



Agenda Item No. 10a.

Staff Report

Date: June 14, 2016

To: Mayor Kathleen Hoertkorn and Council Members

From: Heidi Scoble, Planning Manager

Subject: Manning Demolition Permit, Design Review, Variance, and Nonconformity Permit, 47 Poplar Avenue, File No. 2016-011

Recommendation

Town Council adopt Resolution 1948 conditionally approving a Demolition Permit, Design Review, Variance to setbacks and lot coverage, and a Nonconformity Permit to allow the remodel of the existing single family residence at 47 Poplar Avenue, APN 073-273-01.

Attachment

Resolution 1948

ATTACHMENT 1

TOWN OF ROSS

RESOLUTION NO. 1948

A RESOLUTION OF THE TOWN OF ROSS APPROVING A DEMOLITION PERMIT, DESIGN REVIEW, SIDE YARD SETBACK VARIANCE, A LOT COVERAGE VARIANCE, AND A NONCONFORMITY PERMIT TO ALLOW THE REMODEL OF AN EXISTING SINGLE FAMILY RESIDENCE AT 47 POPLAR AVENUE, APN 073-273-01

WHEREAS, property owners Mark and Sonya Manning, have submitted an application for a Demolition Permit, Design Review, Variance and a Nonconformity Permit to allow the remodel of the existing single family residence at 47 Poplar Avenue (the “project”); and

WHEREAS, the project was determined to be categorically exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) Guideline Section 15301 –*additions to existing structures*, because it involves an addition to an existing single family residence no potential for impacts as proposed. No exception set forth in Section 15301.2 of the CEQA Guidelines applies to the project including, but not limited to, Subsection (a), which relates to impacts on environmental resources; (b), which relates to cumulative impacts; Subsection (c), which relates to unusual circumstances; or Subsection (f), which relates to historical resources; and

WHEREAS, on May 12, 2016 and June 14, 2016, the Town Council held a duly noticed public hearing to consider the proposed project; and

WHEREAS, the Town Council has carefully reviewed and considered the staff reports, correspondence, and other information contained in the project file, and has received public comment; and

NOW, THEREFORE, BE IT RESOLVED the Town Council of the Town of Ross hereby incorporates the recitals above; makes the findings set forth in Exhibit “A” approving a Demolition Permit, Design Review, Side Yard Setback Variance, Lot Coverage Variance, and a Nonconformity Permit for the project described herein, subject to the Conditions of Approval attached as Exhibit “B” at 47 Poplar Avenue.

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 14th day of June 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Kathleen Hoertkorn, Mayor

ATTEST:

Linda Lopez, Town Clerk

EXHIBIT "A"
FINDINGS TO APPROVE
47 POPLAR AVENUE
APN 073-273-01

A. Findings

I. Demolition Permit (RMC § 18.50.060) - Approval of a Demolition Permit for removal of existing single family residence is based on the findings outlined in Ross Municipal Code Section 18.50.060 as described below:

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

The Demolition Permit is required to allow the demolition of more than 25% of the existing residence, in addition to allowing the remodel to the existing single family residence, which includes the installation of new windows, doors, and the removal of the existing chimney. The demolition related to the project would not negatively affect the aesthetic value of the existing residence as the entire scope of the project would result in a remodel of an existing residence that would maintain a similar mass, bulk, and scale as the existing residence.

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

The project would retain the same design character, mass and bulk, and materials of the existing residence, therefore preserving the small town quality and feeling of the town.

- c) The project is consistent with the Ross general plan and zoning ordinance.**

With the exception of the existing legal nonconforming floor area, lot coverage, right side yard setback and rear yard setback, the project is consistent with the Ross general plan's residential land use designation and the R-1:B-7.5 zoning district general development standards.

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

The project would be required to comply with the Town's Building Code and Fire Code requirements, therefore ensuring the health, safety, and general welfare of the residence residing or working in the neighborhood.

II. In accordance with Ross Municipal Code Section 18.41.070, Design Review is approved based on the following findings:

a) The project is consistent with the purpose of the Design Review chapter as outlined in Ross Municipal Code Section 18.41.010:

The project would meet the purpose of the Design Review chapter through its high quality design and materials. The project is designed with a similar architectural style and materials of the existing residence. The project would not impact the "small town" character of the Town because the project is designed to maintain the overall mass, bulk, and style of the existing residence and garage. As conditioned, the project would also minimize visibility with landscaping to soften the appearance of the 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 stormwater prior to issuance of any building permit to allow for the construction of the project.

b) The project is in substantial compliance with the design criteria of Ross Municipal Code Section 18.41.100.

As summarized in the staff report dated May 12, 2016, the project would be consistent with the design review criteria and standards relative to architectural design, materials, colors, and landscaping. 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.

c) The project is consistent with the Ross General Plan and zoning ordinance.

