



Staff Report

Date:

December 8, 2016

To:

Mayor Hoertkorn and Council Members

From:

Heidi Scoble, Planning Manager

Subject:

Tully Sutton Residence, 137 Bolinas Avenue, File No. 2016-044

Recommendation

Town Council approval of Resolution 1981 conditionally approving a Nonconformity Permit allow the renovation and installation of new dormers and skylights within the footprint of an existing attic space.

Property Information:

Owner:

Kimberly Tully-Sutton

Design Professional:

Fairchild Broms Design

Location:

137 Bolinas Avenue

A.P. Number:

073-041-02

Zoning:

R-1 (Single Family Residence, 5,000 square feet min. lot size)

General Plan:

Medium Density (6-10 units/Acre)

Flood Zone:

Zone X (Outside of 100 year flood plain)

	P	ROJECT DATA			
	Zoning Requirements	Existing		Proposed	
Lot Area	5,000 square feet 4,836 square feet		eet	No change	
Floor Area (FAR)	20%	1,618 sq. ft.	33%	No change	
Lot Coverage	20%	1353 sq. ft.	27.9%	No change	
Impervious Surface	=	No change		No change	

Project Description

The applicant is requesting a Nonconformity Permit to allow the renovation and installation of new dormers and skylights within the footprint of an existing attic space. The existing residence is considered legal nonconforming because the residence is located within the front and rear yard setback. Even with the installation of the dormers, the project would not meet the Town's definition of Floor Area Ratio pursuant to Section 18.12.130 of the Ross Municipal Code because the finished attic space would only be used for storage, would not meet the building code requirements for habitable space, and would not be accessible by permanent stairs.

The Nonconformity Permit is required pursuant to Ross Municipal Code (RMC) Section 18.52.030 to allow for structural alterations to a nonconforming building.

Background and Discussion

The project site is developed with a single-family residence that was constructed circa 1938 before the Town's zoning regulations. Accordingly, the project site is developed with legal nonconforming setbacks, floor area, and lot coverage.

Nonconformity Permit

Section 18.52.030 - Alterations, of the Ross Municipal Code, specifies that a nonconforming structure may be enlarged, extended reconstructed or structurally altered with a nonconformity permit approved under Section 18.52.040, except that a floor area ratio variance shall be required to increase the square feet of nonconforming floor area. In order to support the Nonconformity Permit, the Town Council needs to determine whether the requisite Nonconformity Permit findings can be achieved.

The subject Nonconformity Permit request meets the purpose and intent of the regulations as it would allow for the continued existence and modification of the nonconforming structure as it would continue the small town character, design remodel of the structure is appropriate, and does not create impacts.

In reviewing the project, staff suggests the requisite findings to support the project can be achieved as follows:

- 1. The existing residence was constructed prior to any Town zoning regulations; therefore, the residence is considered to be lawfully constructed.
- 2. The project would not remove a building or structure of historical, architectural, cultural, or aesthetic value.
- 3. The project is found consistent with the Design review criteria and standards of Section 18.41.100 of the Ross Municipal Code as the project would be architecturally compatible with the project site and the surrounding properties.
- 4. The project would result in an increase to the existing Floor Area Ratio beyond its existing conditions.

- 5. The project would be required to comply with the Town's building code regulations to ensure the project would not be detrimental to the public health, safety, or welfare, or materially injurious to properties in the vicinity.
- 6. The project is not located within a floodplain and would not result in an increase in new impervious surfaces.
- 7. The Ross Valley Fire Department has indicated they would approve the project.
- 8. The conditions of approval would require the applicant to indemnify the Town.
- 9. The project would comply with the Town's parking regulations.

Public Comment

Public Notices were mailed to property owners within 300 feet of the project site. As of the writing of the Staff Report, staff has not received comments as of the distribution of this report.

Fiscal, resource and timeline impacts

If approved, the project would be subject to one-time fees for a building permit and associated impact fees, which are based the reasonable expected cost of providing the associated services and facilities related to the development. The improved project site may be reassessed at a higher value by the Marin County Assessor, leading to an increase in the Town's property tax revenues. Lastly, there would be no net funding impacts associated with the project.

Alternative actions

- 1. Continue the project for modifications; or
- 2. Make findings to deny the application.

Environmental review (if applicable)

The project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15301—additions to existing structures, because it involves an addition to an existing single family residence, including a detached accessory structure with 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.

Attachments

- 1. Resolution 1980
- 2. Project History
- Project Plan

ATTACHMENT 1

TOWN OF ROSS

RESOLUTION NO. 1981

A RESOLUTION OF THE TOWN OF ROSS APPROVING A NONCONFORMITY PERMIT TO ALLOW STRUCTURAL ALTERATIONS TO A LEGAL NONCONFORMING SINGLE FAMILY RESIDENCE AT 137 BOLINAS AVENUE APN 073-041-02

WHEREAS, Fairchild Broms Design have submitted an application on behalf of property owners Kimberly Tully-Sutton for a Nonconformity Permit to allow for structural alterations to an existing legal nonconforming residence at 137 Bolinas Avenue, Assessor's Parcel Number 073-041-02 (the "project"); and

WHEREAS, on December 8, 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

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 with 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.

