



Staff Report

Date: September 15, 2020
To: Advisory Design Review Group
From: Matthew Weintraub, Planner
Subject: Berry Residence, 5 Allen Lane

ROLE OF THE ADVISORY DESIGN REVIEW GROUP:

The Advisory Design Review (ADR) Group considers and makes formal recommendations to the Town Planner and Town Council on applications and matters affecting the design of buildings, structures, landscaping, and other site improvements consistent with the purpose of Ross Municipal Code (RMC) Chapter 18.41, Design Review. The ADR Group provides professional review of design-related issues, including site planning, building massing, setbacks, light/air, etc., as well as material selection in architectural and landscape design in the discretionary review process. The ADR Group makes non-binding advisory recommendations regarding consistency of applications with the Design Review criteria and standards per RMC Section 18.41.100.

Recommendation

That the ADR Group discuss the merits of the project and provide a formal recommendation to the Town Council regarding the merits of the project consistent with the Design Review criteria and standards of RMC Section 18.41.100 (see **Attachment 1**). A majority vote of the ADR Group is necessary to provide a recommendation to the Town Council. The vote count of the recommendation will be forwarded to the Town Council.

Project Information

Owner: Berry Living Trust (Chris and Nadine Berry)
Applicant: Chris and Nadine Berry
Street Address: 5 Allen Lane
Assessor Parcel No.: 073-261-40
Zoning: R-1: B-10
General Plan: ML (Medium Low Density)
FEMA Flood Zone: AE Floodway (Areas subject to inundation by the 1-percent-annual-chance flood event)

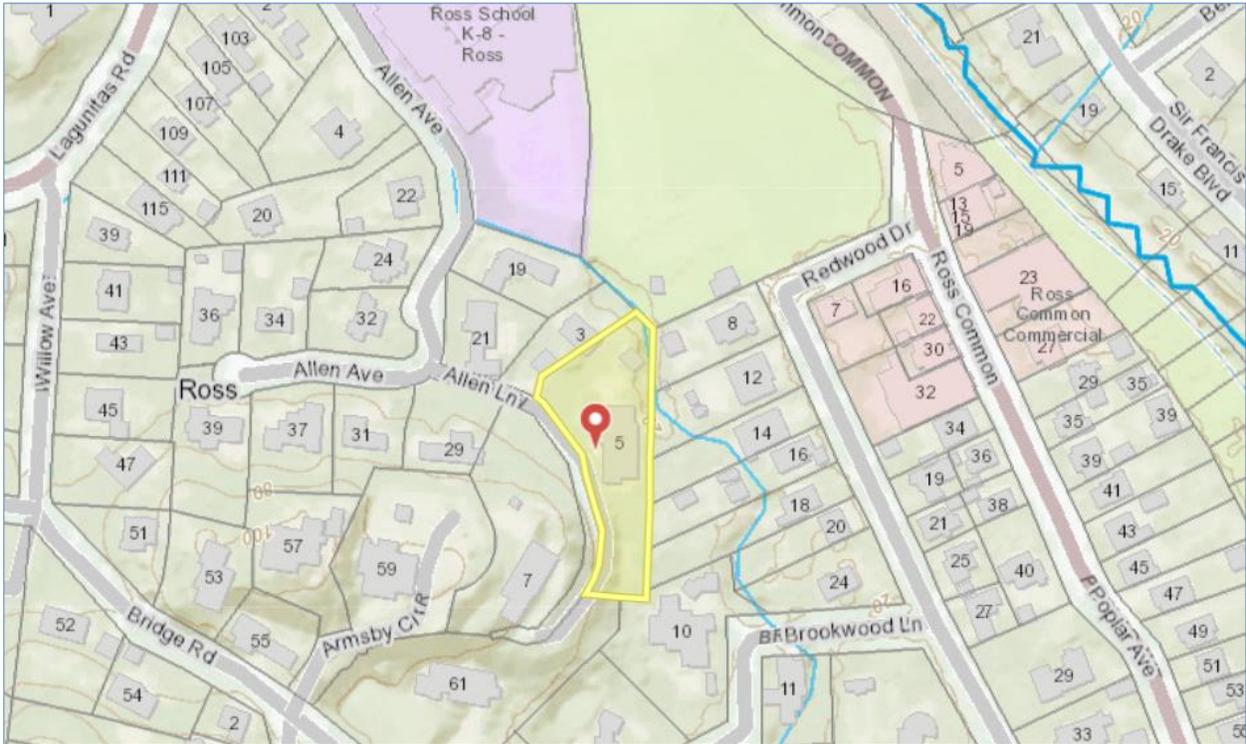


Figure 1. Location map. (Courtesy of MarinMap.)

Project Description

The applicant is requesting approval to construct a new pool/spa within a minimum required yard setback, and to install new pool equipment within an existing structure that is located within a minimum required yard setback. The proposed new pool with integrated spa would be rectangular in shape with dimensions of 38' x 17', inclusive of 2' coping, and it would cover 646 square feet. It would feature bluestone coping, dark gray glass pool tile, and an automatic cover. The pool would be located in the south yard of the existing single-family residence. It would be set back 17' from Allen Lane and the front (west) property line, 20' from the rear (east) property line, and 88' from the south side property line. The proposed new pool equipment would be enclosed within an existing "play house" accessory structure that is located 3' from the rear (east) property line. No new landscaping is proposed. Project application materials are included as follows: Project Plans as **Attachment 2**; Project Description as **Attachment 3**; Neighborhood Outreach Description as **Attachment 4**.

The proposed project is subject to the following permit approvals:

- **Variance is required pursuant to RMC Section 18.48.010** to construct a new pool/spa and to install new pool equipment within minimum required yard setbacks. The project would construct a new pool with integrated spa located within the minimum required front yard and rear yard setbacks, and it would install new pool equipment within an existing structure within the minimum required rear yard setback.

Pursuant to Resolution No. 1990, Advisory Design Review is required for all applicants seeking discretionary land use permits, such as Design Review, a Demolition Permit, a Nonconformity Permit, Exceptions to Attics and Basements, a Hillside Lot Permit, and/or a Variance.

Project Data

Project Item	Code Standard	Existing	Proposed
Lot Area	10,000 sf min.	26,200 sf	No change
Floor Area	20% max.	Not calculated/ no change	Not calculated/ no change
Building Coverage	20% max.	Not calculated/ no change	Not calculated/ no change
Front Yard Setback (West)	25' min.	House: 17'	House: No change Pool: 17'
Side Yard Setback #1 (North)	15' min.	House: 43'	House: No change
Side Yard Setback #2 (South)	15' min.	House: 156'	House: No change Pool: 88'
Rear Yard Setback (East)	40' min.	House: 23' Accessory: 3'	House: No change Accessory: No change Pool: 20'
Building Height	30' (2 stories) max.	Not calculated/ no change	Not calculated/ no change
Off-street Parking	3 spaces (1 covered) min.	Not calculated/ no change	Not calculated/ no change
Impervious Surfaces *	---	7,208 sf (26.7%)	7,886 sf (29.2%)

* Per Low Impact Development for Stormwater Management, Design Review Criteria and Standards (RMC Section 18.41.100 (t)).

Background

The project site is a 26,200-square-foot lot on the east side of Allen Lane. The lot is gently sloping with an average slope of 9%. The lot is irregular in shape with nonconforming lot depth along most of its frontage. The lot generally narrows from north to south. The existing single-family residence is located at the northern part of the lot. The existing residence has nonconforming front yard and rear yard setbacks, and the existing accessory structure has a nonconforming rear yard setback. The northern portion of the property is located within the Federal Emergency Management Agency (FEMA) Special Flood Hazard Area Zone AE (see Figure 2, Vicinity Map), which is defined as an area subject to inundation by the 1-percent-annual-chance flood event (also referred to as the base flood or 100-year flood).

Since 1984, the Council has considered the configuration of the property and made the findings necessary to grant a Variance to approve development and/or improvements with nonconforming setbacks a total of six times, including for construction of the existing residence in 1993, as follows:

- Variance, 11/8/84: New deck with nonconforming setbacks; remove play structure.
- Variance, 1/9/92: Demolish existing house and construct a new house with nonconforming setbacks.
- Variance, 10/8/92: New pool and HVAC with nonconforming setbacks. (Apparently the approved pool was not constructed.)
- Variance, Design Review, 11/12/98: Play structure with nonconforming setbacks.
- Variance, 5/13/99: Play structure with nonconforming setbacks.
- Variance, 4/26/00: Alter existing residence with nonconforming setbacks.

The Project History is included as **Attachment 5**.



Figure 2. Vicinity Map with FEMA Flood Zones. (Courtesy of MarinMap.)

Discussion

The overall purpose of Design Review is to guide new development to preserve and enhance the special qualities of Ross and to sustain the beauty of the town's environment. Other specific purposes include: provide excellence of design consistent with the scale and quality of existing development; preserve and enhance the historical "small town," low-density character and identity that is unique to the Town of Ross; preserve lands which are unique environmental resources; enhance important community entryways, local travel corridors and the area in which the project is located; promote and implement the design goals, policies and criteria of the Ross general plan; discourage the development of individual buildings which dominate the townscape or attract attention through color, mass or inappropriate architectural expression; preserve

buildings and areas with historic or aesthetic value; upgrade the appearance, quality and condition of existing improvements in conjunction with new development or remodeling of a site; and preserve natural hydrology and drainage patterns and reduce stormwater runoff associated with development. The Design Review criteria and standards per Ross Municipal Code (RMC) Section 18.41.100 are included as **Attachment 1**.

Public Comment

Public Notices were mailed to property owners within 300 feet of the project site at least 10 days prior to the meeting date. No comments were received prior to finalization of the staff report.

Attachments

1. RMC Section 18.41.100, Design Review Criteria and Standards
2. Project Plans
3. Project Description
4. Neighborhood Outreach Description
5. Project History

ATTACHMENT 1

18.41.100 Design Review Criteria and Standards.

This section provides guidelines for development. Compliance is not mandatory but is strongly recommended. The Town Council may deny an application where there are substantial inconsistencies with one or more guidelines in a manner that is counter to any purpose of this ordinance.

