm water regulations and shall meet the National Pollutant Discharge Elimination System (NPDES) permit requirements for Marin County.

*There are no slides on the site and the project is primarily limited to an area that has been previously disturbed and not a geologic hazard area. Conditions of approval require erosion control.*

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 proposed improvements will not traverse or encroach on any natural watercourse area. The site drainage is required to produce no net increase in peak runoff. The project conditions require a licensed engineer to design the final drainage plan.*

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.

*No changes to site circulation are proposed.*

**E. Design Review**

1. The project is consistent with the purpose of the Design Review Chapter as outlined in RMC Section 18.41.010.
2. The project has an excellent design and harmonizes style, intensity, and type of construction with the natural environment and respects the unique needs and features of the site and area. The design enhances the community, is consistent with the scale and quality of existing development and is harmoniously integrated with the natural environment.
  - a. The project scale, design and materials 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 its design, which maintains the character of the existing residence and improves the overall character of the site with new landscaping and bringing the structure to modern building standards. The project will retain densities consistent with existing development in Ross.
  - b. The project 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. The project ensures that site design and intensity recognize site constraints and resources, preserve natural landforms and existing vegetation, and prevent excessive and unsightly hillside grading. The project site preserves a large portion of the site in its natural condition. Tree removal is not proposed and construction is limited to previously disturbed areas.

- c. The project enhances important community entryways, local travel corridors and the area in which the project is located. The structure is not visible from travel corridors.
- d. The project promotes and implements the design goals, policies and criteria of the Ross general plan. (See discussion below).
- e. The project discourages the development of individual buildings which dominate the townscape or attract attention through color, mass or inappropriate architectural expression. As conditioned, the design of the residence will not dominate the hillside area. The majority of the structure sits above the adjacent roadways and is located on a hillside that has many developed parcels. The project will disturb previously disturbed areas.
- f. The project preserves buildings and areas with historic or aesthetic value and maintain the historic character and scale. The project ensures that new construction respects and is compatible with historic character and architecture both within the site and neighborhood. The project site is a developed lot and the new house is in character with the existing structure and compatible with others in the vicinity by use of natural and neutral colors.
- g. The project upgrades the appearance, quality and condition of existing improvements in conjunction with new development or remodeling of a site. The project will upgrade an aging structure and landscape.

3. The project is in substantial compliance with the design criteria of Section 18.41.100.

a. Preservation of Existing Site Conditions.

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 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.

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 project is in an areas that has been previously disturbed by development.*

- 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 be constructed on the most level portion of the hillside lot and within an area previously disturbed by development that dates back to the 1950s. The new construction is designed to relate to the hillside.*

- c. Minimizing Bulk and Mass.

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.

*Based on the project plans, story poles and considering the character of other residences in the neighborhood, the new residence is not out of character with its setting.*

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.

*Changes in materials, windows, recesses and projections in the design, and decks break up the elevations.*

d. Materials and Colors.

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.

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.

*The exterior materials are proposed in neutral tones that will not attract attention to the structures. High quality materials are proposed.*

e. Drives, Parking and Circulation.

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.

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.

*Required parking will be provided.*

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.

*No new exterior lighting is currently proposed. Building permit plans will be reviewed for compliance with the design guidelines and zoning code.*

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 fences are far from the roadway.*

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 of the hills and ridgelines from public streets and parks.*

i. Natural Environment.

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.

*Areas outside of the building site will be preserved in their natural state.*

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.

*The existing development and proposed construction are not located near a creek or drainageway.*

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.

*The project is not located near a creek.*

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.

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

*The site is not within a 100-year flood plain.*

j. Landscaping.

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.

*No significant new landscaping is proposed.*

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.

*Existing landscaping will be retained.*

Landscape plans should include appropriate plantings to repair, reseed and/or replant disturbed areas to prevent erosion.

*The conditions of approval require an erosion control plan.*

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. New development in areas of geologic hazard must not be endangered by nor contribute to hazardous conditions on the site or on adjoining properties.

*Sprinklers will be required for the residence. The roof will be fire resistant. The project must comply with the Wildland Urban Interface (WUI) regulations.*

l. Visual Focus.

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. 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.

*The residence and attached garage will be the primary structure on the site.*

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 project includes only a primary residence and attached garage.*

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.

*The addition is sited in an area where it is set back from development on surrounding properties. No second floor decks are proposed.*

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.

*The existing development encroaches into the 45-foot side yard setback. The proposed project increases the nonconformity with the required setbacks. However, the site cannot be developed in compliance with the hillside lot side yard setbacks.*

o. Relationship of Project to Entire Site.

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.

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.

p. Relationship to Development Standards in Zoning District. The town council may impose more restrictive development standards than the standards contained in the zoning district in which the project is located in order to meet these criteria.

*The project is below the floor area permitted for the base zoning district and the project will not be out of place with the development in the area.*

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 involve demolition of a housing unit.*

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 residence 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.

