



**Agenda Item No. 8f.**

**Staff Report**

**Date:** February 15, 2024  
**To:** Mayor Brekhus and Council Members  
**From:** Alex Lopez-Vega, Assistant Planner  
**Subject:** Wiginton Residence, 58 Shady Lane, File No. EXT24-0002

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**Recommendation**

It is recommended that the Town Council adopt Resolution No. 2354 for a one-year time extension for Design Review, Exception to Accessory Dwelling Unit (ADU) Permit, and a Variance to make alterations and additions at the back of the existing single-family residence located at 58 Shady Lane.

**Property Owner:** Robert and Madeline Wiginton  
**Applicant:** Polsky Perlstein Architects  
**Street Address:** 58 Shady Lane  
**A.P.N.:** 073-161-05  
**Zoning:** R-1: B-20  
**General Plan:** L (Low Density)  
**Flood Zone:** AE (Flood zone)

**Project Data**

	<b>Code Standard</b>	<b>Existing</b>	<b>Proposed</b>
<b>Lot Area</b>	20,000 sq. ft. min.	11,825 sq. ft.	No change
<b>Floor Area (FAR)</b>	15% max.	3,142 sq. ft. (26.6%)	3,366 sq. ft. - [332 sq. ft.] (ADU) = 3,034 sq. ft. (25.7%)
<b>Building Coverage</b>	15% max.	2,337 sq. ft. (19.8%)	2,435 sq. ft. (20.6%)
<b>Front Setback</b>	25 feet min.	59 feet	No change

	<b>Code Standard</b>	<b>Existing</b>	<b>Proposed</b>
<b>Side Setback</b>	20 feet min.	North: 2 feet South: 9 feet	No change
<b>Rear Setback</b>	40 feet min.	170 feet	168 feet
<b>Building Height</b>	2 stories; 30 feet max.	2 stories; 26 feet	No change
<b>Off-street Parking Spaces</b>	3 total (1 enclosed) min.	3 total (1 enclosed)	No change
<b>Impervious Surface Coverage</b>	Minimize and/or mitigate *	3,796 sq. ft. (32.1%)	No change

### **Project Description**

The applicant requests a one-year time extension of Design Review, Exception to Accessory Dwelling Unit (ADU) Permit, and a Variance to make alterations and additions at the back of the existing single-family residence. Exception to Accessory Dwelling Unit (ADU) Permit is requested to allow for the amount of area converted to an accessory dwelling unit to transfer as an allowance for a new addition. A Variance is requested to allow for new construction which is nonconforming with respect to zoning district standards for side yard setbacks and building coverage. The project was approved on March 10, 2022, by the Town Council through the adoption of Resolution No. 2243 (see **Attachment 2**). The time extension would allow the applicant to secure a building permit no later than March 10, 2025, in order to construct the previously approved project.

The scope of the project remains the same as the original approval consisting of alterations and additions at the back of the existing single-family residence. At the second story, it would construct a new 187-square-foot rear addition, no higher than the existing roof ridge and set back at the sides. Exterior materials would match existing, including wood shingle siding, lap siding, and composition shingle roofing. The existing front elevation and building height would not change. At the back of the first story, a new, attached 332-square foot accessory dwelling unit would be converted from 295 square feet of existing living area and by the construction of a 37-square-foot corner infill addition; and a new rear entrance would be constructed. The project involves no grading and no change to impervious coverage. There are no proposed changes to the Town Council's approved Resolution No. 2243.

### **Discussion**

Pursuant to Section 18.60.060, approvals, such as a Design Review, Exception to Accessory Dwelling Unit (ADU) Permit, and a Variance, expire without notice two years after the effective date unless construction or other authorized action has commenced. The Zoning Regulations provide relief from the time limitations by allowing Town Council to grant a one-year extension

of the approval if the Council determines that the findings made in the original approval remain valid. As required, the applicants have requested the extension prior to the expiration of the original approval, and the penalty fee has been paid to the Town.

In order to grant a one-year extension, the Town Council shall determine that the findings associated with the original approval remain valid. As referenced in Town Council Resolution No. 2243 (see **Attachment 2**), the Staff Report dated March 10, 2022 (see **Attachment 3**), and the attached excerpt from the March 10, 2022, Town Council Meeting Minutes (see **Attachment 4**) which demonstrate an action to approve the project subject to conditions of approval, the applicant requests that a one-year extension be granted.

### **Alternative actions**

1. The Town Council may determine that the findings made in the original approval are no longer valid, and ask that the applicant re-apply for Design Review, Exception to Accessory Dwelling Unit (ADU) Permit, and a Variance.

### **Public Comment**

Public Notices were mailed to property owners within 300 feet of the project site. No public comments were received prior to completion of the staff report.

### **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 Guidelines Section 15301 (Existing Facilities), because it consists of minor alteration of existing private structures, facilities, or topographical features, involving negligible or no expansion of existing or former use; and under Section 15303 (New Construction or Conversion of Small Structures), because it consists of construction and location of limited numbers of new, small facilities or structures, including a second dwelling in a residential zone.

### **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 in part on the valuation of the work proposed. 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. The Town currently serves the site and there would be no operating or funding impacts associated with the project.

### **Attachments**

1. Town Council Resolution No. 2354 for one-year extension
2. Town Council Resolution No. 2243 (Original Approval dated March 10, 2022)
3. Town Council Meeting Minutes excerpt dated March 10, 2022
4. Town Council Staff Report with Attachments dated March 10, 2022

# ATTACHMENT 1

# TOWN OF ROSS

## RESOLUTION NO. 2354

### A RESOLUTION OF THE TOWN OF ROSS APPROVING A ONE-YEAR TIME EXTENSION FOR DESIGN REVIEW, AN ACCESSORY DWELLING UNIT PERMIT EXCEPTION, AND A VARIANCE TO MAKE ALTERATIONS AND ADDITIONS AT THE BACK OF THE EXISTING SINGLE-FAMILY RESIDENCE AT 58 SHADY LANE, A.P.N. 073-161-05

**WHEREAS**, the applicants and property owners, Madeline and Robert Wiginton, submitted an application requesting a one-year time extension to the approvals contained in Resolution No. 2243 for Design Review, an Accessory Dwelling Unit Permit Exception, and a Variance to make alterations and additions to the existing single-family residence, at 58 Shady Lane, APN: 073-161-05 (herein referred to as “the Project”).

**WHEREAS**, the Project was determined to be categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures), because it consists of construction and location of limited numbers of new, small facilities or structures, including a second dwelling in a residential zone; and

**WHEREAS**, on March 10, 2022, the Town Council held a duly noticed public hearing and approved Resolution No. 2243, conditionally approving the Project; and

**WHEREAS**, on February 15, 2024, the Town Council held a duly noticed public hearing to consider a one-year time extension for the Project pursuant to the Ross Municipal Code section 18.60.060(b) and adopting Resolution No. 2354; 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 and approves a one-year time extension for the Project, finding that all the findings contained in Resolution No. 2243 as set forth in Exhibit “A” and incorporated herein, remain valid, subject to the Conditions of Approval contained in Resolution No. 2243. The one-year extension shall expire on March 10, 2025, and no further extensions shall be granted.

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 15<sup>th</sup> day of February 2024, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**ATTEST:**

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Cyndie Martel, Town Clerk

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Elizabeth Brekhus, Mayor

# ATTACHMENT 2

# TOWN OF ROSS

## RESOLUTION NO. 2243

### A RESOLUTION OF THE TOWN OF ROSS APPROVING DESIGN REVIEW, EXCEPTION TO ACCESSORY DWELLING UNIT (ADU) PERMIT, AND VARIANCE TO MAKE ALTERATIONS AND ADDITIONS AT THE BACK OF THE EXISTING SINGLE- FAMILY RESIDENCE AT 58 SHADY LANE, A.P.N. 073-161-05

**WHEREAS**, applicant Polsky Perlstein Architects, on behalf of property owner Robert and Madeline Wiginton, has submitted an application requesting approval of Design Review, Exception to Accessory Dwelling Unit (ADU) Permit, and Variance to make alterations and additions at the back of the existing single-family residence at 58 Shady Lane, A.P.N. 073-161-05 (herein referred to as “the Project”).

**WHEREAS**, the Project was determined to be categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Existing Facilities), because it consists of minor alteration of existing private structures, facilities, or topographical features, involving negligible or no expansion of existing or former use; and under Section 15303 (New Construction or Conversion of Small Structures), because it consists of construction and location of limited numbers of new, small facilities or structures, including a second dwelling in a residential zone; and

**WHEREAS**, on March 10, 2022, the Town Council held a duly noticed public hearing to consider the 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”, and approves Design Review, Exception to Accessory Dwelling Unit (ADU) Permit, and Variance to allow the Project, 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 10<sup>th</sup> day of March 2022, by the following vote:

**AYES:** Council Members Kuhl, Brekhus, Kircher, McMillan

**NOES:**

**ABSENT:**

**ABSTAIN:** Council Member Robbins (*recused*)



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P. Beach Kuhl, Mayor Pro Tempore

**ATTEST:**



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Linda Lopez, Town Clerk



**EXHIBIT "A"**  
**FINDINGS**  
**58 SHADY LANE**  
**A.P.N. 073-161-05**

**A. Findings**

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

**a) The project is consistent with the purpose of the Design Review chapter as outlined in Section 18.41.010.**

The project provides excellence of design consistent with the scale and quality of existing development; preserves and enhances the historical "small town," low-density character and identity that is unique to the Town of Ross; preserve lands which are unique environmental resources; enhances the area in which the project is located; and promotes and implements the design goals, policies and criteria of the Ross general plan.

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

The new second-story addition is located behind the existing gable roof and at or below the existing roof ridge. It would be minimally visible from public vantage points. The visual bulk and massing of the new addition are minimized by low sloping roofs which match and complement existing roof forms and rooflines, and by setting back the new addition at the sides, so that it is visually subordinate to the primary structure. The residential addition uses materials and colors that minimize visual impacts, are compatible with structures in the neighborhood, and do not attract attention. The project uses natural materials and colors, with wood and wood tones predominant. Exterior materials and features would match and complement the existing building. The proposed new second-story addition would not affect any primary views. New windows at the side elevations, which are closest to neighboring properties, are minimized in size, location, and orientation to protect the privacy of surrounding properties.

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

The project is consistent with the allowed uses and general development standards associated with the Low Density land use designation of the General Plan and the Single Family Residence and Special Building Site zoning regulations, therefore the project is found to be consistent with the Ross General Plan and Zoning Ordinance.