(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.

(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. (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.

(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.

(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. When nonconforming floor area is proposed to be retained with site redevelopment, the Council may consider the volume and mass of the replacement floor area and limit the volume and mass where necessary to meet the intent of these standards.

(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.

(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.

(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.

(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.

(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. Transparent front yard fences and gates over four feet tall may be permitted if the design and landscaping is compatible and consistent with the design, height and character of fences and landscaping in the neighborhood. Front yard vehicular gates should be transparent to let light and lines of sight through the gate.

Solid walls and fences over four feet in height are generally discouraged on property lines adjacent to a right-of-way but may be permitted for properties adjacent to Poplar Avenue and Sir Francis Drake Boulevard based on the quality of the design, materials, and landscaping proposed. Driveway gates should be automatic to encourage use of onsite parking. Pedestrian gates are encouraged for safety, egress, and to encourage multi-modal transportation and pedestrian-friendly neighborhood character.

(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.

(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.

(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.

(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.

(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.

(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. Where nonconformities are proposed to be retained, the proposed structures and landscaping should not impair the primary views or privacy of adjacent properties to a greater extent than the impairment created by the existing nonconforming structures.

(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.

(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.

(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. Where two or more contiguous parcels are merged into one legal parcel, the Town Council may consider the total floor area of the existing conforming and legal nonconforming structures and may reduce the permitted floor area to meet the purposes of these standards.

(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.

(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.

(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.

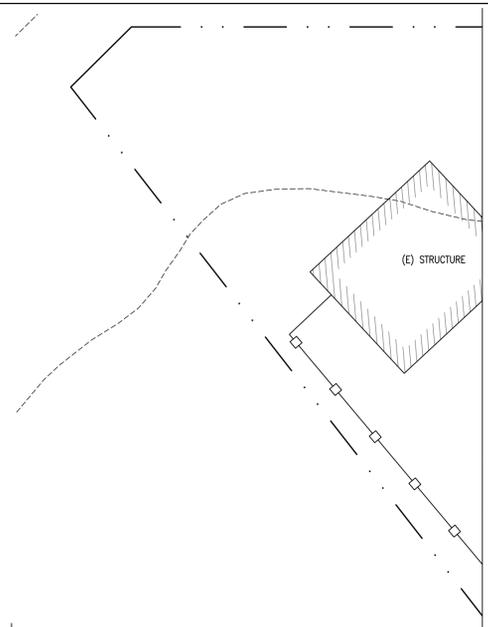
(t) **Low Impact Development for Stormwater Management.** Development plans should strive to replicate natural, predevelopment hydrology. To the maximum extent possible, the post-development stormwater runoff rates from the site should be no greater than pre-project rates. Development should include 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, 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. (Ord. 653 (part), 2014; Ord. 641 (part), 2013; Ord. 619 (part), 2010; Ord. 611 (part), 2008; Ord. 575 (part), 2003; Ord. 555, 2000; Ord. 543-1 (part), 1998; Ord. 514 §1 (part), 1993).

ATTACHMENT 2



SITE VICINITY MAP
SCALE: N.T.S.

ABBREVIATIONS

AC	ARCHITECTURAL
ARCH	ARCHITECTURAL
BV	BEGIN VERTICAL CURVE
CL	CENTERLINE
COL	COLUMN
CONC	CONCRETE
DBL	DOUBLE
DEG	DEGREE
DF	DOUGLAS FIR
Ø	DIAMETER
(E)	EXISTING
EQ	EQUAL
EVC	END VERTICAL CURVE
EX	EXISTING
FG	FINISHED GRADE
FS	FINISHED SURFACE
FT	FEET
GALV	GALVANIZED
LF	LINEAL FEET
MAX	MAXIMUM
MIN	MINIMUM
(N)	NEW
OC	ON CENTER
OPP	OPPOSITE
PERF	PERFORATED
PL	PROPERTY LINE
PCF	POUNDS PER CUBIC FOOT
PLF	POUNDS PER LINEAL FOOT
PSF	POUNDS PER SQUARE FOOT
PVI	POINT OF VERTICAL INTERSECTION
R.O.W.	RIGHT OF WAY
S=	SLOPE
S.A.D.	SEE ARCHITECTS DRAWINGS
STD	STANDARD
T.B.	TOP OF
TYP	TYPICAL
UN	UNLESS OTHERWISE NOTED
VAR	VARIES
VC	VERTICAL CURVE
VERT	VERTICAL
V.I.F.	VERIFY IN FIELD

GRADING QUANTITIES:

CUT:	180 CY	EXCAVATION FOR NEW POOL
FILL:	0 CY	

NOTE: GRADING QUANTITIES ARE FOR PERMITTING PURPOSES ONLY AND DO NOT INCLUDE AN ALLOWANCE FOR SHRINK OR SWELL. GRADING QUANTITIES SHALL NOT BE USED AS A BASIS FOR BIDDING PURPOSES.

STORMWATER CONTROL:

EXISTING:		PROPOSED:	
PERVIOUS SURFACES:	LANDSCAPE: 14775 SF	PERVIOUS SURFACES:	LANDSCAPE: 14775 SF
LAWN:	5047 SF	LAWN:	4369 SF
TOTAL:	19822 SF	TOTAL:	19144 SF
IMPERVIOUS SURFACES:	ROOF: 3975 SF	IMPERVIOUS SURFACES:	ROOF: 3975 SF
DRIVEWAY:	2813 SF	DRIVEWAY:	2813 SF
STONE PATIO:	620 SF	STONE PATIO:	620 SF
		POOL + STEPS:	678 SF
TOTAL:	7208 SF	TOTAL:	7886 SF
TOTAL LOT AREA:	27030 SF	TOTAL LOT AREA:	27030 SF
% TOTAL EXISTING:	26.7%	% TOTAL PROPOSED:	29.2%
IMPERVIOUS INCREASE OF 2.5%			

PROJECT INFORMATION:

ADDRESS: 5 ALLEN LANE, ROSS, CA 94957
 AEN: 073-261-40
 LOT AREA: 27030 SF
 ZONING: R-1.B-10 SINGLE FAMILY RESIDENTIAL
 FLOOD ZONE: AE

OWNER: MR. AND MRS. BERRY
 (415) 999-1456
 c_berry@mac.com nadineberry@icloud.com

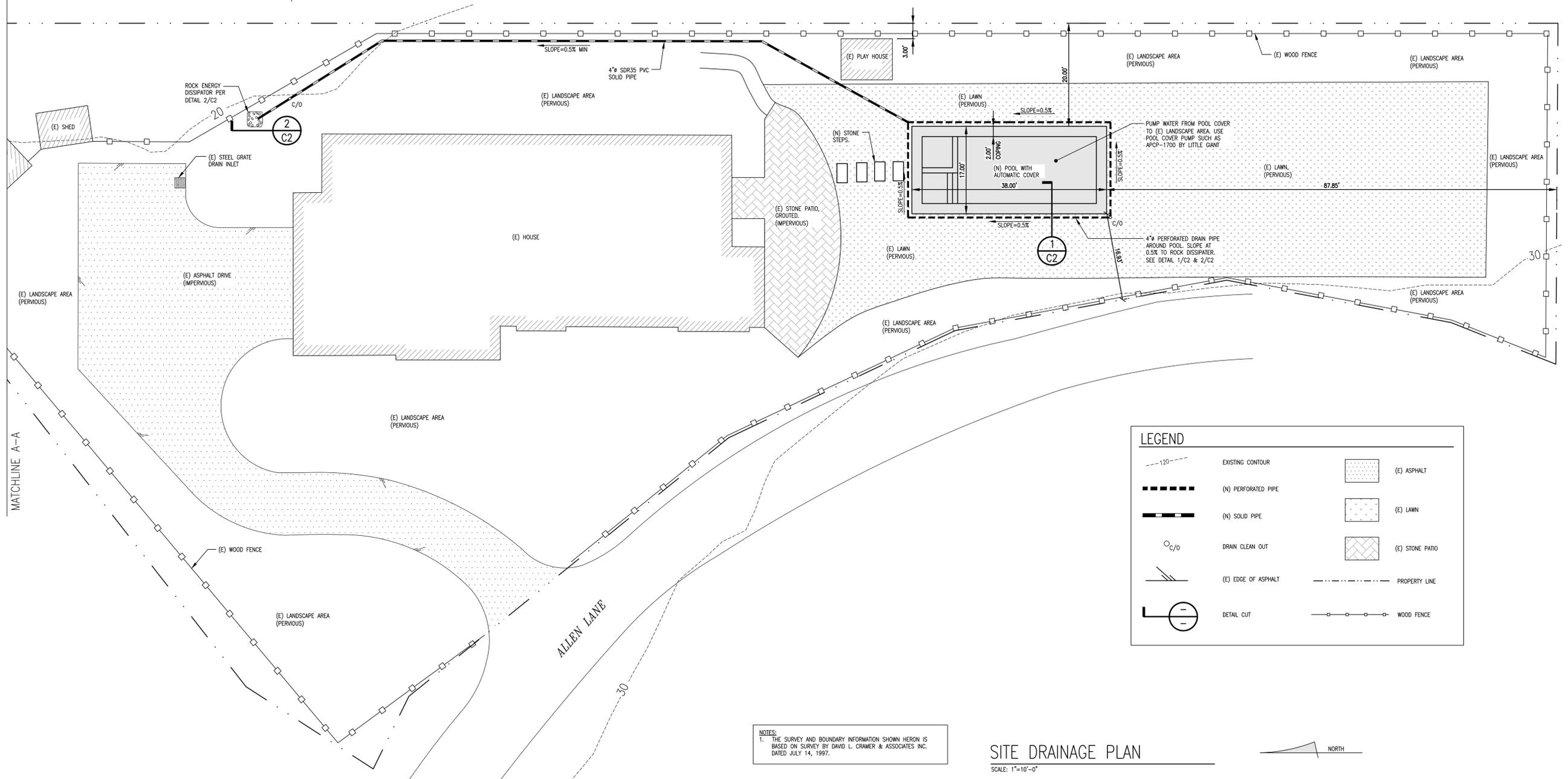
LANDSCAPE DESIGNER: JENNIFER TIPPETT
 (415) 722-4344
 jentippett@comcast.net