*The project development is not within 25 feet of a watercourse.*

t. Low Impact Development for Stormwater Management. *The proposed project reduces impervious surfaces and is required to have a drainage plan to limit the volume and rate of new runoff and to appropriately disperse site runoff. An final engineered drainage plan will be required with the building permit application.*

4. As conditioned, the project is consistent with the Ross general plan and zoning ordinance, including the following Ross General Plan policies for Excellence in Design:

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 wherever possible.

*The proposed development is primarily on previously disturbed areas of the site. The residence is in keeping with the design of the existing structure.*

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.

*Limited landscaping is proposed. Existing site landscaping is retained and new areas are not disturbed.*

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 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.

*See discussion under design review criteria, above.*

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.

*See discussion under design review criteria, above.*

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.

*Public views will not be changed by the project.*

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 structure is set far from neighboring sites and windows, roofs and skylights are not anticipated to create light pollution or glare for neighbors.*

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

*The proposed materials are high quality.*

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

*The existing driveway will not be changed by the project.*

## Conditions

The following conditions shall be reproduced on the first page(s) of the project plans:

1. Except as otherwise provided in these conditions, the project shall comply with the plans approved by the Town Council on February 9, 2012. Plans submitted for the building permit shall reflect any modifications required by the Town Council and these conditions. Failure to secure required building permits and/or begin construction by February 9, 2013 will cause the approval to lapse without further notice.
2. A preconstruction meeting with the property owner, project contractor, project architect, representatives of the Town Planning, Building, Public Works and Fire Departments and the Town building inspector is required prior to issuance of the building permit to review conditions of approval for the project and the construction management plan.
3. The project is limited to the demolition that is shown on the architectural plans. If, after structural plans are prepared by a civil engineer or during construction, additional demolition is found to be necessary and which is inconsistent with the approved demolition plan, the applicant shall return to the Town Council for review. The applicant is advised to develop an accurate demolition plan prior to pulling the building permit for the project so that project delays may be avoided.
4. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance(copies available at [www.townofross.org](http://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(RMC) 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.
5. No demolition is permitted and no trees shall be removed until a building permit is issued for the project.
6. No brightly colored temporary fencing is permitted where it may be seen by neighbors or the public.
7. 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.

8. A drainage plan and hydrologic/hydraulic analysis shall be submitted with the building permit application for review and approval by staff and the Town Hydrologist. The drainage design shall comply with the Town's stormwater ordinance (Chapter 15.54). The plan shall be 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)., at a minimum, to produce no net increase in peak runoff from the site compared to pre-development conditions (no net increase standard). A lesser standard (to pre-project conditions) may be acceptable if the analysis demonstrates there are substantial physical site constraints. Construction of the drainage system shall be supervised, inspected and accepted by a professional engineer. The drainage system shall be designed and installed in a manner that is satisfactory to the Town Engineer and/or Director of Public Works. All roof drains shall be connected to properly designed energy dissipaters.
9. A copy of the building permit shall be posted and emergency contact information shall be up to date at all times.
10. 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. Exceptions: 1.) Work done solely in the interior of a building or structure which does not create any noise which is audible from the exterior; or 2.) Work actually physically performed solely by the owner of the property, on Saturday between the hours of 10:00 a.m. and 4:00 p.m. and not at any time on Sundays or the holidays listed above. (RMC Sec. 9.20.035 and 9.20.060).
11. The Building Official and other Town staff shall have the right to enter the property at all times during construction to inspect operating procedures, progress, compliance with permit and applicable codes.
12. 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.
13. Failure to comply in any respect with the conditions or approved plans constitutes grounds for the town to immediately stop work related to the noncompliance until the matter is resolved. (RMC §18.39.100). The violations may be subject to additional penalties as provided in the Ross Municipal Code and State law.
14. All costs for town consultant, such as the town hydrologist, review of the project shall be paid prior to building permit issuance. Any additional costs incurred to inspect or review the project shall be paid as incurred and prior to project final.