**II. In accordance with Ross Municipal Code Sections 18.42.080 (a) and (b), Exception to Accessory Dwelling Unit (ADU) Permit to transfer the amount of existing floor area that is converted to an accessory dwelling unit as a floor area allowance for a new addition to the primary residence is approved based on the following mandatory findings:**

**a) The exception will not create a significant adverse impact on any adjacent property, the**

**surrounding neighborhood, or the general public good.**

The proposed new second-story addition would be minimally visible from public vantage points. The existing front elevation and building height would not change.

- b) The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the exception without adversely affecting the views, privacy, or access to light and air of neighboring properties.**

The proposed new second-story rear addition would not affect any primary views. It would slope down and be set back at the sides to avoid impacting access to light and air. New windows at the side elevations, which are closest to neighboring properties, are minimized in size, location, and orientation to protect the privacy of surrounding properties. The owners of adjacent properties to the sides, who would be most affected by the proposed new second-story addition, have submitted written comments in support of the project. No members of the general public including owners of adjacent properties have expressed concerns or issues with respect to the project.

- c) Any modifications to site drainage shall be designed by a licensed engineer and shall result in no net increase to the rate or volume of peak runoff from the site compared to pre-project conditions. Any new mechanical pumps or equipment shall not create noise that is audible off site.**

The project does not propose changes to site drainage or any new mechanical equipment. It involves no grading and no change to impervious coverage.

- d) The fire chief has confirmed that there is adequate water supply for firefighting purposes for the site, or that the project includes measures to provide adequate water supply for firefighting purposes.**

Adequate access and water supply exist for firefighting purposes.

**III. In accordance with Ross Municipal Code Section 18.48.010 (c), Variance is approved based on the following mandatory findings:**

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

The special circumstances and conditions applicable to the land include the existing 45-foot lot width and 11,825-square-foot lot area, which are substandard to the district minimum standards of 120 feet and 20,000 square feet, respectively.

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

Due to the special circumstances of the small narrow, substandard lot, the strict application of the zoning ordinance provisions for minimum side yard setbacks (20 feet) and maximum building coverage in the district would deprive the subject property of the ability to construct

allowable new floor area at the back of the existing residence. Granting of the variance request, in a neighborhood where existing nonconforming side yard setbacks are not uncommon, may be deemed necessary for the preservation and enjoyment of the owner's substantial property rights. Granting of the variance would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

- c) 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 proposed new second-story addition would be minimally visible from public vantage points. It would not affect any primary views. New windows at the side elevations, which are closest to neighboring properties, are minimized in size, location, and orientation to protect the privacy of surrounding properties. The owners of adjacent properties to the sides, who would be most affected by the proposed new second-story addition, have submitted written comments in support of the project. No members of the general public including owners of adjacent properties have expressed concerns or issues with respect to the project.

**EXHIBIT "B"**  
**CONDITIONS OF APPROVAL**  
**58 SHADY LANE**  
**A.P.N. 073-161-05**

1. This approval authorizes Design Review, Exception to Accessory Dwelling Unit (ADU) Permit, and Variance to make alterations and additions at the back of the existing single-family residence at 58 Shady Lane, A.P.N. 073-161-05 (herein referred to as "the Project").
2. The building permit shall substantially conform to the plans prepared by Polsky Perlstein Architects, cover sheet entitled, "WIGINTON RESIDENCE, 58 SHADY LANE, ROSS CA, AP# 073-161-05; TOWN COUNCIL SET; 17 FEB 2022", and reviewed and approved by the Town Council on March 10, 2022.
3. 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.
4. 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.
5. The Project shall comply with the Fire Code and all requirement of the Ross Valley Fire Department (RVFD).
6. The Town staff reserves the right to require additional landscape screening for up to three (3) years from project final to ensure adequate screening for the properties that are directly contiguous to the project site. The Town staff will only require additional landscape screening if the contiguous neighbor can demonstrate through pre-project existing condition pictures that their privacy is being negatively impacted as a result of the Project.
7. BEFORE FINAL INSPECTION, the applicant shall call for a Planning staff inspection of approved landscaping, building materials and colors, lighting and compliance with conditions of project approval at least five business days before the anticipated completion of the Project. Failure to pass inspection will result in withholding of the Final Inspection approval and imposition of hourly fees for subsequent re-inspections.
8. A Tree Permit shall not be issued until the project grading or building permit is issued.
9. 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 (i.e., temporary seeding and 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.
- 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. The plan shall demonstrate that on-street parking associated with construction

workers and deliveries are prohibited and that all project deliveries shall occur during the allowable working hours as identified in the below condition 10n.

- 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 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.
- k. A copy of the building permit shall be posted at the site and emergency contact information shall be up to date at all times.
- l. 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.
- m. Inspections shall not be provided unless the Town-approved building permit plans are available on site.
- n. 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).
- o. 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.

- p. 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.
- q. 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.
- r. 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.
- s. 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.
- t. 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.
- u. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.
- v. 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.
- w. BEFORE FINAL INSPECTION, 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.
10. 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 fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.



# ATTACHMENT 3

**March 10, 2022 Minutes**

Members or the public, Councilmembers getting COVID, whether or not to require masks at meetings, the desire to wait a month or two to confirm there is not another variant or surge, limits on the number of people in the Chambers, the desire to return to in-person meetings with the thinking they are more effective, fairness of being able to see some applicants and not others, examples of bad behaviors while holding Zoom meetings, the Brown Act which allowed Council Members to call in, items on the agenda which attract crowds, Mill Valley's example of meeting since July or August without a problem, the level of discourse and frustration among public members, a suggestion for a screen in the Chambers for display of Council Members and/or the public, the need to contact the Community Media Center to set this up, a hybrid format for larger crowds, given space constraints in the Chambers, the need in some communities for police and staff presence to enforce the rules, Mr. Stock's offer to develop a policy, the preference not to have to wear masks for 3 to 4 hours, and the Council favoring going back to in-person meetings without masks.

Mr. Stock said it sounds like there is consensus to go back in April and to have masks be optional. The one part they have not heard about is whether there is consensus to offer Zoom or not.

Mayor Robbins and Council Members voiced support to continue to also use Zoom because the Town is set up for it and can also be used when the public or Council Members are ill, which then led to discussion regarding proper noticing of meetings and adding the teleconference location, which Mr. Stock agreed to research in development of a policy.

Mayor Robbins opened the public comment period, and there were no speakers. She confirmed staff had direction.

**End of Administrative Agenda.**

**Public Hearings on Planning Projects**

**13. 58 Shady Lane, Design Review, Exception to Accessory Dwelling Unit and Variance, and Town Council consideration of adoption of Resolution No. 2243.**

Robert and Madeline Wiginton, 58 Shady Lane, A.P. No. 073-161-05, Zoning: R-1: B-20, General Plan: L (Low Density), Flood Zone: AE (Area subject to inundation by 1-percent-annual chance flood event).

**Project Summary:** The applicant is requesting approval of Design Review to make alterations and additions at the back of the existing single-family residence. Exception to Accessory Dwelling Unit (ADU) Permit is requested to allow for the amount of area converted to an accessory dwelling unit to transfer as an allowance for a new addition. Variance is requested to allow for new construction which is nonconforming with respect to zoning district standards for side yard setbacks and building coverage.

**Recusal:** Mayor Robbins recused herself from participating in item 13 because she lives within 500 feet of the property.

**March 10, 2022 Minutes**

Matthew Weintraub, Planner, gave the staff report and overview of the request for design review, exception to an ADU, and variance for 58 Shady Lane.

The ADR group reviewed the project on January 18<sup>th</sup> and also a previous design at which time they recommended some revisions and resubmittal which included simplifying and minimizing the design of the second story addition. The applicant accomplished that and by doing so, they reduced the size of the addition by 93 square feet and simplified the roofline which is the project before the Council.

At the second review there was a split vote, which Mr. Weintraub described. Four members felt the design was complementary to the building and two members disagreed with the concept and principle of transferring floor area from the ADU at the first story to an addition to the second story and their preference to see a detached ADU configuration. They also made comments that the project as proposed met the minimum design review standards for architecture, design and bulk and mass. The ADR group also commented that there was a proposed rear deck that would have extended off the back of the building and there was some objections to its size, and this deck has been removed from the project so the only addition is at the second story.

Staff recommends that the findings can be made for design review, the ADU permit, and for the variance, which Mr. Weintraub described as outlined in the staff report. Letters of support were received and submitted by a number of property owners, as were letters from the owners of 56 and 60 Shady Lane which are on either side of the project. Staff recommends adoption of Resolution No. 243 approving the design review, exception to the ADU permit and the variance for the project.

Jared Polsky, Architect, thanked staff for a thorough staff report and presentation, noted neighbors on both sides are in support, and voiced appreciation of the ADR group's recommendations to clarify the rear addition which matches the design of the front of the house.

Mayor Pro Tem Kuhl opened the public comment period.

Madeline Wiginton, applicant, said she and her husband Bobby are appreciative of the Council's time and they look forward to moving to Ross.

M. Bruce said he thinks the project looks great and should be approved.

Council Members Brekhus and McMillan voiced support of the project, noted there are similar projects in Town, and in light of State law, the Council needs to be supportive of people developing ADUs.

Mayor Pro Tem Kuhl asked for a motion.

**Council Member Brekhus moved and Council Member McMillan seconded, to adopt Resolution No. 2243 approving Design Review and Variance at 58 Shady Lane. Motion carried by a vote of (4-0-1; Mayor Robbins recused).**

# ATTACHMENT 4



**Agenda Item No. 13.**

### **Staff Report**

**Date:** March 10, 2022  
**To:** Mayor Robbins and Council Members  
**From:** Matthew Weintraub, Planner  
**Subject:** Wiginton Residence, 58 Shady Lane

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#### **Recommendation**

Town Council approval of Resolution No. 2243 (see **Attachment 1**) approving Design Review and Variance for the subject project as described below.

**Applicant:** Polsky Perlstein Architects  
**Property Owner:** Robert and Madeline Wiginton  
**Design Professional:** Polsky Perlstein Architects  
**Street Address:** 58 Shady Lane  
**A.P.N.:** 073-161-05  
**Zoning:** R-1:B-20  
**General Plan:** L (Low Density)  
**Flood Zone:** AE (Area subject to inundation by 1-percent-annual chance flood event)

**Project Summary:** The applicant is requesting approval of Design Review to make alterations and additions at the back of the existing single-family residence. Exception to Accessory Dwelling Unit (ADU) Permit is requested to allow for the amount of area converted to an accessory dwelling unit to transfer as an allowance for a new addition. Variance is requested to allow for new construction which is nonconforming with respect to zoning district standards for side yard setbacks and building coverage.