CIVIL ENGINEER: JOE ROGER, S.E. & ALEX IRELAND, C.E.
 (415) 272-2305 & (415) 302-2601
 joerogger@yahoo.com alexanderireland@gmail.com

- DRAINAGE DESIGN:**
- THE STORMWATER DRAINAGE PLAN HAS BEEN DESIGNED TO COMPLY WITH THE MARIN COUNTY (MCSTOPP) AND TOWN OF ROSS STORMWATER REQUIREMENTS AND HAS BEEN DESIGNED TO MINIMIZE STORM RUNOFF AND LIMIT OFF-SITE STORMWATER IMPACTS.
 - THE EXISTING IMPERVIOUS AREA TOTALS 7208 SF WHICH IS 26.7% OF THE LOT AREA (SEE BELOW).
 - THE PROPOSED PLAN ADDS 678 SF OF IMPERVIOUS AREA WHICH BRINGS THE TOTAL IMPERVIOUS AREA TO 29.2% OF THE LOT AREA. THIS IS AN INCREASE IN IMPERVIOUS SURFACE OF 2.5%.
 - THE IMPERVIOUS AREA ADDED IS THE POOL AND STONE STEPS TO ACCESS THE POOL.
 - THE IMPERVIOUS AREA FROM THE STONE STEPS WILL DRAIN TO THE LAWN.
 - THE IMPERVIOUS AREA FROM THE POOL COVER WILL BE PUMPED TO EXISTING LANDSCAPE AREAS.
 - A PERFORATED FRENCH DRAIN TO BE INSTALLED AROUND THE POOL TO MINIMIZE HYDROSTATIC PRESSURE. BUILD UP. THIS WILL DRAIN TO AN EROSION RESISTANT ROCK DISSIPATOR ON SITE.

PROJECT SCOPE:

THE PROJECT CONSISTS OF INSTALLING A NEW POOL IN AN EXISTING LAWN AREA.



LEGEND

	EXISTING CONTOUR		(E) ASPHALT
	(N) PERFORATED PIPE		(E) LAWN
	(N) SOLID PIPE		(E) STONE PATIO
	DRAIN CLEAN OUT		PROPERTY LINE
	(E) EDGE OF ASPHALT		WOOD FENCE
	DETAIL CUT		

NOTES:

- THE SURVEY AND BOUNDARY INFORMATION SHOWN HEREON IS BASED ON SURVEY BY DAVID L. CRAMER & ASSOCIATES INC. DATED JULY 14, 1997.

SITE DRAINAGE PLAN
SCALE: 1"=10'-0"

REVISIONS:



JOSEPH H. ROGER
STRUCTURAL ENGINEER

3 Palm CT
Larkspur, CA 94939

Tel: 415-272-2305

E-mail:
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SITE DRAINAGE PLAN, PROJECT SPECIFICATIONS

SITE IMPROVEMENTS
CHRIS AND NADINE BERRY
ROSS, CA 94957
APN: 073-261-40

DATE: SEPTEMBER 8, 2020

JOB NUMBER:

DRAWN: CAD CHECKED: JR

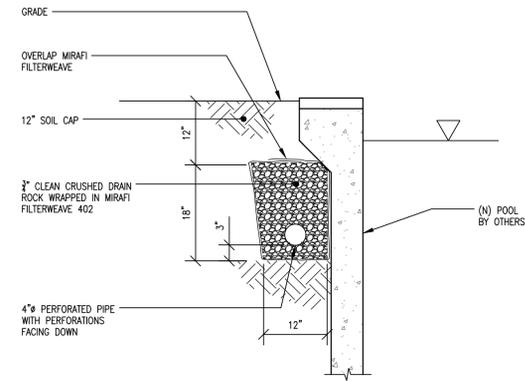
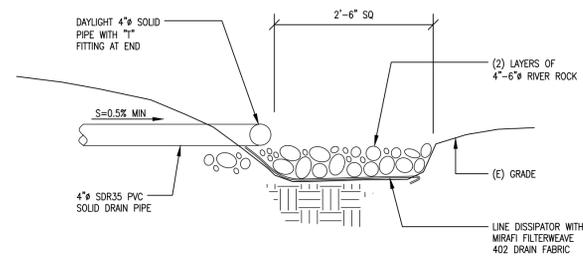
SCALE: AS NOTED

FULL SIZE: 24"x36"

SHEET NUMBER

C1

OF 4 SHEETS



2 C2	ROCK ENERGY DISSIPATOR	SCALE: 1" = 1'-0"	1 C2	PERFORATED DRAIN	SCALE: 1" = 1'-0"
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TECHNICAL SPECIFICATIONS

GENERAL NOTES:

1. ANY FEATURE OF CONSTRUCTION NOT FULLY SHOWN OR DETAILED SHALL BE OF THE SAME TYPE AS SHOWN ON THE PLANS FOR SIMILAR CONSTRUCTION.
2. ALL DIMENSIONS SHOWN ON THESE PLANS ARE FOR REFERENCE ONLY. THE CONTRACTOR SHALL VERIFY ALL DIMENSIONS WITH THE ARCHITECTS PLANS AND NOTIFY THE ENGINEER IN THE EVENT OF A CONFLICT, PRIOR TO PROCEEDING WITH CONSTRUCTION.
3. ANY REQUEST FOR ALTERATIONS OR SUBSTITUTIONS MUST BE PRESENTED TO THE ENGINEER IN THE FORM OF A DETAILED SKETCH FOR REVIEW BEFORE AN APPROVAL WILL BE GIVEN, AND BEFORE PROCEEDING WITH THE WORK.
4. ALL CONSTRUCTION SHALL CONFORM TO THE APPLICABLE PROVISIONS OF THE CALIFORNIA BUILDING CODE, 2019 EDITION.
5. IT IS THE CONTRACTOR'S RESPONSIBILITY TO VERIFY THE LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR IS REQUIRED TO NOTIFY UNDERGROUND SERVICE ALERT (U.S.A.) AT LEAST 2 WORKING DAYS PRIOR TO EXCAVATION AND REQUEST FIELD LOCATION OF ALL UNDERGROUND UTILITIES. ANY DAMAGED UTILITIES DURING CONSTRUCTION SHALL BE COMPLETELY RESTORED TO THE SATISFACTION OF THE LOCAL UTILITY ENGINEER AT THE SOLE EXPENSE OF THE CONTRACTOR.
6. THE CONTRACTOR SHALL SECURE ALL REQUIRED CONSTRUCTION PERMITS FROM BUILDING DEPARTMENT OF JURISDICTION PRIOR TO THE START OF WORK.
7. THE CONTRACTOR SHALL NOTIFY THE BUILDING INSPECTOR AT LEAST 48 HOURS PRIOR TO POURING ANY CONCRETE.
8. THE INTENT OF THE CIVIL DRAWINGS IS TO SCHEMATICALLY SHOW THE STRUCTURAL PLANS AND DETAILS TO COMPLY WITH BUILDING CODE REQUIREMENTS. THE FOLLOWING WORK IS SPECIFICALLY NOT INCLUDED:
 MECHANICAL ENGINEERING
 ELECTRICAL ENGINEERING
 ARCHITECTURE, INCLUDING WEATHER AND WATERPROOFING
 GEOTECHNICAL AND SOILS ENGINEERING
 STRUCTURAL ENGINEERING
 IT IS THE OWNER'S RESPONSIBILITY TO RETAIN LICENSED PROFESSIONALS TO DESIGN AND CONSTRUCT ALL WORK NOT PART OF THE CIVIL PLANS.

EARTHWORK AND GRADING NOTES:

1. ALL EARTHWORK AND GRADING SHALL BE DONE IN CONFORMANCE WITH THE RECOMMENDATIONS PROVIDED BY THE OWNERS GEOTECH REPRESENTATIVE
2. NOTIFY THE GEOTECHNICAL ENGINEER PRIOR TO PROCEEDING THE EVENT THAT UNUSUAL SOIL CONDITIONS ARE ENCOUNTERED.
3. ALL EXCAVATED MATERIAL SHALL BE REMOVED AND DEPOSITED OFF SITE IN A LEGAL MANNER.

STORM DRAINAGE:

1. ALL DRAIN PIPE TO BE SDR35 PVC PIPE
2. ALL PERFORATED PIPE TO BE SDR35 PVC PIPE WITH (2) ROWS OF PERFORATIONS. INSTALL PERFORATIONS FACING DOWN.
3. DO NOT USE 90 DEGREE FITTINGS WHEN POSSIBLE. USE (2) 45 DEGREE FITTINGS.

CONTRACTOR'S RESPONSIBILITY:

CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONTRACTOR WILL BE REQUIRED TO ASSUME THE SOLE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY. THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY, AND HOLD CIVIL ENGINEER HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF STRUCTURAL ENGINEER.