The scope of the project is consistent with the allowed structures and uses that may be permitted within the Medium Low Density land use designation of the General Plan and the single family residence chapter of the zoning ordinance.

III. Non-conformity Permit (RMC § 18.52.040) – Approval of a non-conformity Permit to allow reconstruction of the existing residence in its existing nonconforming location is based on the following findings:

a) The nonconforming structure was in existence at the time the ordinance that now prohibits the structure was passed. The structure must have been lawful when constructed.

The project site is comprised of a portion of lot 28 of the Cole Tract that was recorded with the County of Marin in 1899 and a portion of lot 13 of the Bosqui Tract that was recorded with the County of Marin in 1904. A single family residence was constructed on the site circa 1955. The detached garage was constructed circa 1958. Variances to approve the nonconforming side yard setbacks and rear yard setback were approved by the Town Council in 1955 and 1958 respectively. The project has not been substantially altered since its original construction.

- b) The town council can make the findings required to approve any required demolition permit for the structure.**

These findings have been made under the demolition findings above.

- c) The project substantially conforms to relevant design review criteria and standards in Section 18.41.100.**

See Design Review Findings above.

- d) Total floor area does not exceed the greater of: a) the total floor area of the existing conforming and/or legal nonconforming structure(s); or b) the maximum floor area permitted for the lot under current zoning regulations.**

The project would not result in any increase to the existing floor area.

- e) Granting the permit will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.**

The project would allow for an overall improvement to the building exterior and improvement to the functionality of the building interior. The project would also be required to comply with the Town's Building Code and Fire Code requirements, therefore ensuring the health, safety, and general welfare of the residence residing or working in the neighborhood.

- f) The project will comply with the Flood Damage Prevention regulations in Chapter 15.36.**

The project site is designed to comply with the base flood elevation requirements of FEMA.

- g) The fire chief has confirmed that the site has adequate access and water supply for firefighting purposes, or that the project includes alternate measures approved by the fire chief.**

The project has been reviewed by the Ross Valley Fire Department (RVFD). The RVFD has provided stated that the project can be approved subject to the installation of fire sprinklers, smoke detectors, and carbon monoxide detectors.

- h) The applicant has agreed in writing to the indemnification provision in Section 18.40.180.**

Indemnification requirements have been included as conditions of approval

- i) The site has adequate parking.**

The project would provide the required two on-site parking spaces, of which at least one parking space would be covered consistent with the R1-B7-5 zoning regulations.

IV. In accordance with Ross Municipal Code Section 18.48.020, a Variance is approved based on the following findings:

- 1. That there are special circumstances or conditions applicable to the land, building or use referred to in the application;**

Pursuant to Section 18.48.010(1), Variances shall only be granted because of a special circumstance to the property, such as size, shape, topography, location or surroundings. The project would reduce the existing 12 foot nonconforming setback to a 9.25 foot setback, where a 15 foot setback is required by the R1-B7.5 zoning regulations. Because of the substandard side yard setbacks, any modification to the building which would expand the footprint of the residence would exacerbate the side yard setback nonconformity. A Variance to the left side yard setback can be supported due to the existing development conditions of the site relative to the existing substandard left side yard setback and the fact that a prior Town Council authorized a past Variance in 1955 to allow for the substandard setbacks. Additionally, the project encroachment would be the minimum amount necessary to provide a new stairway/landing to access to the FEMA required raised first floor of the residence.

The Town Council also finds that the Lot Coverage Variance to allow an elevated deck can be supported because the project site is located in a 100 year floodplain and because of the FEMA and building code regulations that require the height of the residence to be constructed 2.5 feet taller.

- 2. That the granting of the application is necessary for the preservation and enjoyment of substantial property rights;**

The granting of the side yard Variance would be consistent with other Variances that have been granted for similar projects in similar zoning districts within the Town. The project would also allow the property owner to preserve the existing development right to allow the remodel of the existing residence while working within the Town Council approved building footprint.

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

The project would not adversely affect health and safety of nearby residents as the project would be constructed in compliance with the building code and fire codes. Additionally, the project encroachment would not negatively impact any adjacent properties, would still allow adequate vehicular circulation and access to the detached two car garage, and would be the minimum encroachment necessary to therefore the project is consistent with this finding.