15. Plans submitted for the building permit shall provide full dimensions and elevations for the roof ridges and floor levels. The applicant shall provide written evidence to the town planner, prepared by a licensed land surveyor, confirming that the ridge heights comply with the approved plans after roof framing.
16. The applicant shall submit building permit plans for the project to the Town for review and approval, including peer review as necessary, to verify that the plans conform to the most recent adopted Uniform Building Code.
17. Grading is prohibited between October 15 and April 15 unless permitted by the Town Public Works Director/Building Official.
18. The project geotechnical engineer shall review and approve all geotechnical aspects of the project plans (i.e. site grading and drainage improvements, and design parameters for foundations and retaining walls) to ensure conformance with their geotechnical recommendations. The results of the plan review shall be summarized by the project geotechnical engineer in a letter and submitted to the Town for review.
19. A detailed construction and traffic management plan shall be submitted for the review and approval of the Director of Public Works prior to the issuance of a building permit. The submitted plan shall include, but shall not be limited to, provisions ensuring that flag persons shall be present both above and below the project site on Baywood Avenue whenever road closures or delays occur for any period of time to advise traffic of the road closure or delay. Flagmen should be situated to allow residents to turn around, such as the end of the public portion of Baywood Avenue. The plan shall include the work schedule, storage, travel routes, washout areas, parking and any other relevant information required by Town staff. The construction management plan shall be incorporated into the job set of plans.
20. Road closures will only be permitted with prior authorization of the Town. The applicant shall provide written notification to affected property owners and neighbors prior to road closures or delays. Signs containing details of the proposed closure or delay must be posted.
21. The applicant shall document the condition of Baywood and Wellington Avenue by video on CD and shall submit the information to the Public Works department prior to issuance of a building permit. The applicant shall work with the Public Works Department to repair any damage caused by the construction.
22. A qualified engineer shall prepare a report on the condition of Baywood and Wellington Avenue for construction vehicles that shall be submitted prior to issuance of the building permit for the Town Engineer's review. The Town Engineer may require the applicant to make any repairs necessary to ensure road stability for construction vehicles or to post a bond, in an amount to be fixed by the Town Engineer, guaranteeing that the applicant will repair damage to the roadway. 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.
23. The project arborist shall review final construction-level drawings, including grading, drainage and utility plans and written evidence of the project arborist review and

approval shall be provided to the Town. All tree protection conditions recommended by the project arborist shall be included on those plans to ensure compliance with the conditions. A certified arborist shall be on site during all trenching and excavation work near protected trees.

24. The applicant shall comply with the following tree protection measures:
  - a. Tree protection fencing should be installed prior to permit issuance to minimize damage to root systems of preserved trees.
  - b. Certain construction activities should be limited within the Tree Protection Zone as follows:
    - i. No equipment, storage, dumping, grading or excavation should be permitted within the designated tree protection zones without the prior written approval of the consulting arborist.
    - ii. If excavation must occur within the tree protection zone the consulting arborist should determine where tunneling, hand work, and root pruning is required (root pruning should be completed prior to grading activity).
  - c. The Project Arborist shall inspect the site, prior to issuance of a building permit, to determine if tree protection fencing has been properly installed.
25. 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.
26. 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.
27. **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.**
28. Any exterior lighting shall be submitted for the review and approval of planning department staff. 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.
29. Applicants shall comply with all requirements of all utilities including, the Marin Municipal Water District, Ross Valley Sanitary District, and PG&E.
30. The applicant shall provide documentation from MMWD that adequate water supply will be provided to the structure to serve the sprinkler system.
31. The applicant shall comply with all requirements of the Marin Municipal Water District (MMWD) for water service prior to project final, including compliance with any

applicable MMWD water-conserving landscape ordinance. Prior to project final, the applicant shall submit written evidence to the town that the landscaping plan has been approved by MMWD, or that it is exempt from their requirements. Any modifications to the planting and/or tree removal presented to the Town Council shall be reviewed and approved with staff prior to modification. Prior to project final, the project landscape professional shall certify that the landscaping and irrigation was installed in accordance with the approved plans.

32. The Public Works Director/Building Official may require utilities to be undergrounded to the nearest utility pole. The utility and roadway improvements shall be to the satisfaction of the Public Works Director.
33. This project shall comply with all requirements of the Department of Public Safety, as outlined in their ongoing project review, including the following:
  - a. The applicant shall develop a reliable fire flow water supply on-site, including a water storage facility and pump system. Plans for the system shall be submitted for review and approval with the building permit. The fire official shall ensure the adequacy of the water system for fire fighting purposes prior to the start of combustible construction or the deposit of combustible materials on the property, or prior to project final.
  - b. Development shall adhere to the wildland urban interface building standards in Chapter 7A of the California Building Code. Class A roofing is required.
  - c. The driveway shall have a vertical clearance of 14 feet. All brush impinging on the access roadway must be cleared as determined necessary by Public Safety.
  - d. The street number shall be posted (minimum 4 inches on contrasting background).
  - e. Sprinklers shall be required (a 13D system).
  - f. A 24-hour monitored alarm system is required with smoke/water flow.
  - g. All dead or dying flammable material shall be cleared and removed per Ross Municipal Code Chapter 12.12 from the site.
  - h. Clearance of brush or vegetative growth on the site shall be in accordance with the California Fire Code and approved by the fire official. 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.
  - i. The applicants shall provide a vegetative management plan to be complied with annually.
34. The applicant shall work with the Public Works Department to repair any damage caused by the construction. Applicant is advised that, absent clear video evidence to the contrary, road damage must be repaired to the satisfaction of the Town prior to project final. Damage assessment will be at the sole discretion of the Town, and neighborhood input will be considered in making that assessment.

35. 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.