REVISIONS:



JOSEPH H. ROGER
STRUCTURAL
ENGINEER

3 Palm CT
 Larkspur, CA 94939

Tel: 415-272-2305

E-mail:
 joehroger@yahoo.com

TECHNICAL SPECIFICATIONS, DETAILS

SITE IMPROVEMENTS
 CHRIS AND NADINE BERRY
 ROSS, CA 94957
 APN: 073-261-40

DATE: SEPTEMBER 8, 2020

JOB NUMBER:

DRAWN: CAD CHECKED: JR

SCALE: AS NOTED

FULL SIZE: 24"x36"

SHEET NUMBER

C2

OF 4 SHEETS

REVISIONS:



JOSEPH H. ROGER
STRUCTURAL
ENGINEER

3 Palm CT
Larkspur, CA 94939

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CONSTRUCTION MANAGEMENT DETAILS

SITE IMPROVEMENTS
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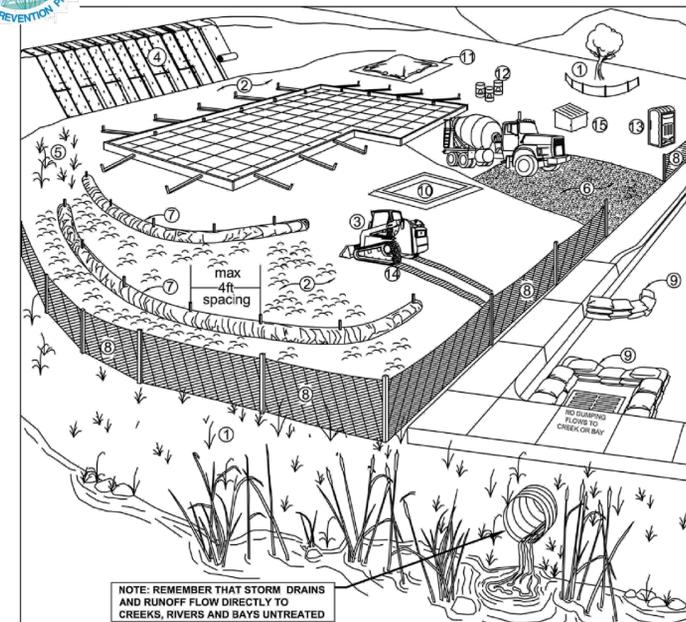
SHEET NUMBER

C4

OF 4 SHEETS



Marin County Stormwater Pollution Prevention Program
Minimum Control Measures
For Small Construction Projects



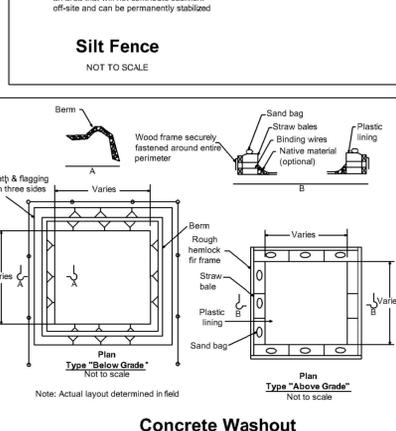
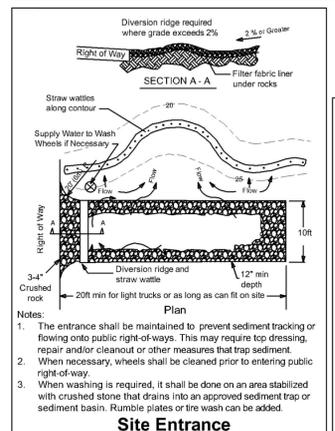
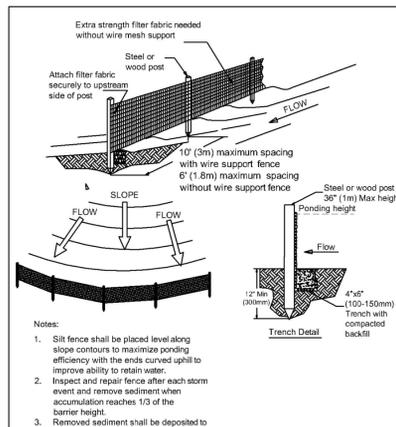
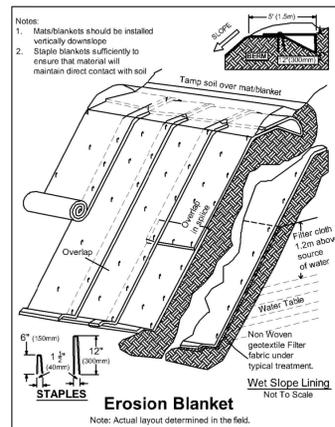
Erosion Controls	Sediment Controls	Good Housekeeping
NS Scheduling	6. Tracking Controls	10. Concrete Washout
1. Preserve Vegetation & Creek Set Backs	7. Fiber Rolls	11. Stockpile Management
2. Soil Cover	8. Silt Fence	12. Hazardous Material Management
3. Soil Preparation/ Roughening	9. Drain Inlet Protection	13. Sanitary Waste Management
4. Erosion Control Blankets	NS Trench Dewatering	14. Equipment and Vehicle Maintenance
5. Revegetation		15. Litter and Waste Management

NS=not shown on graphic

Note: Select an effective combination of control measures from each category. Erosion Control, Sediment Control, and Good Housekeeping. Control measures shall be continually implemented and maintained throughout the project until activities are complete, disturbed areas are stabilized with permanent erosion controls, and the local agency has signed off on permits that may have been required for the project. Inspect and maintain the control measures before and after rain events, and as required by the local agency or state permit.

More detailed information on the BMPs can be found in the related California Stormwater Quality Association (CASQA) and California Department of Transportation (Caltrans) BMP Factsheets. CASQA factsheets are available by subscription in the *California Best Management Practices Handbook Portal: Construction* at <http://www.casqa.org>. Caltrans factsheets are available in the *Construction Site BMP Manual March 2003* at <http://www.dot.ca.gov/hq/construction/stormwater/manuals.htm>. Visit www.mcstopp.org for more information on construction site management and Erosion and Sediment Control Plans.

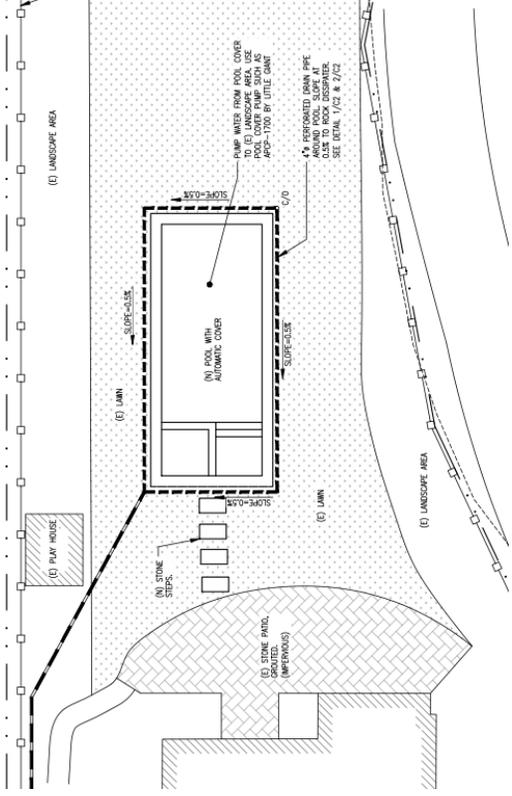
If you require materials in alternative formats, please contact:
415-473-4381 voice/TTY or disabilityaccess@co.marin.ca.us



Berry – 5 Allen Lane

New Pool Construction

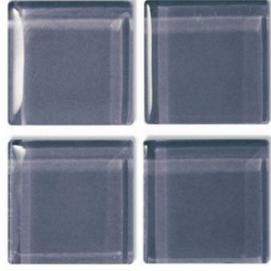
Proposed Materials, Colors & Details



Bluestone Coping
bordering pool inset in lawn



Bluestone Coping
Sample



Waterline - Dark Gray Glass Tile

ATTACHMENT 3

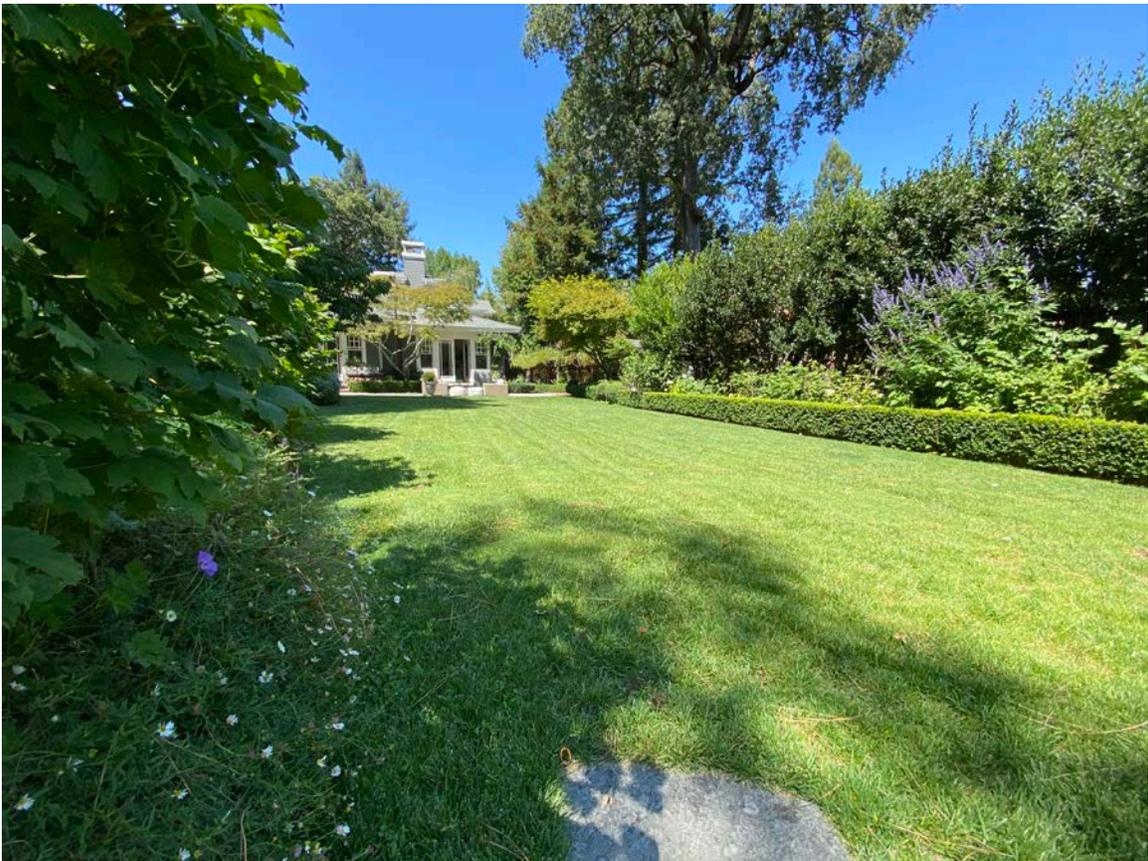
Chris and Nadine Berry
5 Allen Lane, Ross CA
Nadine – 415 205-0670, Chris – 415 999-1456
nadinecberry@icloud.com, c_berry@mac.com,
Designer – Jennifer Tippett 415 722-4344 jentippett@comcast.net
Engineer – Alex Ireland 415 302-2601 alexireland@gmail.com
Pool Contractor - Aqua Gunite (925) 960-9075

New Pool Application

Description of Work:

Application for a permit to install a new 17' x 38' pool in the backyard of 5 Allen Lane, Ross. Pool to include integrated spa. Pool inset in existing lawn. Coping is Connecticut Bluestone. 24" x 48" Bluestone pavers inset in lawn to access pool. Pool equipment to be stored in existing shed structure.

