

To: Mayor and Ross Town Council
From: Elise Semonian, Senior Planner
Re: Berger, Design Review Amendment, 5 Fernhill, File 1777
Date: June 2, 2011

I. Project Summary

Owner: Albert and Kimberly Berger
Location: 5 Fernhill Avenue
A.P. Number: 73-091-04
Zoning: R-1:B-20 (Single Family Residential, 20,000 acre min. lot size)
General Plan: Low Density (1-3 Units/Acre)
Flood Zone: Zone A (100-year floodplain)

II. Project Description:

Request to amend an April 17, 2006, Town Council design review approval, which permitted construction of a new 3,869 square foot two story residence, attached 414 square foot two-car garage, and accessory structures. The applicant requests the Council to rescind a condition of approval that requires the entry drive to be surfaced with decomposed granite to allow the area to be resurfaced with pervious pavers. The project includes sloping the driveway towards new runoff retention areas in the existing landscape as a backup method to distribute run off.

Lot area	25,958 square feet
Existing/proposed Floor Area	14.9% (15% permitted)
Existing/proposed Lot Coverage	14.2% (15% permitted)
Existing/Proposed Impervious Areas	16.4%

III. Background

The Town Council approved the design for the redevelopment of this site in 2006. The plans complied with all development regulations for the zoning district and no variances were required. In response to concerns about drainage and runoff, the original applicant changed impervious patio areas to lawn area and eliminated a large auto court.

The site has a circular driveway, surfaced with gravel, which is bordered by a stone-faced curb. The owner of the site would like to change the driveway surface from gravel to pervious pavers¹. The applicant requests the change in order to provide an attractive and low maintenance surface and to prevent gravel from being tracked inside the house, which scratches the tile floors. The applicant's project description is attached.

The proposed pavers have joints that would allow water to penetrate the base material and soil below. The depressions and joints in the pavers would also hold and slow some of the runoff.

¹ The prior owner of this site applied to change the driveway surface from gravel to asphalt. Although two public hearings were scheduled to consider the request, the applicant withdrew the request and it was never considered by the Council.

IV. Discussion

The Town has no regulations that preclude a homeowner from converting a gravel driveway to a pervious paver surface. This application requires Council review because the conditions of the 2006 approval specifically required the driveway surface to be gravel or decomposed granite.

Staff suggests that the council consider the aesthetic impacts of the proposal and the potential impacts to the volume and rate of site runoff. The Council may consider the project against the new stormwater design guidelines, which recommend that post-development stormwater runoff rates be no greater than pre-project, rates and recommend reducing impervious surfaces, dispersing runoff on site, and incorporating small-scale stormwater controls.

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, 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 retrofitted 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. (RMC 18.41.100 (t))

Aesthetics

Staff supports the project from an aesthetic perspective. The proposed pavers would be attractive. The applicant is also proposing to replace the existing trees between the front wall and the street with trees approved by the Ross Street Tree Committee. The olive trees in the right of way would be relocated on site to screen the front yard. A new Canary Palm is proposed in the center landscape are to screen a power pole from resident view. New, low wattage, downcast, exterior lighting is proposed.

Impacts to Runoff

Staff's primary concern with the proposal is the potential that the permeability of the pavers will degrade over time, resulting in additional impervious surface at the site and the potential to increase site runoff. Neighbors have also expressed concern with increasing runoff at the site. To be conservative about the runoff, staff supports the change of materials so long as the applicant can demonstrate no net increase in site runoff as if the proposed pavers were a solid surface like asphalt. The town hydrologist has made recommendations to ensure there will be no net increase in site runoff, which have been included in the draft conditions of approval.

The applicant is proposing to have excess runoff (if any) flow off the edge of the pavers into the surrounding landscape and gravel dissipation areas. During intense storms and floods, there will not be much of a difference between the existing compacted gravel surface and any solid surface, as the ground will be fully saturated and not absorbing runoff.

Staff has observed that water ponds adjacent to Fernhill Avenue when it rains. It is unclear if this runoff is from the driveway or the paved street. The majority of the site (from the face of the house to the creek), drains towards the south and not towards Fernhill Avenue. The town hydrologist indicates that even if the curbs around the driveway are removed and even if the driveway surface is intentionally sloped to drain to adjacent landscaped areas, runoff is likely to drain towards Fernhill Avenue. He supports a design that includes a trench drain between the driveway entrance columns to capture and direct any excess runoff to areas designed to receive, filter and absorb the site runoff.

The town hydrologist believes that the drainage handling capabilities of the right-of-way were reduced when the new house was built. Gravel fill was placed in the right-of-way without a permit and filled a drainage ditch that was recommended by the town hydrologist. Since the applicant proposes to replant trees within the right-of-way, this is an opportune time to restore the drainage capabilities in this area as recommended by the town hydrologist.

Staff believes that the Council may support the project since, if the conditions of approval are implemented, the project would not result in an increase in site runoff, even if the pervious pavers becomes less pervious in the future.

V. Recommendation

Staff recommends that the Town Council approve the project subject to the findings and conditions of approval below that limit runoff to the existing conditions.

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 Sections 15301, existing facilities.
2. Based on the project plans, staff report, site visits and as conditioned, 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 project will result in an attractive driveway surface that does not increase site runoff.

Conditions

The following conditions shall be reproduced on the first page(s) of the plans submitted for town review:

1. This approval is for paving the existing driveway area with pervious pavers, Belgard Subterra Stone, and work within the right-of-way to connect the driveway to the paved roadway, plant new trees, and restore the drainage capability of the area between the site and the paved roadway.
2. There shall be no net increase in the rate or volume of site runoff. The project shall comply with the recommendations in the letter dated May 26, 2011, by Matt Smeltzer, P.E. Prior to any construction at the site, the applicant shall submit detailed plans to the town that incorporate the recommendations in the letter dated May 26, 2011, by Matt Smeltzer, P.E. The plans shall be reviewed and approved by the town hydrologist prior to construction.
3. The applicant shall obtain a revocable encroachment permit prior to any work within the right of way.
4. The proposed landscaping shall be installed prior to project final.
5. The applicant shall pay all costs for town consultant, such as the town hydrologist, review of the project. 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.
6. The surface and subsurface drainage facilities and catchment areas shall be inspected frequently and maintained throughout the project life.
7. If the drainage facilities required to maintain no net increase in site runoff from the driveway paving are not installed or are not maintained, the Town reserves the right to rescind this approval and require the applicant to restore the gravel driveway surface.
8. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
9. 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.
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 PLANNER 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 applicant shall contact the planning department for a final inspection before the project is considered complete.
12. Failure to begin construction by June 9, 2012 will cause the approval to lapse without further notice.
13. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
14. 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.