#### **Public Notice**

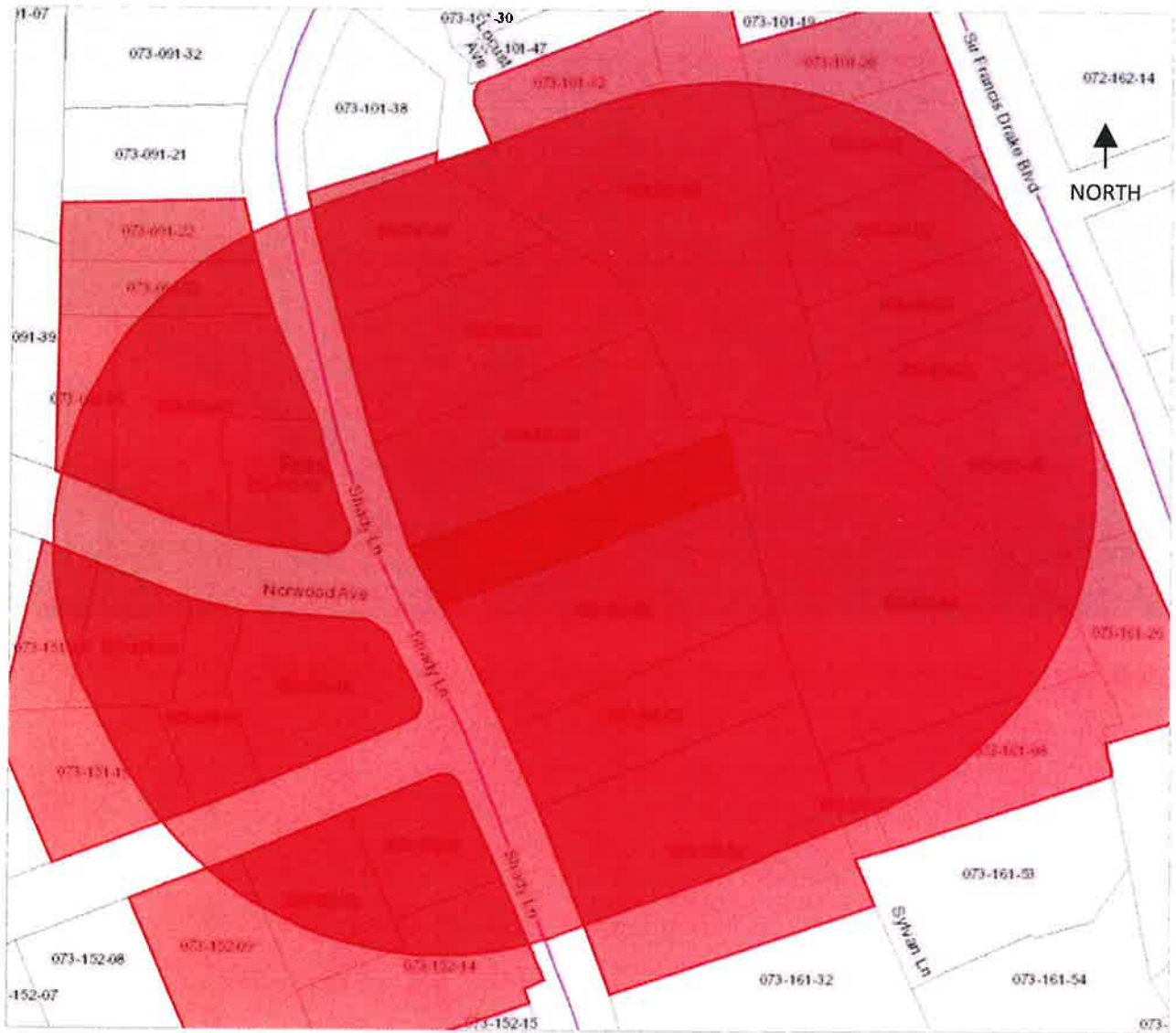
Public Notices were mailed to property owners within 300 feet of the project site at least 10 days prior to the meeting date.

**Project Data**

	<b>Code Standard</b>	<b>Existing</b>	<b>Proposed</b>
<b>Lot Area</b>	20,000 sq. ft. min.	11,825 sq. ft.	No change
<b>Floor Area (FAR)</b>	15% max.	3,142 sq. ft. (26.6%)	3,366 sq. ft. - [332 sq. ft.] (ADU) = 3,034 sq. ft. (25.7%)
<b>Building Coverage</b>	15% max.	2,337 sq. ft. (19.8%)	2,435 sq. ft. (20.6%)
<b>Front Setback</b>	25 feet min.	59 feet	No change
<b>Side Setback</b>	20 feet min.	North: 2 feet South: 9 feet	No change
<b>Rear Setback</b>	40 feet min.	170 feet	168 feet
<b>Building Height</b>	2 stories; 30 feet max.	2 stories; 26 feet	No change
<b>Off-street Parking Spaces</b>	3 total (1 enclosed) min.	3 total (1 enclosed)	No change
<b>Impervious Surface Coverage</b>	Minimize and/or mitigate *	3,796 sq. ft. (32.1%)	No change

\* Low Impact Development (LID) for Stormwater Management, Design Review criteria and standards, per Section 18.41.100 (t).

**Notice Area (300 feet)**  
Source: MarinMap ([www.marinmap.org](http://www.marinmap.org)).



**Project Site**  
Source: MarinMap ([www.marinmap.org](http://www.marinmap.org)).





**Project Description**

The project proposes to make alterations and additions at the back of the existing single-family residence. At the second-story, it would construct a new 187-square-foot rear addition, no higher than the existing roof ridge and set back at the sides. Exterior materials would match existing, including wood shingle siding, lap siding, and composition shingle roofing. The existing front elevation and building height would not change. At the back of the first story, a new, attached 332-square foot accessory dwelling unit would be converted from 295 square feet of existing living area and by the construction of a 37-square-foot corner infill addition; and a new rear entrance would be constructed. The project involves no grading and no change to impervious coverage.

Project application materials are included as follows: Project Plans as **Attachment 2**; Project Description as **Attachment 3**; Neighborhood Outreach Description as **Attachment 4**.

**Background**

The project site is located on the east side of Shady Lane, opposite the intersection with Norwood Avenue. The 11,825-square-foot lot is rectangular in shape and less than 45 feet wide. It is nonconforming with respect to minimum lot area of 20,000 square feet and minimum lot width of 120 feet. The average slope is 6%. The property contains an existing single-family residence at the front of the lot and a detached garage at the back of the lot. It is located in a FEMA flood zone.

According to the Assessor’s Office, development occurred on the site in 1906 and 1985. The Town previously granted the following approvals for the property:

Date	Permit	Description
11/08/01	Demolition	Demolish existing residence and garage.
12/12/02	Demolition	Extension of previously issued permit.
10/08/09	Design Review, Variance, Demolition, Second Unit	Construct new residence, garage, pool house.
12/09/10	Design Review, Variance, Demolition, Second Unit	Extension of previously issued permit.
11/10/11	Design Review, Variance, Demolition, Second Unit	Extension of previously issued permit.

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

**Advisory Design Review**

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, a Hillside Lot Permit, Variance, and/or ADU Exception.

The Advisory Design Review (ADR) Group reviewed the project at a public hearing. The ADR Group received information from the applicant, allowed public comments, and provided recommendations regarding the merits of the project as it relates to the purpose of Design Review and the Design Review criteria and standards per Municipal Code Section 18.41.100 and the Town of Ross Design Guidelines.

On January 18, 2022, the ADR Group recommended revisions and further review by the ADR Group. The ADR Group recommended simplifying and minimizing the design of the new second story addition to be more in keeping with the existing architectural character and to minimize visual bulk and massing. In consideration of comments received, the applicant revised the project to simplify the roof forms and roof lines; to set back the entire length of the new addition from the sides; and to reduce the size of the proposed new second-story addition by 93 square feet. The applicant resubmitted the revised project design for ADR Group review.

On February 15, 2022, the ADR Group split 2-2 (with one recusal) on recommending approval of Design Review for the revised project. ADR Group Members agreed that the revised design was in keeping with the existing architectural character, including colors, materials, doors, windows, roof forms and rooflines. However, two ADR Group Members objected to adding second-story mass and bulk to the existing building; and to adding a new raised deck at the first story. In consideration of comments received, the applicant further revised the project design to omit the previously proposed raised rear deck at the first story, and resubmitted a final revised project for Town Council consideration. By omitting the previously proposed raised rear deck in the final revised project, the applicant eliminated a proposed new nonconforming projection, and reduced the scope of the requested variance exception for side yard setback encroachment so that it is limited to the proposed new second-story addition located within the existing building footprint.

The January 18, 2022 and February 15, 2022 ADR Group meeting minutes are included as **Attachment 6**. Meeting recordings can be accessed online at the Town of Ross website at <https://www.townofross.org/meetings>.

### **Discussion**

The proposed project is subject to the following permit approvals pursuant to the Ross Municipal Code:

#### ***Design Review***

Design Review is intended 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 for all new development which harmonizes style, intensity and type of construction with the natural environment and respects the unique needs and features of each site and area; preserve and enhance the historical "small town," low-density character and identity that is unique to the Town of Ross, and maintain the serene, quiet character of the town's neighborhoods; and preserve lands which are unique environmental

resources including scenic resources (ridgelines, hillsides and trees), vegetation and wildlife habitat, creeks, threatened and endangered species habitat, open space and areas necessary to protect community health and safety.

The Town Council may approve, conditionally approve or deny an application for design review. The Town Council shall include conditions necessary to meet the purpose of this chapter and for substantial compliance with the criteria set forth in this chapter. The Town Council may adopt by resolution standard conditions for all projects to meet.

Pursuant to Section 18.41.20 (a) (1), the proposed project requires a Design Review Permit for exterior remodeling resulting in additions, extensions or enlargements to existing buildings exceeding two hundred square feet of new floor area, including enclosing existing open areas.

If Council intends to approve Design Review, staff recommends that the required findings for approval be satisfied for the proposed project, as follows:

- **The project is consistent with the purpose of Design Review as outlined in Section 18.41.010. (Section 18.41.070 (b) (1))**

Analysis: The project provides excellence of design consistent with the scale and quality of existing development; preserves and enhances the historical “small town,” low-density character and identity that is unique to the Town of Ross; preserve lands which are unique environmental resources; enhances the area in which the project is located; and promotes and implements the design goals, policies and criteria of the Ross general plan.