EXHIBIT "B"
CONDITIONS OF APPROVAL
47 POPLAR AVENUE
APN 073-273-01

1. This approval authorizes a Demolition Permit, Design Review, Side Yard Setback Variance, Lot Coverage Variance, and a Nonconformity Permit to allow the remodel of the existing single family residence (the "project"). The project is approved to include modifications to the exterior wall coverings, windows, exterior doors, and materials (e.g., Clear western red cedar siding finished with a Benjamin Moore Exterior Stain known as "Ashland Slate", stucco finished with a Benjamin Moore paint known as Revere Pewter, aluminum frames windows with a dark bronze finish, aluminum framed doors within a dark bronze finish). The project is also approved to include the new construction of a rear yard deck and a side yard access stair and landing. Lastly, the project is approved to consist of landscape and hardscape improvements, such as the installation of stucco planters and a decomposed granite driveway to access the existing garage. No changes to the existing detached two car garage are proposed as part of the project.
2. The building permit shall substantially conform to the plans entitled, "Manning Residence" consisting of 15 sheets prepared by Sutro Architects, date stamped received April 28, 2016.
3. Prior to issuance of a building permit, the following conditions of approval shall be reproduced on the cover sheet of the plans submitted for a building permit. The property owner shall certify on the building permit plans that they have read and agree to the following conditions.
4. Prior to issuance of a building permit, a final landscape plan, prepared by a licensed architect, shall be reviewed and approved by the Planning Manager. The final landscape plan would show plant sizes that reflect the proposed project renderings.
5. Except as otherwise provided in these conditions, the project shall comply with the plans submitted for Town Council approval. Plans submitted for the building permit shall reflect any modifications required by the Town Council and these conditions.
6. No changes from the approved plans, before or after project final, including changes to the materials and material colors, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town for review and approval prior to any change. The applicant is advised that changes made to the design during construction may delay the completion of the project and will not extend the permitted construction period.

7. Prior to Building Permit Issuance, the applicant shall submit proposed exterior lighting fixtures if any new lighting will be installed as a result of the project. All lighting shall be shielded (no bare bulb light fixtures or down lights that may be visible from down-slope sites). Exterior lighting of landscaping by any means shall not be permitted if it creates glare, hazard or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public right-of-ways is prohibited. No up lighting is permitted. Interior and exterior lighting fixtures shall be selected to enable maximum "cut-off" appropriate for the light source so as to strictly control the direction and pattern of light and eliminate spill light to neighboring properties or a glowing night time character.
8. The project shall comply with the following conditions of the Town of Ross Building Department and Public Works Department:
 - a. 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. Applicant shall provide the names of the owner, architects, engineers and any other people providing project services within the Town, including names, addresses, e-mail, 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.
 - b. A registered Architect or Engineer's stamp and signature must be placed on all plan pages.
 - c. The building department may require the applicant to submit a deposit prior to building permit issuance to cover the anticipated cost for any Town consultants, 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.
 - d. The applicant shall submit an erosion control plan with the building permit application for review by the building official/director of public works. The Plan shall include signed statement by the soils engineer that erosion control is in accordance with Marin County Stormwater Pollution Prevention Program (MCSTOPP) standards. The erosion control plan shall demonstrate protection of disturbed soil from rain and surface runoff and demonstrate sediment controls as a "back-up" system (ie temporary seedin nd mulching or straw matting).
 - e. No grading shall be permitted during the rainy season between October 15 and April 15 unless permitted in writing by the Building Official/Director of Public Works. Grading is considered to be any movement of earthen materials necessary for the completion of the project. This includes, but is not limited to cutting, filling, excavation for foundations, and the drilling of pier holes. It does not include the boring or test

excavations necessary for a soils engineering investigation. All temporary and permanent erosion control measures shall be in place prior to October 1.

- f. The drainage design shall comply with the Town's stormwater ordinance (Ross Municipal Code Chapter 15.54). A drainage plan and hydrologic/hydraulic analysis shall be submitted with the building permit application for review and approval by the building official/public works director, who may consult with the town hydrologist at the applicants' expense (a deposit may be required). The plan shall be designed, at a minimum, to produce no net increase in peak runoff from the site compared to pre-project conditions (no net increase standard). As far as practically feasible, the plan shall be designed to produce a net decrease in peak runoff from the site compared to pre-project conditions. Applicants are encouraged to submit a drainage plan designed to produce peak runoff from the site that is the same or less than estimated natural, predevelopment conditions which existed at the site prior to installation of impermeable surfaces and other landscape changes (natural predevelopment rate standard). Construction of the drainage system shall be supervised, inspected and accepted by a professional engineer and certified as-built drawings of the constructed facilities and a letter of certification shall be provided to the Town building department prior to project final.
- g. An encroachment permit is required from the Department of Public Works prior to any work within a public right-of-way.
- h. The plans submitted for a building permit shall include a detailed construction and traffic management plan for review and approval of the building official, in consultation with the town planner and police chief. The plan shall include as a minimum: tree protection, management of worker vehicle parking, location of portable toilets, areas for material storage, traffic control, method of hauling and haul routes, size of vehicles, and washout areas.
- i. The applicant shall submit a schedule that outlines the scheduling of the site development to the building official. The schedule should clearly show completion of all site grading activities prior to the winter storm season and include implementation of an erosion control plan. The construction schedule shall detail how the project will be completed within the construction completion date provided for in the construction completion chapter of the Ross Municipal Code (Chapter 15.50).
- j. A Final construction management plan shall be submitted in time to be incorporated into the job.
- k. A preconstruction meeting with the property owner, project contractor, project architect, project arborist, representatives of the Town Planning, Building/Public Works and Ross Valley Fire Department and the Town building inspector is required prior to

issuance of the building permit to review conditions of approval for the project and the construction management plan.