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", and approves a Nonconformity Permit for the project described herein, located at 137 Bolinas Avenue, subject to the Conditions of Approval attached as Exhibit "B".

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 8th day of December 2016, by the following vote:

AYES:	
NOES:	
ABSENT:	
ABSTAIN:	
	Wathland Handham Maria
	Kathleen Hoertkorn, Mayor
ATTEST:	
Linda Longz Town Clark	

EXHIBIT "A" Findings in Support of Project Approval 137 Bolinas Avenue APN 073-041-02

A. Findings

I. Non-Conformity Permit (RMC § 18.52.040) - Approval of a Nonconformity Permit to allow for structural alterations to a legal nonconforming single family residence in accordance with Ross Municipal Code Section 18.52.030, Non-Conformity - Alteration, and is approved based on the findings:

The project is consistent with the purpose of the Nonconformity Permit chapter as outlined in Ross Municipal Code Section 18.52.040:

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 property owner has the burden to prove by substantial evidence the nonconforming and legal status of the structure.

The existing residence was constructed circa 1938 with nonconforming building setbacks. As the residence was constructed prior to the Town's regulations, the residence is considered to be legal nonconforming.

b) The town council can make the findings required to approve any required demolition permit for the structure: The demolition will not remove from the neighborhood or town, nor adversely affect, a building of historical, architectural, cultural or aesthetic value. The demolition will not adversely affect nor diminish the character or qualities of the site, the neighborhood or the community.

This finding is not applicable as no structures are proposed to be demolished.

c) The project substantially conforms to the relevant design review criteria and standards in Section 18.41.100, even if design review is not required.

As summarized in the staff report dated December 8, 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.

d) Total floor area does not exceed the greater of the total floor area of the existing nonconforming and/or legal nonconforming structure.

The project would result in an increase to the existing Floor Area Ratio beyond its existing conditions.

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

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 in the vicinity.

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

The project site is located outside of a designated flood plain and therefore not subject to a development permit pursuant to Section 15.36.130 of the Ross Municipal Code or other development related regulations associated with Chapter 15.36.

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 Ross Valley Fire Department has indicated they would approve the project as presented to the Town Council.

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

Condition of approval 17 would require the applicant to indemnify and hold harmless from any claim, action, or proceeding ("action") against the Town, therefore the project would be consistent with this finding.

i) The site has adequate parking. For purposes of this section, adequate parking shall mean that the site complies with at least the minimum number of parking spaces required for the zoning district (covered or not covered).

The project would comply with the Town's R-1 zoning district parking regulations whereby on-site parking spaces can be accommodated.

EXHIBIT "B" Conditions of Approval 137 Bolinas Avenue APN 073-041-02

- 1. This approval authorizes the Nonconformity Permit to allow the renovation and installation of new dormers and skylights within the footprint of an existing attic space at 137 Bolinas Avenue, Assessor's Parcel Number 073-041-02.
- 2. The building permit shall substantially conform to the plans entitled, "Tully-Sutton Residence" consisting of 3 sheets prepared by Fairchild Broms Design date stamp received November 3, 2016.
- 3. Except as otherwise provided in these conditions, the building permit shall substantially conform to the plans entitled, "Tully-Sutton Residence" consisting of 3 sheets prepared by Fairchild Broms Design date stamp received November 3, 2016.
- 4. 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.
- 5. BEFORE 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.
- 6. The applicant/owner shall pay any deferred Planning Department's fees as well as any fees required for mitigation monitoring or condition compliance review before vesting or final inspection of the approved project, as determined by the Planning Manager.
- 7. Any changes or additions to the project shall be submitted to the Community Development Agency in writing for review and approval before the contemplated modifications may be initiated. Construction involving modifications that do not substantially conform to the approved project, as determined by the Community Development Agency staff, may be required to be halted until proper authorization for the modifications is obtained by the applicant.
- 8. 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.
- 9. The project shall comply with the Fire Code and all requirements of the Ross Valley Fire Department (RVFD).
- 10. A copy of the building permit shall be posted at the site and emergency contact information shall be up to date at all times.
- 11. 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.
- 12. Inspections shall not be provided unless the Town-approved building permit plans are available on site.
- 13. 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).
- 14. 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.
- 15. Materials shall not be stored in the public right-of-way. The project owners and contractors shall be responsible for maintaining all roadways and rights-of-way 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.

- 16. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.
- 17. 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 attorney's fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.