- **The project is in substantial compliance with the design criteria of Section 18.41.100. (Section 18.41.070 (b) (2))**

Analysis: The new second-story addition is located behind the existing gable roof and at or below the existing roof ridge. It would be minimally visible from public vantage points. The visual bulk and massing of the new addition are minimized by low sloping roofs which match and complement existing roof forms and rooflines, and by setting back the new addition at the sides, so that it is visually subordinate to the primary structure. The residential addition uses materials and colors that minimize visual impacts, are compatible with structures in the neighborhood, and do not attract attention. The project uses natural materials and colors, with wood and wood tones predominant. Exterior materials and features would match and complement the existing building. The proposed new second-story addition would not affect any primary views. New windows at the side elevations, which are closest to neighboring properties, are minimized in size, location, and orientation to protect the privacy of surrounding properties.

- **The project is consistent with the Ross General Plan and zoning ordinance. (Section 18.41.070 (b) (3))**

Analysis: The project is consistent with the allowed uses and general development standards associated with the Low Density land use designation of the General Plan and the Single Family Residence and Special Building Site zoning regulations, therefore the project is found to be consistent with the Ross General Plan and Zoning Ordinance. Consistent with Section 18.32.040, the project provides space for the parking of not less than three automobiles, one of which is enclosed in a permanent, roofed structure. Consistent with Section 18.42.055 (f), additional off-street parking is not required for an accessory dwelling unit because it is located within one-half mile of public transit on Sir Francis Drake Boulevard.

***Exception to Accessory Dwelling Unit (ADU) Permit***

Accessory dwelling units increase the overall supply of housing within established residential zoning districts or as part of new residential subdivisions, while maintaining the existing character of the neighborhood. Such units are intended to increase the supply of smaller, more affordable housing within existing residential neighborhoods and provide independent living units for prospective and current residents, including family members, students, local employees, the elderly, in-home health and childcare providers, and single adults, among others.

The Planning Department shall consider an application for accessory dwelling unit without discretionary review, public notice, or a hearing. The Planning Department shall approve the application for accessory dwelling unit if the application meets all of the requirements and standards of Chapter 18.42. The Town Council may grant discretionary exceptions to the development standards regulating the number of accessory dwelling units permitted on a lot or parcel and accessory dwelling unit height, location, size and floor area as set forth in Sections 18.42.050 and 18.42.055. The Town Council shall approve, conditionally, approve, or deny the exception application in accordance with the provisions of Section 18.42.065 or Section 18.42.080.

The proposed project includes a new attached accessory dwelling unit that meets the requirements for ministerial review and administrative approval pursuant to the Town's code, and which is not subject to discretionary review. However, the applicant seeks to transfer existing floor area from the newly converted attached accessory dwelling unit to the main residence, which is a discretionary request pursuant to the Town's code. Pursuant to Section 18.42.065 (b) (2), the proposed project requires an Exception to ADU Permit to allow an amount of existing floor area that is converted to new ADU space to be transferred as a floor area allowance for a new addition to the primary residence. The proposed conversion of 295 square feet of existing floor area, and infill addition of 37 square feet of new floor area, in order to construct a new attached 332-square-foot accessory dwelling unit at the first story, complies with all requirements and standards of Chapter 18.42. Of the 295 square feet of existing floor area to be converted to a new accessory dwelling unit, the project proposes to transfer only 187 square feet as a floor area allowance for an addition to the primary residence at the second story. The project would reduce the total amount of nonconforming floor area of the primary residence by 108 square feet.

If Council intends to approve the Exception to the ADU Permit, staff recommends that the required findings for approval be satisfied for the proposed project, as follows:

- **The exception will not create a significant adverse impact on any adjacent property, the surrounding neighborhood, or the general public good. (Section 18.42.065 (g) (1))**

Analysis: The proposed new second-story addition would be minimally visible from public vantage points. The existing front elevation and building height would not change.

- **The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the exception without adversely affecting the views, privacy, or access to light and air of neighboring properties. (Section 18.42.065 (g) (2))**

Analysis: The proposed new second-story rear addition would not affect any primary views. It would slope down and be set back at the sides to avoid impacting access to light and air. New windows at the side elevations, which are closest to neighboring properties, are minimized in size, location, and orientation to protect the privacy of surrounding properties. The owners of adjacent properties to the sides, who would be most affected by the proposed new second-story addition, have submitted written comments in support of the project. No members of the general public including owners of adjacent properties have expressed concerns or issues with respect to the project.

- **Any modifications to site drainage shall be designed by a licensed engineer and shall result in no net increase to the rate or volume of peak runoff from the site compared to pre-project conditions. Any new mechanical pumps or equipment shall not create noise that is audible off site. (Section 18.42.065 (g) (3))**

Analysis: The project does not propose changes to site drainage or any new mechanical equipment. It involves no grading and no change to impervious coverage.

- **The fire chief has confirmed that there is adequate water supply for firefighting purposes for the site, or that the project includes measures to provide adequate water supply for firefighting purposes. (Section 18.42.065 (g) (4))**

Analysis: Adequate access and water supply exist for firefighting purposes.

### ***Variance***

Where practical difficulties, unnecessary hardships and results inconsistent with the general purpose of the zoning code may result from the strict application of certain provisions thereof, variances, exceptions and adjustments may be granted, by the Town Council in appropriate cases. Variances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. Any variance granted shall be subject to such conditions

as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. A variance shall not be granted for a parcel of property which authorizes a use or activity which is not otherwise expressly authorized by the zone regulation governing the parcel of property.

In granting any variance, exception or adjustment under the provisions of Chapter 18.39, the Town Council shall designate such conditions in connection therewith as will in its opinion, secure substantially the objectives of the regulation or provision to which the variance, exception or adjustment is granted, as to light, air, and the public health, safety, comfort, convenience and general welfare. In order to grant any variance, exception or adjustment, the findings of the Town Council shall be that the qualifications under Section 18.48.020 apply to the land, building, or use for which variance, exception or adjustment is sought, and that the variance shall be in harmony with the general purpose of this title.

Pursuant to Sections 18.32.050 and 18.32.060, which establish development standards in the R-1:B-20 district for minimum required setbacks and maximum allowable building coverage, respectively, the proposed project requires a Variance to allow for new construction which is nonconforming with respect to the minimum required side yard setbacks and the maximum allowed building coverage.

If Council intends to approve the Variance, staff recommends that the required findings for approval be satisfied for the proposed project, as follows:

- **That there are special circumstances or conditions applicable to the land, building or use referred to in the application. (Section 18.48.020 (1))**

Analysis: The special circumstances and conditions applicable to the land include the existing 45-foot lot width and 11,825-square-foot lot area, which are substandard to the district minimum standards of 120 feet and 20,000 square feet, respectively.

- **That the granting of the application is necessary for the preservation and enjoyment of substantial property rights. (Section 18.48.020 (2))**

Analysis: Due to the special circumstances of the small narrow, substandard lot, the strict application of the zoning ordinance provisions for minimum side yard setbacks (20 feet) and maximum building coverage in the district would deprive the subject property of the ability to construct allowable new floor area at the back of the existing residence. Granting of the variance request, in a neighborhood where existing nonconforming side yard setbacks are not uncommon, may be deemed necessary for the preservation and enjoyment of the owner's substantial property rights. Granting of the variance would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

- **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. (Section 18.48.020 (3))**

Analysis: The proposed new second-story addition would be minimally visible from public vantage points. It would not affect any primary views. New windows at the side elevations, which are closest to neighboring properties, are minimized in size, location, and orientation to protect the privacy of surrounding properties. The owners of adjacent properties to the sides, who would be most affected by the proposed new second-story addition, have submitted written comments in support of the project. No members of the general public including owners of adjacent properties have expressed concerns or issues with respect to the project.

#### **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 on 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 item to gather further information, conduct further analysis, or revise the project; or
2. Make findings to deny the application.

#### **Environmental Review**

The project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Existing Facilities), because it consists of minor alteration of existing private structures, facilities, or topographical features, involving negligible or no expansion of existing or former use; and under Section 15303 (New Construction or Conversion of Small Structures), because it consists of construction and location of limited numbers of new, small facilities or structures, including a second dwelling in a residential zone.

#### **Public Comment**

No public comments were received prior to the finalization of this report.

#### **Attachments**

1. Resolution No. 2243
2. Project Plans
3. Project Description
4. Neighborhood Outreach Description
5. Project History

6. ADR Group Meeting Minutes, January 18, 2022 (final) and February 15, 2022 (draft)



# ATTACHMENT 1

# TOWN OF ROSS

## RESOLUTION NO. 2243

### A RESOLUTION OF THE TOWN OF ROSS APPROVING DESIGN REVIEW, EXCEPTION TO ACCESSORY DWELLING UNIT (ADU) PERMIT, AND VARIANCE TO MAKE ALTERATIONS AND ADDITIONS AT THE BACK OF THE EXISTING SINGLE- FAMILY RESIDENCE AT 58 SHADY LANE, A.P.N. 073-161-05

**WHEREAS**, applicant Polsky Perlstein Architects, on behalf of property owner Robert and Madeline Wiginton, has submitted an application requesting approval of Design Review, Exception to Accessory Dwelling Unit (ADU) Permit, and Variance to make alterations and additions at the back of the existing single-family residence at 58 Shady Lane, A.P.N. 073-161-05 (herein referred to as “the Project”).

**WHEREAS**, the Project was determined to be categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Existing Facilities), because it consists of minor alteration of existing private structures, facilities, or topographical features, involving negligible or no expansion of existing or former use; and under Section 15303 (New Construction or Conversion of Small Structures), because it consists of construction and location of limited numbers of new, small facilities or structures, including a second dwelling in a residential zone; and

**WHEREAS**, on March 10, 2022, the Town Council held a duly noticed public hearing to consider the 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”, and approves Design Review, Exception to Accessory Dwelling Unit (ADU) Permit, and Variance to allow the Project, 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 10<sup>th</sup> day of March 2022, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

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Elizabeth Robbins, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk

**EXHIBIT "A"**  
**FINDINGS**  
**58 SHADY LANE**  
**A.P.N. 073-161-05**

**A. Findings**

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

**a) The project is consistent with the purpose of the Design Review chapter as outlined in Section 18.41.010.**

The project provides excellence of design consistent with the scale and quality of existing development; preserves and enhances the historical "small town," low-density character and identity that is unique to the Town of Ross; preserve lands which are unique environmental resources; enhances the area in which the project is located; and promotes and implements the design goals, policies and criteria of the Ross general plan.

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

The new second-story addition is located behind the existing gable roof and at or below the existing roof ridge. It would be minimally visible from public vantage points. The visual bulk and massing of the new addition are minimized by low sloping roofs which match and complement existing roof forms and rooflines, and by setting back the new addition at the sides, so that it is visually subordinate to the primary structure. The residential addition uses materials and colors that minimize visual impacts, are compatible with structures in the neighborhood, and do not attract attention. The project uses natural materials and colors, with wood and wood tones predominant. Exterior materials and features would match and complement the existing building. The proposed new second-story addition would not affect any primary views. New windows at the side elevations, which are closest to neighboring properties, are minimized in size, location, and orientation to protect the privacy of surrounding properties.