No changes to existing, mature and densely planted garden. Due to the location of the pool, no plants or trees will be affected. Location of the pool will be in the center of the grass area shown below.



August 9, 2020

Chris & Nadine Berry
5 Allen Lane
PO Box 1741
Ross, CA 94957

Project Description: The proposed landscaping project at 5 Allen Lane includes removal of existing lawn and dirt while adding a new swimming pool with automatic safety cover in the fully gated rear yard. The ample, mature natural privacy screening will be maintained around the property and the existing landscaping will be preserved in its current state with no tree or vegetation removals.

The project would not impact the "small town" character of Ross because the project would be designed to maintain the overall style of the existing residence. Additionally, the project would not impact any unique environmental resources due to the location of the project site relative to any sensitive wildlife habitat, species, and/or creeks. Lastly, the project would be required to address drainage and storm water prior to issuance of any building permit to allow for the construction of the project. The project is in substantial compliance with the design criteria of Ross Municipal Code.

The project would be consistent with the design review criteria and standards relative to architectural design, materials, colors, landscaping, drainage and storm water pollution prevention. Lastly, the project would address health and safety through the issuance of a building permit to ensure compliance with the building, public works, and fire code regulations.

There will be a minimal change to impervious surfaces. Upon further investigation of recently approved pools, we found the following important information to be relevant to our pool addition. We prefer not to disrupt the existing well-positioned patio that is in excellent condition. This would require unnecessary demolition and cost. The findings below give us hope that we will not need to change the existing patio:

- 45 Bolinas decreased their impervious area by 236 SF, but they have 4998 SF of impervious on a total lot area of 12,800 SF so they are at 39% of impervious coverage, much more than our 29.2%.
- 74 Shady Lane increased their impervious by 359 SF. Shady lane has a total lot area of 14,020 SF which means they have a total new Impervious area of 29.4% which is higher than our total impervious percentage of 29.2%.

There will be no net increases in lot coverage or floor area ratios.

Special Circumstances: We are requesting a variance pursuant to Ross Municipal Code to allow the proposed swimming pool and to be located within 25-feet of the east rear property line (20 feet from the property line at its closest point) and a portion to be located within 20-feet of the west side property line (15 feet from property line at its closest point) in order to be able to recognize similar privileges enjoyed by other properties in the vicinity under identical R-1:B-10 zoning classifications.

Referencing the Town of Ross Zoning Map all other surrounding properties to the north, south, east, and west are also zoned R- 1:B-10. Using Google Earth, we would like to note that 6 other neighboring properties have similar sized swimming pools and it appears some were likely granted a variance for location within one or more of their respective setbacks.

While most would establish the back yard of 5 Allen Lane as the yard space to the south of the property (the only open space on the property), it is in fact considered a side yard, as per the Town's definition. The front of the property is the property line that faces Allen Lane. The lot's configuration and orientation does establish special land related circumstances that would warrant support of a Variance.

Special circumstance does exist based on the constraints associated with the existing development of the site. The only reasonable area to locate a swimming pool within the project site would be within the area of the proposed swimming pool. Even if the pool were slightly shifted from the side and rear property lines, a Variance from the setbacks would be required due to the shape and the only available location to construct a swimming pool.

Substantial Property Rights: The 27,000+ square foot lot is an irregular shape but offers an idyllic setting for a swimming pool. As the property owners, we have fully complied with all Town of Ross ordinances regarding creek vegetation management and clean up and continuously perform on-going maintenance. The proposed landscape project will allow for the use of the expansive backyard while preserving its natural, dense surroundings.

Public Welfare: The area where the pool is proposed is level and will not require extensive grading other than the minimum necessary to accommodate the swimming pool. The proposed construction will not impact views or access to adjoining lots. Furthermore, due to extensive vegetative screening, the pool will not be visible to any of the surrounding neighbors. The proposed mechanical pool equipment will be located in a existing playhouse, sound proofed and further screened from view. The plans suggest a Pentair Intelliflo Variable Speed Pump which runs at 45 decibels. IntelliFlo VS Variable Speed pump uses variable-speed pump technology. With energy savings up to 90%* versus conventional pumps, near-silent operation and advanced programming capabilities.

It is important to note that the nearest homes on Redwood have extensive back yards with the nearest home approximately 100 feet from the property line.

Proposed Area for the New Pool:



Mature Screening on the west side of the property to Allen Lane to remain as is:



**Mature screening from the east side of the property (with 14 Redwood Ave in the background)
to remain as is:**





ATTACHMENT 4

Neighborhood Outreach: The 9 direct neighbors surrounding 5 Allen Lane were shown the plans in person and were walked through the location of the proposed new pool. Listed below are the names and addresses of the neighbors contacted and their support.

In favor of the new pool:

8 Redwood Ave – Barbara Cull
12 Redwood Ave – Ann Cognato
16 Redwood Ave – Dick Boho
18 Redwood Ave – Mike and Lisa Gorham
20 Redwood Ave – Margaret Francis
10 Brookwood – Bruce and Bonnie Potter
12 Bridge – Don Kelleher
3 Allen Lane – Andy and Alea Dodge

Not in favor of the new pool:

14 Redwood Ave - Jeff and Kate Babcock

Neighbor Accommodations: We are open to additional landscaping to help diffuse any noise that may be an issue for the Babcock's. Additionally we propose soundproofing all pool equipment. As you will see in the photo below, a mature and well-planted garden with plenty of screening and a professionally constructed playhouse exist today. While recognizing the dense and private nature of the existing screening, we remain open to suggestions of additional plantings to further abate any noise concerns.

ATTACHMENT 5

-2-

Jerome Gayle, from April 4, 1984 to June 6, 1984 at an agreed compensation of \$99. He actually worked only seven weeks for two hours each week and earned \$77. At the end of the summer, he made application for unemployment insurance and although Mr. Gayle was not entitled to unemployment insurance, the Unemployment Insurance Office determined that Ross Rec was his last employer and that he was not a part-time independent contractor. Ross Rec appealed the decision and received an adverse judgment.

The local office of the State Unemployment Insurance Board has set November 20 for a review of Ross Rec records.

Town Attorney Roth has requested a transcript of the hearing, which may take six weeks for receipt. After studying the transcript he will be in a position to make a recommendation to Ross Rec as to whether or not he feels an appeal should be pursued.

The Clerk was directed to provide copies of Council meeting minutes relating to the establishment of the Ross Recreation Advisory Board and the Streets and Parks Committee (Flemming and Brekhus) were asked to meet with Mr. Roth and the Board and to reaffirm the Town's position that the Committee is a separate entity.

6. Parcel Merger Law Discussion.

Mr. Roth asked that this discussion be continued to the December 13 meeting.

7. Variances.

1. No. 720 William and Mary Poland, 5 Allen Lane (73-261-33) 10,000 sq. ft. zone
Request to construct 10' x 21' deck 16" above grade, 9' from rear property line. Non-conforming 12' x 12' playhouse to be removed from property.

Lot Area	26,200 sq. ft.
Present lot coverage	16.30%
Proposed " "	16.45%
Present floor area ratio	14.22%
Proposed " " "	14.47%

(20% allowed)

Project Director Robert Strand displayed plans and explained the deck will not be visible from any neighboring property nor from the road and it will provide an additional fire exit. The configuration of the property is a definite hardship. On motion by Mr. Dirkes, seconded by Mrs. Flemming, the variance was unanimously granted.

This was seconded by Councilman Lill. There was further discussion on the feasibility of testing for carbon monoxide and Mayor Goodman did not feel that this was cost effective for 24 cars. He felt the issue was being blown out of proportion. Mr. John Scott of Allen Avenue said that most problems with carbon monoxide are with cold starts and this would not be an issue by the time the students reached the parking lot. Mayor Goodman called for a vote and the motion passed unanimously.

COUNCILMEMBER BREKHUS LEFT THE MEETING.

b. USE PERMIT AND VARIANCE. Bill and Mary Poland, 5 Allen Lane, AP 73-261-33 and 73-261-34, R-1:B-10 (Single Family Residence, 10,000 sq. ft. minimum). Request is to allow:

- (1) Use permit to allow demolition of existing house.
- (2) Variance to allow a reduced rear yard setback of 20 feet (40 required) for the construction of a house and garage totalling 4,607 square feet of floor area. A 3 X 9 foot rear landing will encroach an additional three feet into the rear yard setback. A roof overhang of 2.5 feet will encroach into portions of the rear and front yard setbacks. A corner of the structure will encroach approximately one foot into the front yard setback.

Lot Area	27,000 sq. ft.
Present Lot Coverage	18%
Proposed Lot Coverage	15.8% (20% allowed)
Present Floor Area Ratio	13%
Proposed Floor Area Ratio	17.1% (20% allowed)

USE PERMIT NO. 156 & VARIANCE NO. 1013

Richard Hunt, Architect, stated he had scaled back the plans and worked out the drainage plans with Mr. John Scott, the adjoining neighbor. He showed the drainage and landscaping plans and requested permission to move the house back seven feet and he had decreased the height to 23.5 ft. He said he had reduced the size of the two windows on the second elevation in the rear.

Town Planner Broad called attention to the Public Safety Department's requests for hydrants and that the applicants not use shake roofs. Mr. Poland said he would not use shake roofs. Mr. Broad said that the request to move the house back would normally require renoticing; however, if the Council was comfortable with this and all adjoining neighbors were present, he did not object. He did not feel that this was a significant change to the project.