- l. A copy of the building permit shall be posted at the site and emergency contact information shall be up to date at all times.
- m. The Building Official and other Town staff shall have the right to enter the property at all times during construction to review or inspect construction, progress, compliance with the approved plans and applicable codes.
- n. Inspections shall not be provided unless the Town-approved building permit plans are available on site.
- o. Working Hours are limited to Monday to Friday 8:00 a.m. to 5:00 p.m. Construction is not permitted at any time on Saturday and Sunday or the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. If the holiday falls on a Sunday, the following Monday shall be considered the holiday. If the holiday falls on a Saturday, the Friday immediately preceding shall be considered the holiday. Exceptions: 1.) Work done solely in the interior of a building or structure which does not create any noise which is audible from the exterior; or 2.) Work actually physically performed solely by the owner of the property, on Saturday between the hours of 10:00 a.m. and 4:00 p.m. and not at any time on Sundays or the holidays listed above. (RMC Sec. 9.20.035 and 9.20.060).
- p. Failure to comply in any respect with the conditions or approved plans constitutes grounds for Town staff to immediately stop work related to the noncompliance until the matter is resolved. (Ross Municipal Code Section 18.39.100). The violations may be subject to additional penalties as provided in the Ross Municipal Code and State law. If a stop work order is issued, the Town may retain an independent site monitor at the expense of the property owner prior to allowing any further grading and/or construction activities at the site.
- q. Materials shall not be stored in the public right-of-way. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately. All loads carried to and from the site shall be securely covered, and the public right-of-way must be kept free of dirt and debris at all times. Dust control using reclaimed water shall be required as necessary on the site or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at site. Cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.

- r. Applicants shall comply with all requirements of all utilities including, the Marin Municipal Water District, Ross Valley Sanitary District, and PG&E prior to project final. Letters confirming compliance shall be submitted to the building department prior to project final.
- s. All electric, communication and television service laterals shall be placed underground unless otherwise approved by the director of public works pursuant to Ross Municipal Code Section 15.25.120.
- t. The project shall comply with building permit submittal requirements as determined by the Building Department and identify such in the plans submitted for building permit.
- u. The applicant shall work with the Public Works Department to repair any road damage caused by construction. Applicant is advised that, absent a clear video evidence to the contrary, road damage must be repaired to the satisfaction of the Town prior to project final. Damage assessment shall be at the sole discretion of the Town, and neighborhood input will be considered in making that assessment.
- v. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.
- w. The Public Works Department may require submittal of a grading security in the form of a Certificate of Deposit (CD) or cash to cover grading, drainage, and erosion control. Contact the Department of Public Works for details.
- x. The applicant shall submit an erosion control plan with the building permit application for review by the building official/director of public works. The plan shall include a signed statement by the soils engineer that erosion control is in accordance with Marin County Stormwater Pollution Prevention Program (MCSTOPPP) standards. The erosion control plan shall demonstrate protection of disturbed soil from rain and surface runoff and demonstrate sediments controls as a "back-up" system. (Temporary seeding and mulching or straw matting are effective controls).
- y. The Soils Engineer shall provide a letter to the Department of Public Works certifying that all grading and drainage has been constructed according to plans filed with the grading permit and his/her recommendations. Any changes in the approved grading and drainage plans shall be certified by the Soils Engineer and approved by the Department of Public Works. No modifications to the approved plans shall be made without approval of the Soils Engineer and the Department of Public Works.
- i. The existing vegetation shall not be disturbed until landscaping is installed or erosion control measures, such as straw matting, hydroseeding, etc, are implemented.

- ii. All construction materials, debris and equipment shall be stored on site. If that is not physically possible, an encroachment permit shall be obtained from the Department of Public Works prior to placing any construction materials, debris, debris boxes or unlicensed equipment in the right-of-way.
- iii. The applicant shall provide a hard copy and a CD of an as-built set of drawings, and a certification from all the design professionals to the building department certifying that all construction was in accordance with the as-built plans and his/her recommendations.

9. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding ("action") against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or alleging any other liability or damages based upon, caused by, or related to the approval of the project. The Town shall promptly notify the applicants and/or owners of any action. The Town, in its sole discretion, may tender the defense of the action to the applicants and/or owners or the Town may defend the action with its attorneys with all attorneys fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.