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

The project is consistent with the allowed uses and general development standards associated with the Low Density land use designation of the General Plan and the Single Family Residence and Special Building Site zoning regulations, therefore the project is found to be consistent with the Ross General Plan and Zoning Ordinance.

**II. In accordance with Ross Municipal Code Sections 18.42.080 (a) and (b), Exception to Accessory Dwelling Unit (ADU) Permit to transfer the amount of existing floor area that is converted to an accessory dwelling unit as a floor area allowance for a new addition to the primary residence is approved based on the following mandatory findings:**

**a) The exception will not create a significant adverse impact on any adjacent property, the**

**surrounding neighborhood, or the general public good.**

The proposed new second-story addition would be minimally visible from public vantage points. The existing front elevation and building height would not change.

- b) The lot and the arrangement of existing and proposed physical improvements on the lot can accommodate the exception without adversely affecting the views, privacy, or access to light and air of neighboring properties.**

The proposed new second-story rear addition would not affect any primary views. It would slope down and be set back at the sides to avoid impacting access to light and air. New windows at the side elevations, which are closest to neighboring properties, are minimized in size, location, and orientation to protect the privacy of surrounding properties. The owners of adjacent properties to the sides, who would be most affected by the proposed new second-story addition, have submitted written comments in support of the project. No members of the general public including owners of adjacent properties have expressed concerns or issues with respect to the project.

- c) Any modifications to site drainage shall be designed by a licensed engineer and shall result in no net increase to the rate or volume of peak runoff from the site compared to pre-project conditions. Any new mechanical pumps or equipment shall not create noise that is audible off site.**

The project does not propose changes to site drainage or any new mechanical equipment. It involves no grading and no change to impervious coverage.

- d) The fire chief has confirmed that there is adequate water supply for firefighting purposes for the site, or that the project includes measures to provide adequate water supply for firefighting purposes.**

Adequate access and water supply exist for firefighting purposes.

**III. In accordance with Ross Municipal Code Section 18.48.010 (c), Variance is approved based on the following mandatory findings:**

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

The special circumstances and conditions applicable to the land include the existing 45-foot lot width and 11,825-square-foot lot area, which are substandard to the district minimum standards of 120 feet and 20,000 square feet, respectively.

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

Due to the special circumstances of the small narrow, substandard lot, the strict application of the zoning ordinance provisions for minimum side yard setbacks (20 feet) and maximum building coverage in the district would deprive the subject property of the ability to construct

allowable new floor area at the back of the existing residence. Granting of the variance request, in a neighborhood where existing nonconforming side yard setbacks are not uncommon, may be deemed necessary for the preservation and enjoyment of the owner's substantial property rights. Granting of the variance would not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated.

- c) 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 proposed new second-story addition would be minimally visible from public vantage points. It would not affect any primary views. New windows at the side elevations, which are closest to neighboring properties, are minimized in size, location, and orientation to protect the privacy of surrounding properties. The owners of adjacent properties to the sides, who would be most affected by the proposed new second-story addition, have submitted written comments in support of the project. No members of the general public including owners of adjacent properties have expressed concerns or issues with respect to the project.

**EXHIBIT "B"**  
**CONDITIONS OF APPROVAL**  
**58 SHADY LANE**  
**A.P.N. 073-161-05**

1. This approval authorizes Design Review, Exception to Accessory Dwelling Unit (ADU) Permit, and Variance to make alterations and additions at the back of the existing single-family residence at 58 Shady Lane, A.P.N. 073-161-05 (herein referred to as "the Project").
2. The building permit shall substantially conform to the plans prepared by Polsky Perlstein Architects, cover sheet entitled, "WIGINTON RESIDENCE, 58 SHADY LANE, ROSS CA, AP# 073-161-05; TOWN COUNCIL SET; 17 FEB 2022", and reviewed and approved by the Town Council on March 10, 2022.
3. 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.
4. 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.
5. The Project shall comply with the Fire Code and all requirement of the Ross Valley Fire Department (RVFD).
6. The Town staff reserves the right to require additional landscape screening for up to three (3) years from project final to ensure adequate screening for the properties that are directly contiguous to the project site. The Town staff will only require additional landscape screening if the contiguous neighbor can demonstrate through pre-project existing condition pictures that their privacy is being negatively impacted as a result of the Project.
7. BEFORE FINAL INSPECTION, the applicant shall call for a Planning staff inspection of approved landscaping, building materials and colors, lighting and compliance with conditions of project approval at least five business days before the anticipated completion of the Project. Failure to pass inspection will result in withholding of the Final Inspection approval and imposition of hourly fees for subsequent re-inspections.
8. A Tree Permit shall not be issued until the project grading or building permit is issued.
9. 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 (i.e., temporary seeding and 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.
- 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. The plan shall demonstrate that on-street parking associated with construction



workers and deliveries are prohibited and that all project deliveries shall occur during the allowable working hours as identified in the below condition 10n.

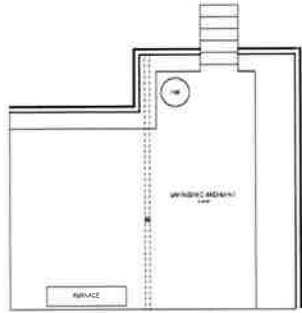
- i. The applicant shall submit a schedule that outlines the scheduling of the site development to the building official. The schedule should clearly show completion of all site grading activities prior to the winter storm season and include implementation of an erosion control plan. The construction 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 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.
- k. A copy of the building permit shall be posted at the site and emergency contact information shall be up to date at all times.
- l. 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.
- m. Inspections shall not be provided unless the Town-approved building permit plans are available on site.
- n. 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).
- o. 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.

- p. 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.
- q. 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.
- r. 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.
- s. 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.
- t. 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.
- u. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.
- v. 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.
- w. BEFORE FINAL INSPECTION, 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.

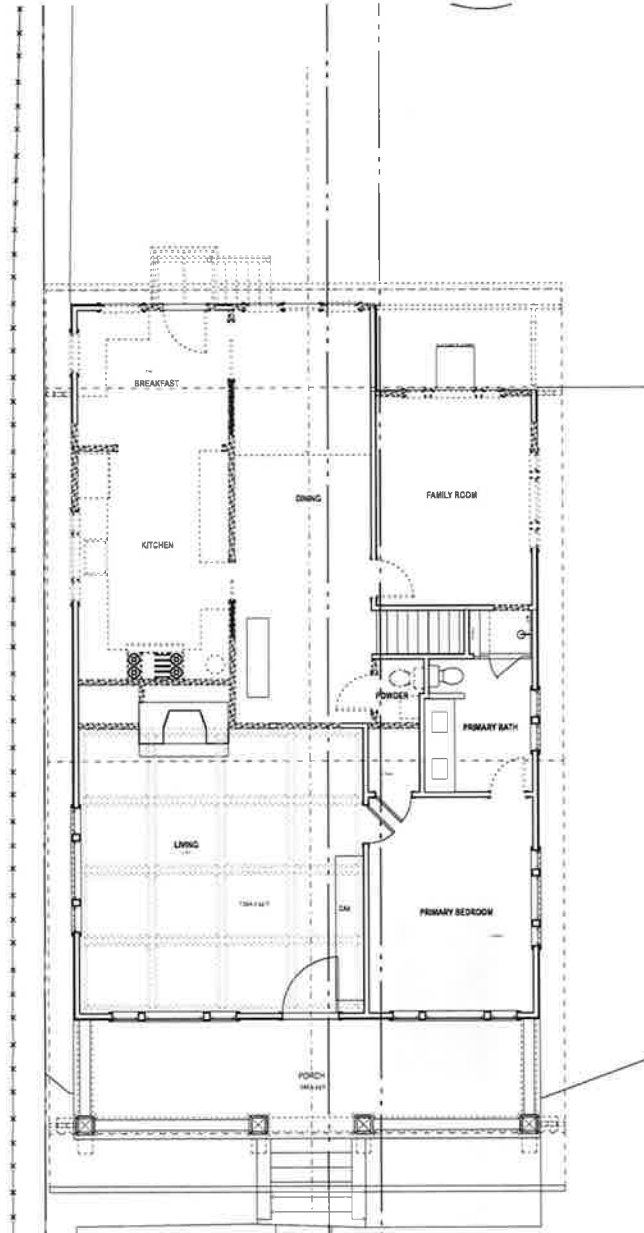
- ii. All construction materials, debris and equipment shall be stored on site. If that is not physically possible, an encroachment permit shall be obtained from the Department of Public Works prior to placing any construction materials, debris, debris boxes or unlicensed equipment in the right-of-way.
  - 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.
10. 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 fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.

# ATTACHMENT 2

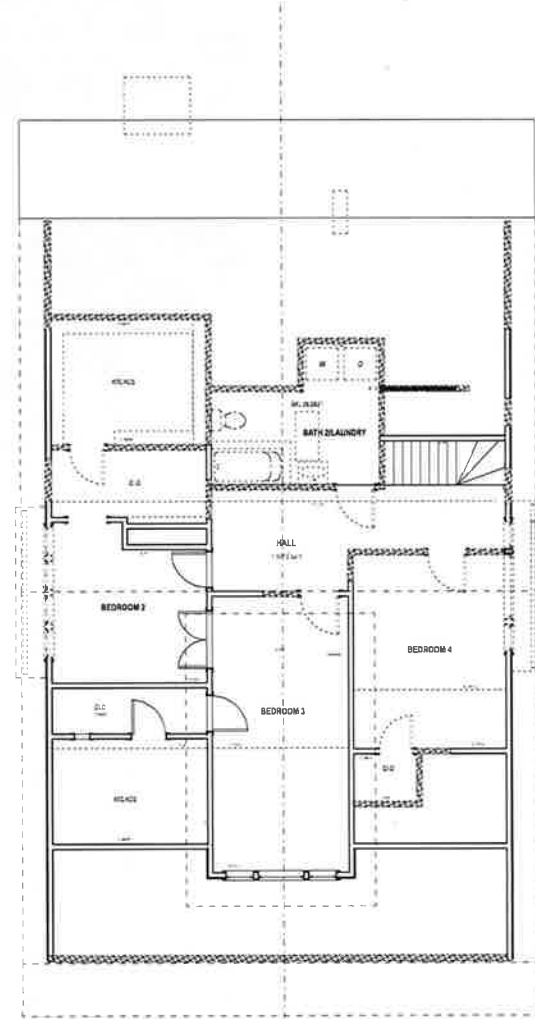




1 EXISTING BASEMENT PLAN  
SCALE 1/4" = 1'-0"



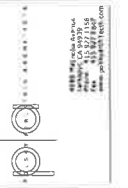
2 EXISTING-DEMOLITION FIRST FLOOR PLAN  
SCALE 1/4" = 1'-0"