Mr. Elias said that the drainage would have to be approved by the Town Engineer.

Mr. Henry Wykowski of Allen Avenue felt the new plans shifted the bulk of the structure to the northern elevation and he suggested lowering the height or moving it back further.

Mayor Goodman said he is always sympathetic to neighbors' concerns; however, he felt Mr. Wykowski was being over zealous and he pointed out that he was not an adjoining neighbor. Mayor Goodman felt the hardship was in the topography of the lot.

Councilman Lill said he had difficulty in seeing the storey poles from Mr. Wykowski's home.

Mayor Goodman said that the neighbors agreed to do work on Murphy Creek during demolition and he wanted this to be part of the condition of approval.

Mrs. K. Adler of Allen Avenue requested that the ceiling height of the house be lowered to nine feet.

Mayor Goodman responded that it would spoil the design.

After further discussion, Councilman Lill moved approval with the following conditions:

1. The applicants agree to allow the neighbors access to Murphy Creek during demolition to allow creek improvements.
2. Approval is based on the mutual agreements concerning drainage with Messrs. Scott and Poland.
3. The applicants must address Mr. Scott's letter of January 8, outlining the four vital agreements between the Polands and Scotts which Mr. Poland has agreed to; i.e., protection of trees along property line; revised driveway and turning access to the proposed garage; visual screening based on vegetation on present fence; landscaping and maintenance.
4. This project shall comply with the recommendations of the Ross Public Works Director and Public Safety Department as stated in Section IV of the January 3, 1992 staff report.
5. Design details shown in the submittal package, such as the window mullions in the entry perspective, shall be included in the plans submitted for a building permit.
6. All tennis court lighting shall be removed in conjunction with the redevelopment of this site.
7. The two 3 X 6 foot windows within the second story study/nursery shall be reduced in size to a maximum size of 3 X 4 feet.
8. No additional "hardscape improvements" shall be permitted between the residence and the rear property line.
9. A revised landscape plan shall be submitted for Council review and approval. The plan shall provide a minimum tree size of 15 gallon, a minimum shrub size of 5 gallon, and should include additional plantings within the "public view area" in the front of the residence. Plantings shall be provided to the rear of the residence and between the driveway and the parcel to the north. Landscaping shall be installed prior to the issuance of a final occupancy. The Council reserves the right to request additional landscape screening for up to one year from the installation of landscaping.
10. The existing chain link fencing along the north property line shall be reduced to a maximum height of six feet. An additional two feet of height may be permitted if necessary to retain existing vegetation and if agreed upon by the northern property owner.

- 11. Removal of demolition debris from the site and heavy truck traffic to the site shall occur outside of periods when traffic is picking up/dropping off students at the Ross School. All construction and demolition activity shall comply with Town ordinances regulating the hours of operation.
- 12. Prior to the issuance of a demolition permit for this site, building plans shall be filed with the Town of Ross Building Department. Construction of the new residence shall be pursued with diligence upon the demolition of the existing residence.
- 13. Removal of the tennis courts in proximity to existing trees shall be done through "scraping" off the surface rather than through excavation to minimize damage to existing tree roots.
- 14. All construction and demolition activity shall avoid the drip line of existing trees to the greatest extent possible to avoid compaction of soil.
- 15. Final drainage plans shall be subject to the review and approval of the Town Engineer prior to the issuance of building permits.
- 16. Drainage must conform to the approved drainage plans and is subject to Planning and Public Works review and approval. Any neighbors requesting notification of plan submittal shall be contacted.
- 17. House shall be moved seven feet to the south. Revised plans shall be submitted subject to staff review and approval.
- 18. Ceiling height will be ten feet on the first floor and nine feet on the second floor.

Councilman Reid seconded the motion and it passed unanimously.

Councilman Lill moved approval of the Use Permit with the findings in the report. Councilman Reid seconded the motion.

Mrs. Anne Hickey of Allen Avenue was concerned about traffic during the demolition process. The Council agreed that there would be no parking on Allen Avenue during construction and there will be no heavy construction nor demolition traffic until 8:40 a.m. and from 2:30 p.m. to 3:30 p.m.

Mayor Goodman called for a vote and the motion passed unanimously.

17. VARIANCES.

- a. Richard Moran, 7 Laurel Grove Avenue, AP 72-222-04, R-1:B-A (Single Family Residence, One acre minimum). Request is to allow the construction of a wall along Sir Francis Drake Boulevard up to 9 feet in height (6 feet above height of adjacent roadway.) The wall will be setback one (1) foot from the property line.

Lot Area	96,703 sq. ft.
Present Lot Coverage	9.7%
Proposed Lot Coverage	9.7% (15% permitted)
Present Floor Area Ratio	6.4%
Proposed Floor Area Ratio	6.4% (15% permitted)

Mr. Moran addressed the Council stating that the fence was needed for noise and privacy. He introduced his landscape architect, Ms. Linda Novy. She said they proposed to remove 26 of the 130 trees.

At the request of the applicant, this matter was put over.

d. Craig and Jackie Thomas, 51 Shady Lane, AP 73-151-18, R-1:B-20 (Single Family Residence, 20,000 sq. ft. minimum). Request is to allow:

- (1) Enclosure of a 128 square foot portion of an existing wrap-around front porch. The enclosure will create 128 square foot addition to the existing living room.
- (2) Improvement of additional parking areas within the side yard setback on Southwood Avenue.

The existing house is nonconforming in height (33 existing, 30 permitted), number of stories (2 permitted, 3 existing), floor area and lot coverage. The existing "cottage" is nonconforming in setback.

Lot Area	19,906* sq. ft.
Present Lot Coverage	16.0%*
Proposed Lot Coverage	16.0%* (15% permitted)
Present Floor Area Ratio	35.8%*
Proposed Floor Area Ratio	35.8%* (15% permitted)

*(figures obtained from 1988 variance application.)

VARIANCE NO. 1035. Mr. Craig Thomas presented the plans. He said he wanted to make sure his neighbors, Mr. & Mrs. Bill Niccolls, are in agreement with the landscaping.

Town Planner Broad felt the enclosure of the porch would be at odds with the General Plan for preserving the historic design of the house and he recommended denial of the project. He noted that the new driveway design plans were turned in the day before the meeting.

Bill Niccolls, 1 Southwood Avenue, was concerned about the driveway. He said he would like to see plans; how far from the fence the driveway will be; how much parking; what type of plants would be used. He was not satisfied as it showed on the drawing. He said there had been a loss of a tree and it is no longer very private; too exposed.

Councilman Goodman moved approval of the addition to the northside of the house and enclosure of the wrap-around front porch with the following conditions: Applicant must bring back landscaping plans next month, showing specific designation of the driveway, location of parking areas and number of cars. Town arborist must approve the plans. A smoke detector be installed as per the Building Department. This was seconded by Councilman Barry and passed unanimously.

e. Bill and Mary Poland, 5 Allen Lane, AP 73-261-33 and 73-261-34, R-1:B-10 (Single Family Residence, 10,000 sq. ft. minimum). Request is to allow:

10-8-92-

- (1) Construction of a 15 foot by 30 foot swimming pool within the rear yard setback (20 feet proposed, 40 feet required) and front yard setback (20 feet proposed, 25 feet required.) Construction of pool deck within rear (20 feet proposed) and front (5 feet proposed) setbacks. Placement of pool equipment within front yard setback (10 feet proposed.)
- (2) Interior ceilings above 10 feet in height (no change to approved exterior elevations) resulting in 364 square foot floor area increase.
- (3) Construction of an air conditioner condenser pad/unit within the rear yard setback (26 feet proposed, 40 feet required.)

- (4) Addition of six 2 X 3 foot skylights to a second story loft and two 3 X 4 foot sky lights to an existing nonconforming residence.

Lot Area	27,000 sq. ft.
Present Lot Coverage	16%
Proposed Lot Coverage	18% (20% permitted)
Present Floor Area Ratio	18%
Proposed Floor Area Ratio	19% (20% permitted)

A variance was previously granted to allow a reduced rear yard setback of 20 feet for the residence currently under construction.

VARIANCE NO. 1036. Mr. Poland addressed the Council. In response to a question by Councilman Brekhus, Mr. Elias stated that the staff does not check the elevations; a surveyor is needed to do this. Councilman Brekhus stressed the importance of checking this now before the house is completed. He received a letter from a concerned neighbor re additional encroachments into the 20 ft.

rear setbacks. A landscaping plan was not submitted because the applicant had been waiting to resolve the Murphy Creek problem. Mr. Brekhus said he was concerned about the drainage on the property during the original hearing and is concerned.

Mr. Poland said all skylights would be the non-glare type.

Charles Goodman said that the Building Inspector, David Smith, would get a certification that the elevation was checked. He said he did not vote on this original variance contingent upon any work being done on Murphy Creek.

There was some discussion concerning the latest requirement of fencing of pools and Mr. Elias was directed to look into the matter.

Councilman Brekhus moved approval of the interior ceiling change, the air conditioner, rear skylights, which are not visible and elimination of the three skylights on the street side of the second story and the one on the north second story and elimination of the pool subject to the following conditions:

- (1) All conditions of approval of January 9, 1992, shall remain in full force and effect.
- (2) The a.c. condenser unit/pad be screened on two sides with insulated wall, subject to the approval of Town staff.
- (3) A certified arborist shall be retained immediately by the project applicants to periodically monitor, and mitigate, the impact of construction, including material stockpile locations, on-site and adjacent trees. Fencing should be installed immediately as deemed appropriate by the arborist to avoid additional impact on trees.
- (4) A revised landscape plan shall be submitted prior to the issuance of building permits for the items included in this variance.

Councilman Brekhus said he would have voted against the original proposal as he is sympathetic to a quiet cul de sac. He felt this was a large addition that changed the character of the neighborhood. Councilman Barry seconded the motion for purposes of discussion, expressing concern because it was a variance on a variance.

There was some discussion concerning the pool and neighborhood objection and Councilman Brekhus pointed out that he was not approving the pool.