ATTACHMENT 2

TOWN OF ROSS

APPLICATION FOR RESIDENTIAL BUILDING REPORT BUILDING DEPARTMENT POST OFFICE BOX 320 ROSS, CA 94957

Telephone: (415) 453-1453 Ext.6 Fax: (415) 460-9761

PARCEL NUMBER: 073-041-02

STREET ADDRESS: 137 Bolinas Road

PRESENT OWNER: Tom Verkozen

NEW OWNER:

REALTOR: FHA, Michele Barton

PHONE: 415-258-4116

SEND REPORT TO: Tom Verkozen
137 Bolinas Road

San Anselmo, CA 94960

Fee:

\$325 payable to the Town of Ross at the time of

application. \$100 per additional unit +\$50 non-

cancellation penalty.

DATE AND TIME OF APPOINTMENT: 11-29-11, 10:00 am

REPORT OF RESIDENTIAL BUILDING RECORD TOWN OF ROSS CHAPTER 15.32 ROSS MUNICIPAL CODE

NEITHER THE ENACTMENT OF THIS CHAPTER NOR THE PREPARATION AND DELIVERY OF ANY REPORT REQUIRED HEREUNDER SHALL IMPOSE ANY LIABILITY UPON THE TOWN FOR ANY ERRORS OR OMISSIONS CONTAINED IN THE REPORT, NOR SHALL THE TOWN BEAR ANY LIABILITY IMPOSED BY LAW (ORD. 310 S1 (part), 1970).

NO STATEMENT CONTAINED IN THIS REPORT SHALL AUTHORIZE THE USE OR OCCUPANCY OF ANY RESIDENTIAL BUILDING CONTRARY TO THE PROVISIONS OF ANY LAW OR ORDINANCE, NOR DOES IT CONSTITUTE A FULL DISCLOSURE OF ALL MATERIAL FACTS AFFECTING THE PROPERTY, OR THE DESIRABILITY OF ITS SALE.

This report must be delivered to the buyer and the receipt card attached must be completed and mailed back to the Town.

Assessor s Parcer No <u>073-041-02</u>	* .
PropertyAddress: 137 Bolinas Road	
Town Maintained Street? YesX NO	
Zoning Classification: R-1 R-1:B6 R-1: B 7.5 R-1:B10	R-1:B-15
R-1:B-20 R:1-BA R:1-B5A R-1:B-10A	7. (a) ⁶⁵
RESIDENCE AUTHORIZED USE: Single Family Residence EXISTING USE:	: SFR
CONFORMING:NON-CONFORMING:	X UNKNOWN
NON-CONFORMITIES NOTED: setbacks	# E #
VARIANCES GRANTED: SEE ATTACHED HISTORY	
	н
USE PERMIT GRANTED: SEE ATTACHED HISTORY	Table 1
RESIDENCE IN FLOOD PLAIN Yes: No:	_X
If Yes, Flood Zone	Depth:

National Flood Insurance program FIRM map, community panels 0452D, 0454D, 0456D, 0458D. Effective date May 4, 2009. All residences in the flood plain have to comply with the Town Flood Ordinance including raising the house when "Substantial Improvements" are performed. "Substantial Improvements" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of that structure. Ross Municipal Code, Chapter 15.36, Section 2.0 "Flood Damage Prevention" Amended and Updated, June 11, 2000

CORRECTION(s) REQUIRED:

Water Hea	ter:
	1. Gas supply pipe to be stainless steel flexible connector.
= .	2. Provide a pressure relief valve to the hot side of the water heater piping or
	to the appropriate manufacture's connection.
	3. Overflow pipe from pressure relief valve to be metallic same size as valve
	to extend to the outside or within six inches of the floor.
. Y	4. Strap to resist earthquake motion, (2 straps)
	5. Flue to be brought up to code
Furnace:	5.1 ide to be brought up to vous
	6. Gas supply pipe to be stainless steel, flexible connector.
	7. Provide a disconnect switch.
	3. Repair bad joints or loose connection in flue pipe.
	s. Repair bad joints of loose connection in fide pipe.
Electrical:	A. I. II. It is a main discomment assistable for electric service
j	9. Install exterior main disconnect switch for electric service.
1	0. All exposed Romex wiring must be protected from physical contact below
	eight feet in height in
1	1. All splices must be within junction boxes in
1	2. All thee prong outlets that are not grounded to be grounded or original
	two prong installed in
	13. Ground outlet
	14. Install GFI outlets in
	15. All Edison based fuses must be fitted with type "S" fuses. Maximum 15
	Amp for size 14 wire and 20 Amp for size 12 wire.
	16. All junction boxes and switches to be covered in
	17. Label all panels and breakers,
	18. Pool/Spa equipment to be grounded.
General:	
	19. Provide safety barriers to code in pool area.
$\overline{\mathbf{X}}$	20. Install smoke detectors in ceiling in hallway and all bedrooms
_x	20a. Install carbon monoxide detector for each/all dwelling units.
X	21. All stairways, interior and exterior, with more than three risers shall
	be provided with handrail at front stairs/to garage
	22. Guardrails shall be at least 42 inches high with openings sized so that 4"
	diameter sphere cannot pass through at
ta ta	23. Provide sparks arrester at top of chimney, screening to be half-inch
<u></u>	maximum square openings.
٠,	24. Post your address in numerals at least 4 inches in height and in a
	contrasting color of background. Address has to be clearly visible from
	street.
	25. The required firewall of five eighth gypsum board type x fire taped must
	be installed on the garage side abutting living spaces.
£	26. Repair holes in Gypsum board and tape in
	27. Door from garage to dwelling must be solid core and self-closing
	28. Chimney to be swept
	9. Repair, and fill in joints in firebricks in fireplace.
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ADDITIONAL REQUIREMENTS AND CORRECTIONS