3 EXISTING-DEMOLITION SECOND FLOOR PLAN  
SCALE 1/4" = 1'-0"

**WALL LEGEND**

[Symbol]	EXISTING WALL TO REMAIN - NO MODIFICATIONS
[Symbol]	EXISTING WALL - IN ADDED AREA
[Symbol]	EXISTING WALL TO BE VACATED FOR REOPENING
[Symbol]	EXISTING WALL TO BE DEMOLISHED
[Symbol]	NEW WALL



**WIGINTON RESIDENCE**

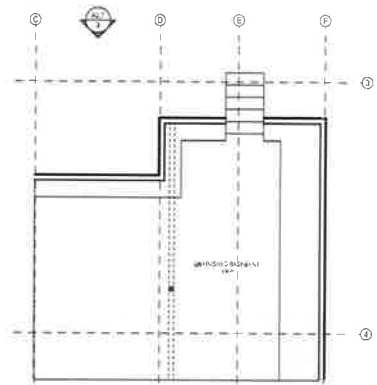
55 SHADY LANE  
ROSS CA  
AP# 073-161-05



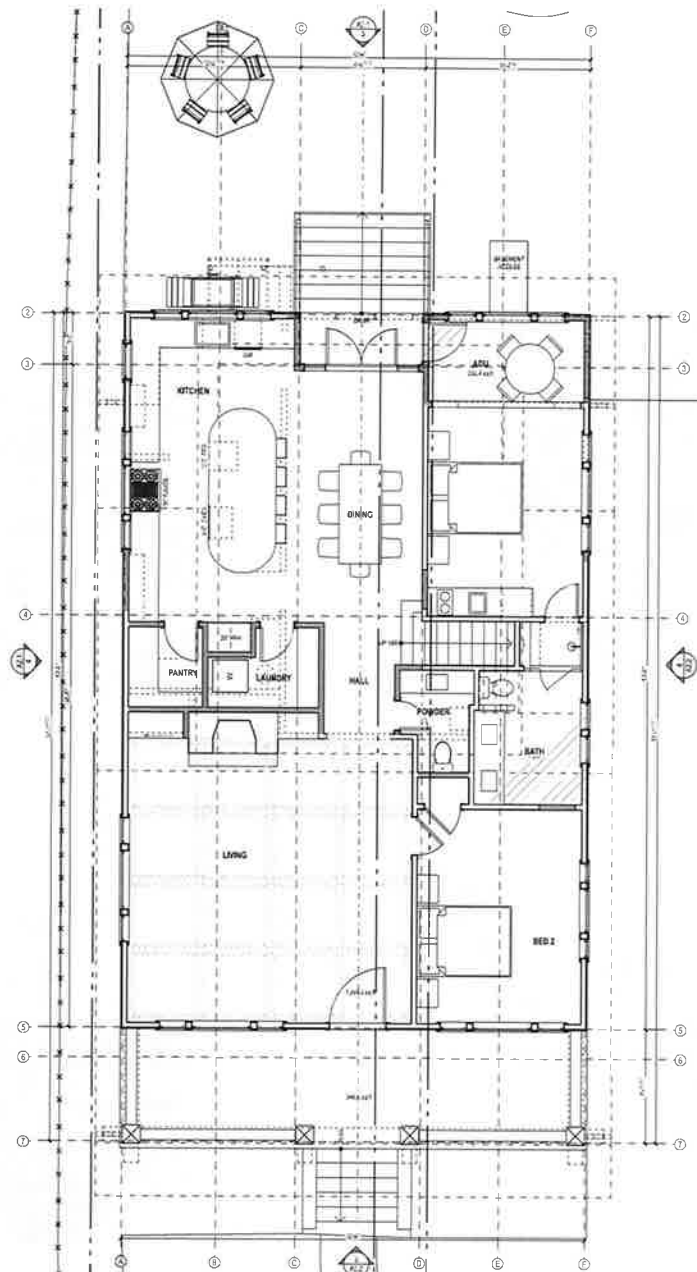
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10/1/00	PLANNING SUBJECT	03
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10/1/00	PLANNING SUBJECT	05
10/1/00	PLANNING SUBJECT	06
10/1/00	PLANNING SUBJECT	07
10/1/00	PLANNING SUBJECT	08
10/1/00	PLANNING SUBJECT	09
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NO. 2 2/18/22  
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JOB# 2127  
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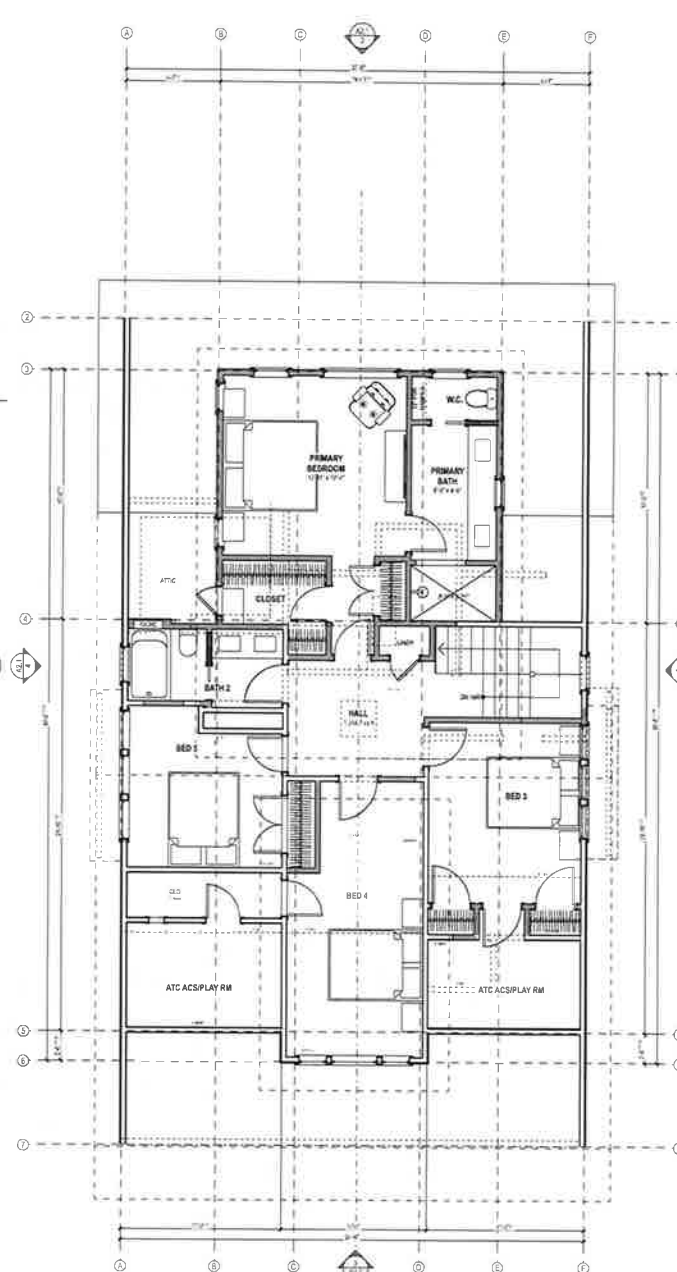
EXISTING-DEMO FLOOR PLANS



1 PROPOSED BASEMENT PLAN  
SCALE: 1/4" = 1'-0"



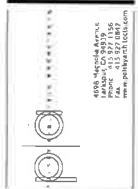
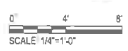
2 PROPOSED FIRST FLOOR PLAN  
SCALE: 1/8" = 1'-0"



3 PROPOSED SECOND FLOOR PLAN  
SCALE: 1/8" = 1'-0"

**WALL LEGEND**

- EXISTING WALL TO REMAIN (1/2")
- MODIFIED WALL
- EXISTING WALL TO BE KEPT CLEAR
- EXISTING WALL TO BE KEPT CLEAR FOR DOOR OPENING
- EXISTING WALL TO BE DEMOLISHED
- NEW WALL



**WIGINTON RESIDENCE**  
38 SHADY LANE  
ROSS CA  
APP 073-161-05



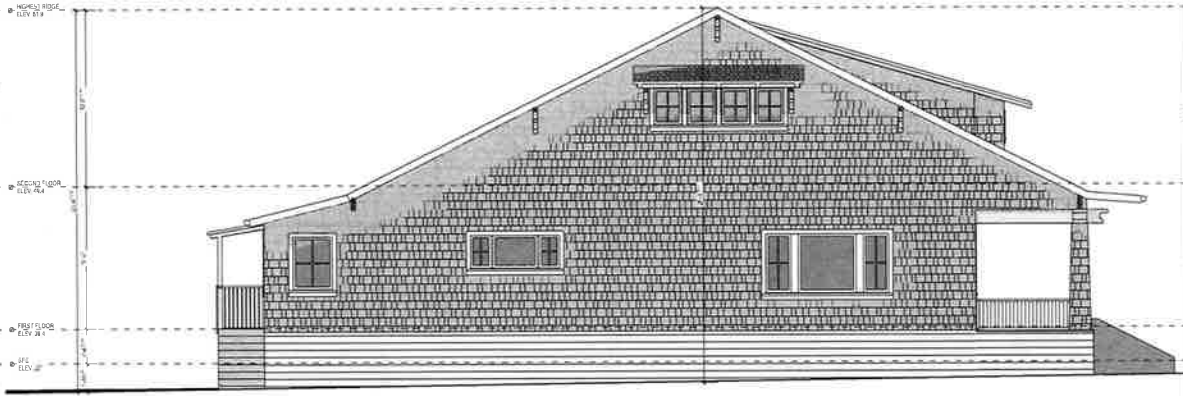
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DATE: 11/15/22  
DRAWN: PA  
CHECKED: 2127  
APPROVED: NOTED