Mayor Reid called for a vote and the motion passed with four affirmative votes. Councilmember Scott abstained.

November 12, 1998

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.

This was seconded by Councilmember Delanty Brown and passed unanimously.

21. **VARIANCE AND DESIGN REVIEW.**

Robert and Erin Becker, 5 Allen Lane, A.P. Nos. 73-261-33 and 34, R-1: B-10 (Single Family Residence, 10,000 square foot minimum). Variance to allow a play structure to encroach within the rear yard setback (16 feet requested, 40 feet required.) The play structure has already been placed 12 feet from the rear property line.

Town Planner Broad said that this matter was continued from last month and the applicant has since proposed some modifications: eliminate the upper play areas, resulting in a 3 to 3 1/2 foot height reduction; install landscape screening around the property line and move the structure further away from the rear property.

Mayor Gray said that if the Council were to approve this, an additional condition should be to limit the number of years the structure can be used or that it be removed upon sale of the property, whichever comes first.

Mr. Broad said that he received a call from the prior owner, Mrs. Riesenbergh, who indicated that they had the same play structure for several years.

Mrs. Becker said that the prior structure was located right next to the play house. They were told, she continued, that it was previously located in the rear but was moved to allow the grass to grow.

Mr. Potter, the adjoining neighbor, said that the structure was built without a permit, is very close to his house and they hear all the noise. He said that the previous owners did not have a structure in this location. He felt that the structure should be closer to the Beckers' residence.

Mrs. Becker said that they would install vegetative screening and they would reduce the bulk of the structure. She said that after the neighbors moved the structure to allow the grass to grow, it was moved closer to the house but this location blocks access to the back yard. Further, the swing would bang into the fence.

Mrs. Potter said that there has not been a swing set in that location for the last 15 years.

Councilmember Hart said that if the applicants came in prior to installing this structure, he would understand the neighbors being concerned about noise and visual impact. He said he would have advocated a smaller structure further away from the common property line. He asked if the structure could be moved 30 or 40 feet closer to the Becker's house.

Councilmember Goodman said that there have been several instances in Town where play structures had to be removed. He noted the Ruddens who had to remove the fort structure and the Ostlers on Lagunitas Road who were allowed to install a play structure with certain conditions. Also, the Murlocks on Ames Avenue were denied their application. Councilmember Goodman felt that the structure is too large for the back yard.

Mrs. Becker said that she would eliminate the top portion - the penthouse and the castle.

Councilmember Curtiss said that he was impressed with the efforts made by the applicant to reduce the bulk. He noted the many variances the neighbors received on their property

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and now they are complaining about impact. He felt one had to give and take.

Mrs. Potter said that she could not see why it could not be moved closer to the Becker's home.

Mrs. Becker responded that this would make the back yard inaccessible.

After further discussion, Councilmember Curtiss moved approval with the findings and conditions in the staff report and that the applicant eliminate the penthouse and the castle and install appropriate landscaping to screen the structure from the neighbors' property. Also that the structure be removed after 10 years or when the property changes ownership, whichever comes first.

This was seconded by Councilmember Hart but he asked that the motion be amended to move the structure a minimum of 30 feet towards the Beckers' home from its present location making it 48 feet from the sideyard property line.

Councilmember Curtiss did not accept the amendment.

Mayor Gray called for a vote on the original motion and the motion failed with Councilmembers Goodman, Hart and Delanty Brown voting against.

Councilmember Hart then moved approval with the findings in the staff report and the following conditions:

1. The King Kong Penthouse atop the structure shall be removed. The redwood castle, both canopy and framing for the canopy shall be eliminated, subject to staff approval. Both areas shall be removed within 30 days from project approval. The structure shall be moved a minimum of 30 feet towards the Becker residence from its present location making it 48 feet from the sideyard property line.
2. The structure shall be removed in ten years or upon sale of the property whichever comes first.
3. Additional evergreen plantings, such as a pittosporum hedge, shall be planted along the west and south perimeters of the play area to screen the structure from off-site vantage points. The size, spacing, location and type of planting shall be submitted for staff approval prior to installation. Plantings shall be installed within 60 days of project approval, weather permitting.
4. The Town Council reserves the right to require additional landscape screening for up to two years from project final.
5. 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.

Councilmember Delanty Brown seconded the motion.

Councilmember Goodman asked that approval be conditional on the Morans, located to the right of the property, giving their

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approval in writing. Councilmembers Hart and Delanty Brown accepted this amendment. Mayor Gray called for a vote and the motion passed unanimously.

22. DESIGN REVIEW.

Samuel and Cynthia Livermore, 2 Ames Avenue, A.P. No. 73-181-04, R-1:B-20 (Single Family Residence, 20,000 sq. ft. minimum).

Design review to allow the construction of 6-foot high fence and gates along the Ames Avenue south property line. The project will include the following: 1.) construction of wrought iron vehicular and pedestrian gates with stone columns approximately 3 feet back from the property line; 2.) construction of a 35 foot long wrought iron fence on the south property line; and 3.) extension of the existing redwood fence for 27 feet along the south property line, then turning north and running to the residence.

Town Planner Broad said that the fence would be 27 feet on the front property line and would be solid behind the existing vegetation.

Councilmember Curtiss objected to the solid fencing.

Mrs. Livermore said that it would be a continuation of the existing fence to screen the newly constructed master bedroom and master bath. They planned to use the wood from the back yard so that it would blend in with the existing.

Councilmember Goodman asked that there be ample shrubbery installed to cover the fence.

Councilmember Curtiss said that he is disturbed about the increased use of solid fencing unless there is a compelling reason.

Mrs. Livermore said that this would be the least intrusive and would eliminate the use of multi fences across the front.

The Council reviewed the fence and Mrs. Livermore explained that this would replace what was pulled down during construction

After further review, Councilwoman Delanty Brown moved approval with the findings in the staff report and the following conditions:

1. The project proponents shall plant additional vegetation, as necessary, within the right-of-way to further screen the fence from public view, subject to Town staff approval. A landscape plan shall be submitted for Town Planner approval prior to the installation of any additional plantings within the right-of-way. Landscaping between the fence and roadway shall be maintained by the property owner and replaced as necessary and retained in perpetuity.
2. The Town Council reserves the right to require additional landscape screening for up to two years from project final.
3. Any new exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
4. All Public Safety Department requirements shall be complied with. A Knox Lock box shall be provided and a minimum 12-foot clearance provided for the vehicle gate.
5. No changes from the approved plans shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
6. 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

there was illegal work being performed on the property to the rear of the home. After viewing the site from the neighboring property, he noted that plumbing had been mounted on the back of the garage. This work had been done without a permit. He could not see what was inside. Mr. Elias contacted the owners to ask if he could enter the premises and Doctor Cooper told Mr. Elias to set an appointment. Mr. Elias did this but Mr. Cooper called four minutes before the appointment time to cancel. Mr. Elias said that he has tried to set a new appointment but has not been successful. He said that everything has been logged.

Town Attorney Roth said that the Council would have to schedule a public nuisance abatement hearing at its next regular meeting on June 10, 1999.

Ms. Kathy Strauss of Willow Avenue thanked the Council for pursuing this issue. She said that Redwood trees have been planted in the driveway to the garage. Ms. Strauss said that they would like to see them maintain their off street parking. Councilmember Gray moved that the Council schedule a public nuisance abatement hearing for the June 10, 1999 meeting and authorize the Town Attorney to obtain an inspection warrant pursuant to the Code Civil Procedure. This was seconded by Councilmember Hart and passed unanimously.

MAYOR GOODMAN CALLED FOR A RECESS AT 9:00 P.M. THE MEETING RE CONVENED AT 9:08 P.M. WITH EVERYONE IN ATTENDANCE.

MAYOR GOODMAN CALLED FOR A BREAK AT 9:00 P.M. AND RETURNED AT 9:08 P.M. WITH EVERYONE IN ATTENDANCE.

17. **VARIANCE #1298**

Robert and Erin Becker, 5 Allen Lane, A.P. Nos. 73-261-33 and 34, R-1: B-10 (Single Family Residence, 10,000 square foot minimum). Variance to allow a play structure to encroach within the rear yard setback (12 feet requested, 40 feet required.) The play structure has already been placed 12 feet from the rear property line and 17 feet from the side property line. It will be relocated 18 feet to the north, resulting in a 35 foot setback from the south side yard property line (15 feet required.)

Town Planner Broad stated that this is the fourth Council hearing on this issue. Three ago months the Council held a hearing to reconsider and clarify the conditions of approval. At that meeting, the Council asked that the applicants file a new application to be considered at this meeting at which time the Council would vote up or down. Mr. Broad then reviewed the conditions of the earlier approval and the specific setbacks that were requested for the play structure.

The current application seeks a reduction in the side yard setback from the required 48 feet to 35 feet. The applicants established the proposed side yard setback in consultation with Mr. Jeff Schwartz, owner of Rainbow Play Systems. Mr. Schwartz assessed that 35 feet would be a safe distance for the play structure.

Mr. Broad said that the Council did request a smaller structure and at the last meeting were shown pictures of smaller structures. The King Kong play structure which the applicants presently have, is the largest of all the structures.

Councilmember Hart asked what would be a safe distance from the setback.

Mr. Schwartz said that they would need 20 feet in each direction. He said that he was concerned about the retaining wall.

Councilwoman Delanty Brown asked that they install a smaller structure that would be safer.

Councilmember Gray agreed and suggested that it be turned 90 degrees.

Councilmember Hart said that the prior owners had a play structure by the same manufacturer that was closer to the home

than the two proposals. He said that the current owners installed this structure without a variance and caused an objection by an adjoining property owner where there was no prior objection. Further, the current owner installed landscaping with pathways, planters and rock retainers where the previous play structure was located.

Mr. Becker said that he could move planters and rocks but the issue is the use of their back yard. He said that they have a stretch of lawn that is important to him to play with his children.