_X_30. Garage must provide usable, covered parking for one automobile. _X_31. Please find Public Safety attached.

Informational items:

- 1. Window seat in bedroom should be brought up to code (tempered) should any permits be issued in this area.
- 2. Interior stairs do not meet code for height. They should be brought up to code should any permits be issued in this area.
- 3. It is the homeowner's responsibility to maintain the drainage ways and watercourse to the extent of the property lines.

The above corrections must be made within six (6) months of the date of this report. Please contact the Building Department at 415-453-1453 Ext.170 to schedule a reinspection. There is no fee for re-inspection. The Town makes no recommendation as to whom, seller or buyer, makes the required corrections.

Building permits will be required for items:

This Residential Building Report is valid for twelve (12) months from the date of inspection.

There are a number of issues that may arise during a discretionary planning review process that the Town will not identify in the resale inspection. For example, a structure may be considered "historic", or a site may contain sensitive archaeological resources, protected wildlife or habitat, or be considered a hillside lot subject to more restrictive development regulations. The Town does not independently verify the accuracy of any lot size, lot coverage, setback or floor area information that may be provided with this report.

Residential Building Report No. 1767-11

Building Inspector Signature:

Inspection Date: 11-29-11		Expiration Date: 11-29-2012			
	8				
			iii vi	30	



FIRE DEPARTMENT Town of Ross 33 Sir Francis Drake Blvd, P.O. Box 320 Ross, CA 94957

THOMAS V. VALLEE, CHIEF

		Resale Inspection 🗵 - Hazard Inspection 🔝
Date:	2811	11/29/2011 First Notice Second Notice
Address:	=	137 Bolinas Ave
Issued To	o:	
Issued B	y:	James Popken III Contact information: 415-453-1453 option 2, then 2 Voicemail ext. 160
		pection the following item(s) have been identified as needing correction. If you have any questions please contact the tor as listed above.
no	tes	30 feet of defensible space ("Lean, Clean and Green Zone")
	lė	Cut all grasses to less than 3 inches
H S		Remove vertical "ladder fuels"
		Remove dead branches and foliage from trees and bushes
		Remove all dead vegetation on the ground
		Remove all tree branches on mature trees within 10 feet of the ground
		Remove all tree branches or foliage within 10 feet of the chimney
		Remove all tree branches less than 2 inches in diameter or foliage within 10 feet of the roof
		Remove all dead vegetation from the roof and gutters
		Chimney requires spark arrester. Minimum of 3/8th inch to maximum of ½ inch opening in screen.
	_	Outdoor fire pit does not meet requirements of, chapter 14.2 Ross Municipal Code
		"Fuel Reduction Zone" 70 feet or to property line
		Remove vertical "ladder fuels"
		Create horizontal spacing and vertical spacing between vegetation
15		Fire Department Access
П		Driveway/roadway must be clear of vegetation 13.5 feet vertically
		Driveway/roadway must be clear of vegetation 5 feet horizontally from edges
		4 inch address numbers with contrasting background must be posted where clearly visible from the street
	_ 8	Knox emergency key switch or box needs to be installed or is not functioning properly
		Other Code Requirements
	_	Remove vegetation, landscaping and other material to allow for three feet of clearance around fire hydrant
		Home needs to have carbon monoxide detector installed (after 7/1/2011)
		Home needs to have smoke detectors installed in each bedroom and in area leading to bedrooms
27		
Notes / 0		
		ir the smoke detector that is located between the garage and living area and the detector up stairs in
		econd bedroom.
		Il carbon monoxide detectors in and near the upstairs bedrooms and between the garage and the
		g area downstairs.
]	lrım	the rose bush that is making contact with the Charlie-Delta (right rear) side of the structure.

Signature of inspector_

Page 1 of 1

ATTACHMENT 3