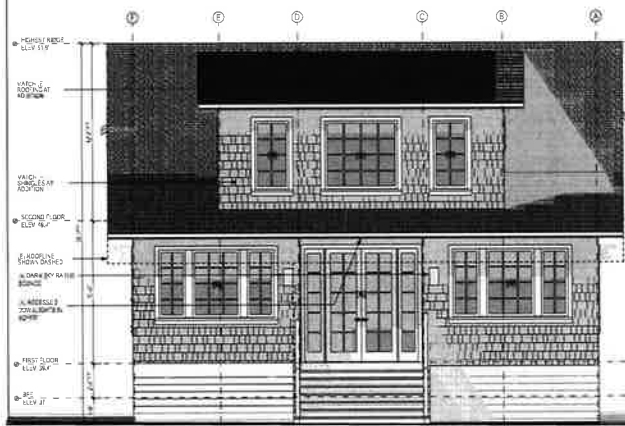
PROPOSED FLOOR PLANS



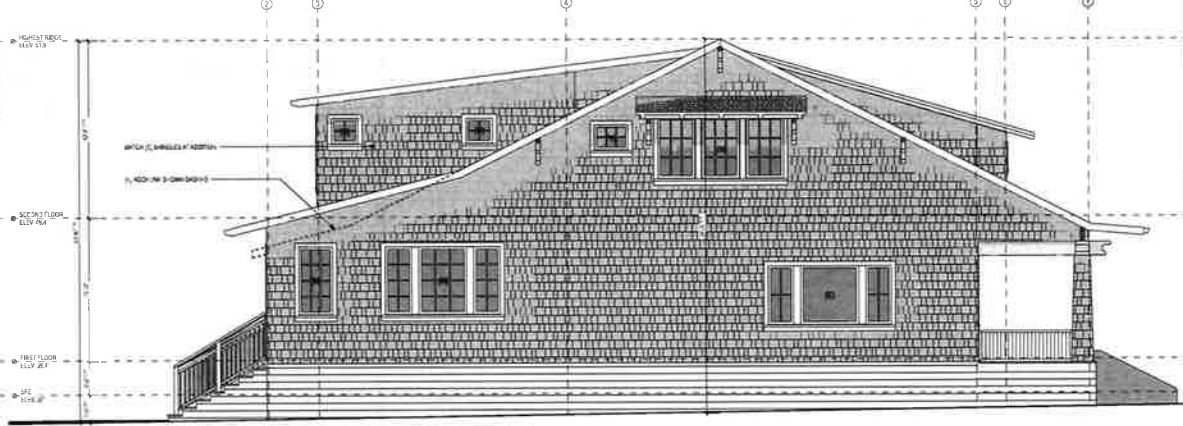
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SCALE: 1/4" = 1'-0"



2 (E) NORTH ELEVATION  
SCALE: 1/4" = 1'-0"



3 EAST ELEVATION  
SCALE: 1/4" = 1'-0"



4 NORTH ELEVATION  
SCALE: 1/4" = 1'-0"

WIGINTON RESIDENCE  
58 SHADY LANE  
ROSS, CA  
APR 07/3-161-05



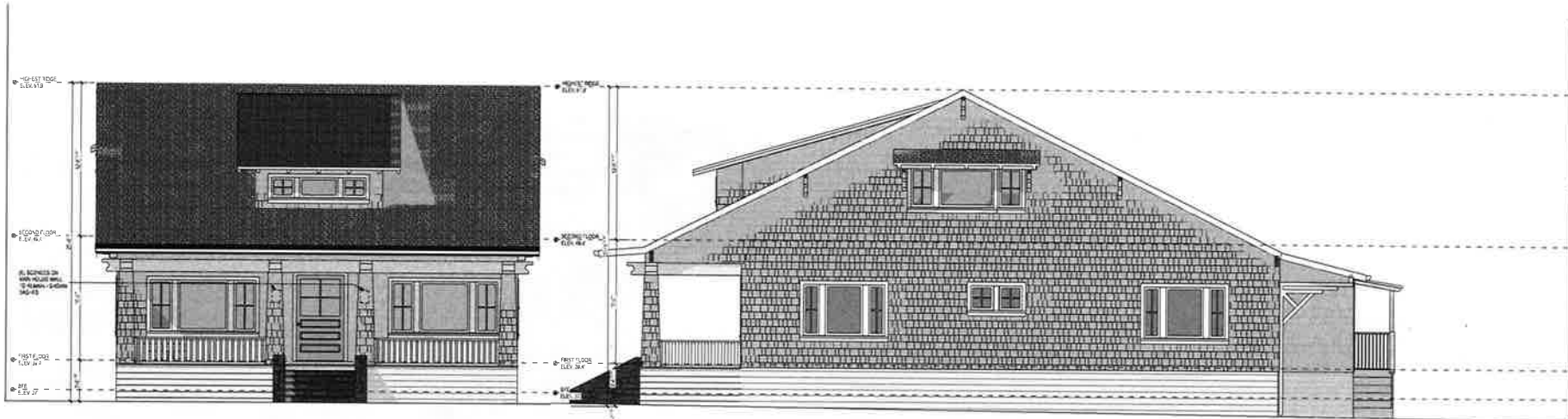
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EXTERIOR ELEVATIONS



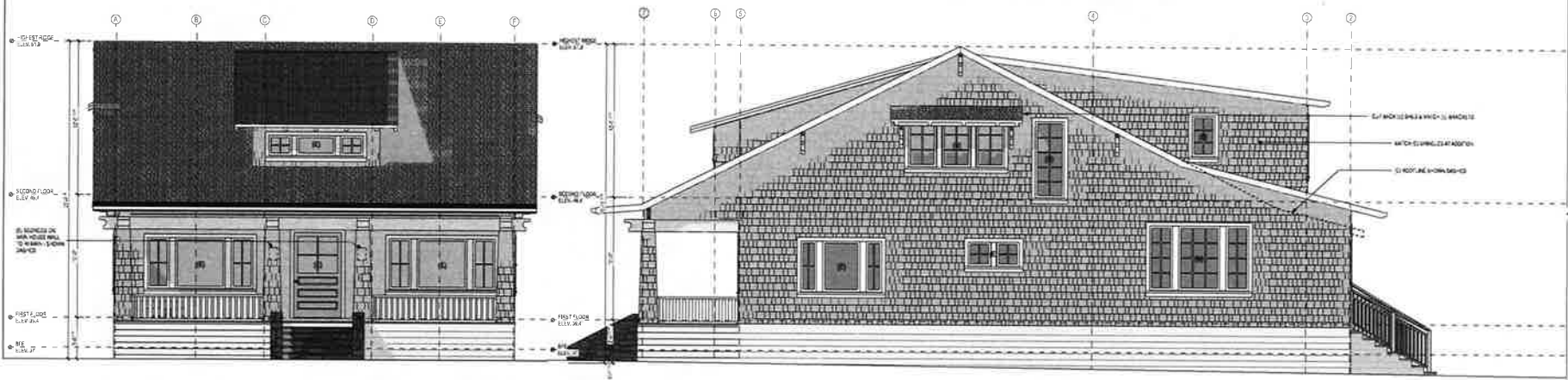
A2.1





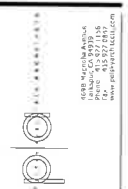
1 (E) WEST ELEVATION  
SCALE 1/4" = 1'-0"

2 (E) SOUTH ELEVATION  
SCALE 1/4" = 1'-0"



3 WEST ELEVATION  
SCALE 1/4" = 1'-0"

4 SOUTH ELEVATION  
SCALE 1/4" = 1'-0"



**WINGTON RESIDENCE**

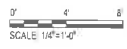
58 SHADY LANE  
ROSS CA  
APR 03-16-15



NO.	DESCRIPTION	DATE
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10	REVISED	04/03/15

DATE: 07/20/15  
BY: [Signature]  
CHECKED BY: [Signature]  
SCALE: NOTED

EXTERIOR ELEVATIONS



A2.2



1 Southwest View  
SCALE: 1/8"=1'-0"



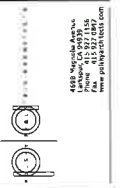
2 Northeast View  
SCALE: 1/8"=1'-0"



3 Northwest View  
SCALE: 1/8"=1'-0"



4 Southeast View  
SCALE: 1/8"=1'-0"



**WIGINTON RESIDENCE**

58 SHADY LANE  
ROSS, CA  
APR 07/13-01-05



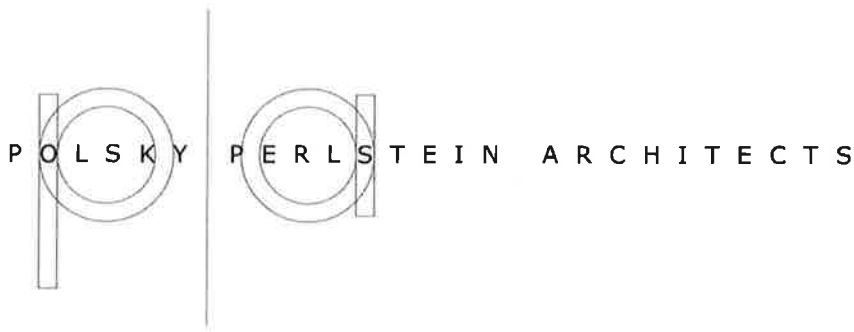
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20	ISSUED FOR PERMITS	04/05/13

1. THESE PERSPECTIVES ARE FOR INFORMATIONAL PURPOSES ONLY AND DO NOT REPRESENT A CONTRACT. THE CONTRACT IS THE SET OF ARCHITECTURAL DRAWINGS AND SPECIFICATIONS. ALL WORK SHALL BE IN ACCORDANCE WITH THE CONTRACT. ALL WORK SHALL BE IN ACCORDANCE WITH THE CONTRACT. ALL WORK SHALL BE IN ACCORDANCE WITH THE CONTRACT.

REV | 2/18/22  
DATE | PA  
JOB # | 2127  
SCALE | NOTED

**PERSPECTIVES**

# ATTACHMENT 3



469B Magnolia Avenue  
Larkspur, CA 94939  
Phone 415 927 1156  
Fax 415 927 0847  
[www.polskyarchitects.com](http://www.polskyarchitects.com)

February 17, 2022

Ross Planning Department  
31 Sir Francis Drake Blvd.  
Ross, CA 94957

**Re: Wiginton Residence      58 Shady Lane, Ross**  
**AP #073-161-05**

To Whom It May Concern:

Below is an itemized list of changes that have been made from the original January 18 ADR hearing. These changes are in response to comments by the ADR at that hearing and at the February 15 hearing.

1. Removed the shed dormers at the side to reduce bulk and mass at the proposed second story. This resulted in a reduction of 93 square feet.
2. Simplified proposed roof forms to better match the existing front of the house.
3. Removed elevated rear deck and replaced with a landing and stair down to the existing patio.

Please call with any questions.  
Regards,  
Elizabeth Raar



## Attachment X: 58 Shady Lane Proposal

- [Project Summary](#)
- [Project Goals](#)
- [Home Details](#)
- [Permit Requirements: Minor Nonconformity](#)
- [Permit Requirements: ADU](#)

### **Project Summary**

Conversion of a portion of the existing home plus a small addition at the rear of the main floor to create a 332 square foot ADU. Along with the small main floor addition, interior remodel of the main floor designed to meet ADU requirements with separate entrance, kitchenette and bathroom.