Mr. Raghianti, attorney for the applicants, said that they are trying to achieve reasonable accommodations. He said that the direction from the Council was to move the structure toward the Beckers' residence and make it smaller. He said that it is now 31% smaller and has been moved back 18 feet. He said that they could not satisfy the adjoining neighbors who live in a house with six variances which have been approved right near the fence of his client and now they are being asked to move it back 48 feet to accommodate them.

Mr. Schwartz said that they have taken a lot of play value out of the structure in order to accommodate the neighbor.

Mr. Becker said that if it is a matter of reducing the size and leaving it where it is, he would be happy to do this but he did not want to lose the stretch of lawn.

Mrs. Wykowski said that many of the neighbors who have visited the applicants felt this is a great compromise on their part and they hoped the Council could resolve the issue at this meeting.

Mr. Bruce Potter said that when they bought the property they knew about the restrictions - the realtors should have told them. He said that all the neighbors approved his variances. He said that the structure at the Ross School is slightly more than twice the size of this structure and that accommodates 200+ children whereas this is going to accommodate three children, plus friends. He felt that it was a reasonable proposal to move the structure 30 feet closer to the house.

Mrs. Wykowski said that her home is within 20 feet of the school structure and it does not bother her. She said that the children are asleep at a reasonable hour.

Mr. Becker said that they cannot prevent their children from playing in that area and the Potters should have known this when they built the house up to the fence line. He tried to plant trees to block the view but he cannot prevent the noise of the children playing.

Mr. Penner said that he lives next door and said that the Beckers have tried to resolve the matter to everyone's satisfaction. He felt that they were very thoughtful and fantastic neighbors.

Ms. Stella Fisher said that parents need to keep their children at home and Ross is a family place.

Mrs. Joan Dunn supported the Beckers and agreed with Mr. Becker that you cannot stop children from playing in their yard and it will only be for a couple of hours a day.

Mayor Goodman then closed the public comments.

Mayor Goodman said that it is not fair to put all the blame on the Potters. The Council is addressing a Town issue for a variance and the Council has to make the findings for approving a structure in a setback. Everyone wants our children to have swing sets but there is some point where we need a size limitation and we have to decide what to put in our backyards. The previous owners were denied a swimming pool in that same area.

Councilwoman Delanty Brown said that her grandchildren have a swing set that is much smaller and they and their friends have a good time. She felt that the structure should be moved so that the children would be jumping on to the lawn, be back from everyone's view and much safer for the children.

Councilmember Gray said that this lot is long and narrow. He said that the bottom line is the set is too large unless all that yard is going to be a swing set - he questioned why the set could not be smaller and turned the other way so that they

do not have to deal with the wall. He felt that both the Potters and Beckers have legitimate concerns. Councilmember Hart said that he could not visualize it without a full site plan and he was not previously aware of the safety issue. The Council then approached the plans and reviewed the issue further.

MAYOR GOODMAN ANNOUNCED THAT THE APPLICANTS ASKED FOR A BREAK TO REVIEW THE ISSUE FURTHER AND WOULD RETURN TO THE COUNCIL LATER IN THE MEETING.

Mr. Raghianti and applicants returned at 10:15 p.m. and announced that they would remove the King Kong and substitute a Sunshine Castle structure. The canopy would be green, the structure would be 13 feet high, and measure 12 feet by 25 feet, resulting in a 60% cutback in size. It will be moved back 40 feet from the sideyard setback and the King Kong structure will be donated to the Pixie Park. The new structure shall be placed in a way that is safe according to the manufacturer's directions. Accordingly, Councilmember Gray moved approval of a Sunshine Castle Play structure with a dark green canopy or no canopy 40 feet from the south property line. This motion will supersede the former variance granting a play structure at the November meeting. A resolution of findings will be submitted at the next Council meeting. The structure is to be removed within 45 days and will be offered to Pixie Park at the Marin Art and Garden Center. Councilwoman Brown seconded the motion which passed unanimously. Mr. Raghianti said that he appreciated the Council's time and courtesy.

18. CONSTRUCTION COMPLETION EXTENSION.

Thomas Byrnes, 96 Shady Lane, AP No. 73-052-02. Building Permit No. 14211. Issued: 04/24/98. Expired: 4/24/99. Request Extension to 12/31/99. Mr. Byrnes asked for an extension due to the wet winter. Councilmember Gray moved approval, seconded by Councilwoman Delanty Brown and passed unanimously.

19. VARIANCE AND DESIGN REVIEW.

Joe and Christine Ramos, 57 Poplar Avenue, A.P. No. 73-313-05, R-1:10 (Single Family Residence, 10,000 sq. ft. minimum.) Design review to allow after-the-fact approval for the addition of 6-foot high wood gates at the driveway and front walkway. Variance and design review to allow after-the-fact approval for brick pillars with top-mounted lights more than 6 feet in height. Continued at request of applicant to June meeting.

20. VARIANCE. #1299

Sharon Duvall, 41 Wellington, A.P. No. 72-071-16, R-1:B-10 (Single Family Residence, 10,000 square foot minimum). Variance to allow the addition of three gable end roof dormers to the upper level of an existing residence. A dormer is proposed on the south elevation within the side yard setback (14 feet proposed, 15 feet required), on the east elevation within the side yard setback 13 feet proposed, 15 feet required) and on the west elevation. No additional floor area will result.

Lot Area	10,742 sq. ft.
Present Lot Coverage	22.1%
Proposed Lot Coverage	22.1% (20% permitted)
Present Floor Area Ratio	31.8%
Proposed Floor Area Ratio	31.8% (20% permitted)

The existing residence and garage are nonconforming in side yard setback.

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property owners between Willow and Allen Avenue to make contributions of \$60,000 to the project consistent to the terms of their letter of April 26, 2000. This was seconded by Councilwoman Delanty Brown and passed unanimously. Mr. Russ Rudden asked about possible PG&E underground wiring and Councilmember Gray said that this is very expensive and maybe some day a townwide bond will be done to do the entire Town at the same time.

5. Appointment of Councilmember to the Flood Zone Advisory Board and to the Design Advisory Committee.

Mayor Curtiss said that former Mayor Charles Goodman served on the Board and the Council must now elect an official to take his place. Mayor Pro Tempore Hart moved that Councilmember David Zorensky be nominated, there were no other nominations, Councilmember Delanty Brown seconded the motion which passed with three affirmative votes. Councilmembers Gray and Zorensky were absent.

6. Request from Ross School's PTA to use St. Anselm Parking Lot on Bolinas Avenue.

Ms. Laura Tishgart said that the request is for a fundraising dinner for the Ross School music department and parking is not available at the Marin Art and Garden Center. St. Anselm gave their blessing, pending Council approval. It is for May 12 from 5:00 p.m. to 11:00 p.m. A shuttle will be provided to the Winship area. The Public Safety Department said that the Church parking lot would be much easier. Mayor Pro Tempore Hart said that they might need traffic control. Councilwoman Delanty Brown supported the request but hoped that it would not set a precedent. Mayor Curtiss did not think it would, adding that it is for a Ross fundraiser.

Mayor Curtiss said that the Use Permit currently is for church parking only. He said that in the past there has been neighborhood concern and Mr. Cadden gave his approval but Mr. Eglin is in Europe and will return later in the week.

Mayor Pro Tempore Hart moved approval for the granting of a temporary use by the Ross School PTA for the Saint Anselmo parking lot for the evening of May 12, 2000, 5:00 p.m. to 11:00 p.m. and that the PTA representatives meet with the Ross Public Safety Department to work out additional traffic control for which the Town would be reimbursed. He added that this is a benefit for a non-profit organization.

Councilwoman Delanty Brown seconded the motion which passed with three affirmative votes.

CONSENT AGENDA

7. VARIANCE. #1351

Robert and Erin Becker, 5 Allen Lane, A.P. Nos. 73-261-33 and 34, R-1:B-10 (Single Family Residence, 10,000 square foot minimum). Variance to allow the removal of an existing 46 square foot landing and stairs and the construction of a new 38 square foot bow window and steps in the same location within the rear yard setback (40 feet required, 18 feet proposed.)

Lot Area	27,000	sq. ft.	
Present Lot Coverage		16%	
Proposed Lot Coverage		16%	(20% permitted)
Present Floor Area Ratio		19%	
Proposed Floor Area Ratio		19%	(20% permitted)

The existing residence is nonconforming in rear yard setbacks.

After a brief presentation by the architect, Wendy Posard, Mayor Pro Tempore Hart moved approval with the findings in the staff report and the following conditions:

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1. The Town Council reserves the right to require additional landscape screening for up to two years from project final.
2. Exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
3. No changes from the approved plans shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
4. The project owners and contractors shall be responsible for maintaining Town roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
5. Any portable chemical toilets shall be placed off the street and out of public view.
6. A smoke detector shall be provided as required by the Building Department. The street number must be posted (minimum 4 inches on contrasting background.)
7. 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.

This was seconded by Councilmember Delanty Brown and passed with three affirmative votes. Councilmembers Gray and Zorensky were absent.

#1352
8. VARIANCE AND LOT LINE.

Paige and Bobby Locke, 98 Shady Lane, 73-052-03, R-1:B-10 (Single Family Residence, 10,000 sq. ft. min.)

Patricia Bruvry, 83 Sir Francis Drake Boulevard, A.P. No. 73-052-34, R-1:B-10 (Single Family Residence, 10,000 sq. ft. min.). Lot line adjustment to allow the transfer of 361 square feet from the Bruvry parcel to the Locke parcel along the west property line. The Locke parcel will be increased from 7,150 square feet to 7,511 square feet in area. The Bruvry parcel will be decreased from approximately 18,409 square feet to approximately 18,048 square feet in area.

The Lockes have filed a variance application from flood ordinance requirements to raise the house.

Mr. Elias said that this project would not increase flood levels, the house is on higher land than the adjacent neighbor and granting of the variance would not increase flooding in the neighborhood.

Mayor Pro Tempore Hart moved approval with the findings in the staff report and the following added findings: (1) The finished floor elevation is above the flood level when compared to adjacent structures because it is on elevated earth; (2) failure to grant the variance will result in exceptional hardship to the applicant (3) granting this variance will not increase flood heights and will not cause any additional