Transferring square footage from the ADU conversion to allow for a new dormer addition to the rear of the second floor to allow for a primary bedroom suite.

New roof at rear of house. New deck at back of house. New code compliant stairs to the second floor. Any new siding and roofing materials shall match the existing. No change to the front of the house or any portion of the house viewable from the street.

This planning submittal consists of requests for two planning permits:

- ADU - Ministerial
- Minor Nonconformity

### **Project Goals**

There three primary goals for the project at 58 Shady Lane:

- Create an attached ADU that will be liveable for grandparents and future au pairs to our three very young children
- Create an upstairs primary bedroom so parents are on the same level as the children
- Bring up to code the internal stairs and any bedroom windows.

Our approach is to transfer floor area from the newly converted ADU space to allow for a new addition to our primary residence.

### **Home Details**

58 Shady Lane was built in 1906 and is a charming example of a craftsman bungalow. The existing home was built before current zoning and code requirements. The lot is unusually narrow (45' at its widest point) and would be undevelopable by current requirements. In spite, or,

perhaps, because of this it is a charming home that contributes to the overall character of Shady Lane.

**Permit requirements: Minor Nonconformity**

The overall project reduces the FAR of the home. All proposed changes to the home are at the rear of the home and below the existing roofline and therefore not visible from the street. Adjacent neighbors who can see the changes to the home have offered their support of the project.

**Responses to Mandatory Findings: Minor Nonconformity Permit**

- (1) The home was built in 1906.
- (2) The proposed project seeks to keep the house in as historically relevant condition as possible. We will use materials and colors matching the existing home and keep almost entirely within the footprint of the existing home. Further, no changes will be made to the front of the home which is visible from the street.
- (3) The project substantially conforms to relevant design review criteria and standards in Section 18.41.100, even if design review is not required.
- (4) The proposed project would reduce the FAR of the primary home by 10 square feet, as the converted ADU would reduce the FAR of the existing home.
- (5) The proposed changes should have no impact on the health, safety or welfare of any properties in the vicinity.
- (6) The existing home's main level lies above the base flood elevation and the proposed project makes no changes that should impact the home in relation to Flood Damage Prevention regulations in Chapter 15.36.
- (7) TBD by Fire Marshall, but initial phone call with Fire Marshall suggests there will be no issues.
- (8) See attached agreement to indemnification.

**Permit Requirements: ADU**

UNIT/PERMIT TYPES PROJECT	<b>ADU – Ministerial</b> "Accessory dwelling unit" (ADU) means an attached or a detached residential dwelling unit which provides complete independent living facilities. An ADU that meets all the standards and requirements for	58 Shady Lane
---------------------------	---	---------------

	ministerial review shall be approved by Town staff without discretionary review, public notice, or a hearing. Per RMC 18.42.020 & RMC 18.42.040 (a)	
Zoning	ADU allowed on residentially zoned parcels with a primary unit. Per RMC 18.42.030	R-1:B-20
Total Number of Units on Lot	1 ADU max. allowed per lot with primary unit. Per RMC 18.42.075 (a) & (b).	1 ADU proposed
Relationship to Primary Unit	ADU allowed within a new, expanded, and/or converted primary unit or accessory building. Per RMC 18.42.050 (b).	Proposed within converted primary unit
Ingress/Egress	ADU requires separate exterior entrance from primary unit. Per RMC 18.42.075 (a) (2).	New construction separate entrance
Number of Bedrooms	ADU allowed 2 bedrooms max. Per RMC 18.42.055	Studio/1 bedroom
Kitchen & Bathroom Facilities	ADU requires separate kitchen and bathroom from primary unit. Per RMC 18.42.055.	Proposed plans include kitchenette and full bathroom
Height/Floor Level	16' max. height allowed for ADU. ADU allowed at or below the first floor only. Per RMC 18.42.055 (c) & 18.42.065 (d).	ADU on first floor, within main house structure, not accessory
Setbacks	No setbacks are required for ADU conversion of existing structures (including reconstruction). 4' side and rear setbacks are required for ADU new construction. Conforming front setbacks are required. Per RMC 18.42.055 (j).	Within existing structure, no setback required.  In rear of existing home.
Off-Street Parking	No off-street parking is required for the ADU conversion of existing structures (including reconstruction). 1 off-street parking space is required for ADU new construction, except none is required if the ADU is located within 0.5 mile of public transit. Per RMC Section 18.42.055 (f).	<ul style="list-style-type: none"> <li>● Converting an existing structure</li> <li>● Within 0.5 miles of public transport</li> </ul>



Floor Area	0-1 Bedroom ADU: 850 sq. ft. max. allowed. * 2 Bedroom ADU: 1,000 sq. ft. max. allowed. * * Or 50% of the existing primary unit, whichever is less. Per RMC 18.42.055 (e) & 18.42.070 (e).	<ul style="list-style-type: none"> <li>Proposed ADU = 332 sq ft</li> </ul>
Allowances for Nonconforming Floor Area & Lot Coverage	<p>Up to 800 sq. ft. of ADU new construction allowed to be nonconforming, regardless of any existing nonconforming floor area and/or lot coverage.</p> <p>Per RMC 18.42.060. 150 sq. ft. max. external expansion is allowed for ADU ingress/egress. Per RMC 18.42.075 (a) (1).</p>	70 square feet new construction attached to ADU for ingress/egress

# ATTACHMENT 4

October 28, 2021

Matt Carbone  
60 Shady Lane  
Ross, CA 94957

RE: Neighbor Support of 58 Shady Lane Project

To whom it may concern,

The Wigintons have discussed their proposed ADU conversion and dormer addition project for 58 Shady Lane and we offer our support and approval.

Regards,

Matt Carbone

October 19, 2021

Kelton Lynn and Annie Kadavy  
56 Shady Lane  
PO Box 544  
Ross, CA 94957

RE: Neighbor Support of 58 Shady Lane Project

To whom it may concern,

The Wigintons have discussed their proposed project and shared the drawings, and as the neighbors who would be most impacted by such a project, we offer our support and approval.

As it relates to the windows of the proposed ADU, we are approving of the non-clerestory windows in the ADU on the adjacent (south facing) exterior wall as drawn in the plans submitted by Polsky Perlstein Architects.

Regards,

Kelton and Annie

# ATTACHMENT 5

- (g) Eva M. Barker/Joan B. Cox, 58 Shady Lane (AP 73-161-05)  
VARIANCE NO. 757. 20,000 sq. ft. zone. Enclosure of  
 existing deck and replacing of old stairway. Proposed  
 stairway to be 3 ft. from side property line (20 ft.  
 required); addition of 18 sq. ft.

Lot Area	11,405 sq. ft.
Present Lot Coverage	20.1%
Proposed Lot Coverage	20.3%
Present Floor Area Ratio	22.85%
Proposed Floor Area Ratio	23.0%
(15% allowed)	

Mr. Gary Sullivan, a friend of Eva Barker, presented the plans. There being no comments from the audience, Mr. Brekhus moved approval, seconded by Mr. Poore, and passed unanimously.

12. Mr. & Mrs. John Mueller, 5 Woodside Way, Ross (AP 73-232-04)  
Variance No. 737 granted July 11, 1985.  
 Mrs. Mueller appeared before the Council and stated that it was her understanding that when Variance No. 737 had been granted, it included the installation of the window on the north side of the house.  
 After some discussion, Mr. & Mrs. Mueller were given permission to install the north window. This passed with three affirmative votes; Mr. Julien voted against and Mrs. Flemming abstained.
13. Thomas F. Byrnes, Jr., 96 Shady Lane. Review of Landscaping Plans, Walkway, and Driveway. VARIANCE No. 714 granted September 13, 1984.  
 Mr. Lunding said that Mr. Byrnes was out of town and he was requesting permission to change the texture of his driveway. Mr. Brekhus moved approval with the following conditions: (1) that landscaping plans be submitted in 30 days; (2) that the landscaping and gate be completed in 60 days, and (3) total landscaping be approved by the Council. This was seconded by Mr. Poore and passed unanimously.
14. Consideration of Raising Sales Tax to 6½% to be Used for Transportation in Marin County, as Proposed by the Marin County Mayors and Councilmembers.  
 At the request of Mrs. Richard Lorraine of Upper Road West, and Mr. John Barr of Redwood Drive, this item was put over to the November meeting so that other interested citizens might attend and be heard.
15. Reconsideration of the Tozzi Appeal.  
 The Council agreed to uphold the conditions as set forth at the September meeting.
16. Ross Common's Maintenance Contract.  
 Mayor Dirkes explained that he had received a letter from Mr. Mike Carey, Superintendent of the Ross School, in which he wrote that the Ross School is financially unable to continue paying its share of the landscaping maintenance for the Ross Common. Councilmembers Brekhus and Julien indicated that the school should be required to pay its share of the maintenance costs. Councilmember Flemming felt that the school and Town should negotiate a solution and, she continued, there was definitely some responsibility on the school's part. Mayor Dirkes and Councilman Poore favored lending assistance to the school, on a temporary basis, since the Town owns the Common and the school is facing its worse financial crisis yet. After discussion, it was agreed that Councilman Julien and Councilwoman Flemming would attend the Ross School Board meeting to discuss the Ross Common's maintenance. This meeting will be held Tuesday, November 19, at 7:45 P.M. in the school library.

6. Proposed signage shall be reviewed by the planning department prior to installation. Any exterior modifications, including repainting, shall require approval by the Planning Department staff.
7. Any encroachment into the public right of way, such as for installation or replacement of awnings, signage, or seating, requires prior approval of a revocable encroachment permit from the Director of Public Works.
8. This project shall comply with the following requirements of the Department of Public Safety: 1.) A street number must be posted (minimum four inches on contrasting background); 2.) A local alarm system is required.
9. **NO CHANGES FROM THE APPROVED PLANS AND USE SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.**
10. 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.
11. 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.

**b. 58 Shady Lane, Variance No. 1744**

Bradford and Michelle Shaffer, 58 Shady Lane, A.P. No. 73-161-05, R-1: B-20 (Single Family Residence, 20,000 Sq. Ft. Minimum Lot Size), Very Low Density (.1-1 Units/Acre). Variance to allow the installation of an air conditioning unit at the rear of the residence, within the required side yard setbacks (25 foot side yard setbacks required, lot is approximately 40 feet wide).

*The existing residence is nonconforming in setbacks.*

Mayor Cahill asked for a motion.

Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to approve Planning Consent Calendar Item "b" as submitted by staff. Motion carried unanimously.

**58 Shady Lane, Variance No. 1744**

1. The air conditioner may be installed within the north side yard setback, or behind the residence and further from the property lines, as shown on the site plan. The air conditioner shall be elevated to minimize damage from flooding.
2. Operation of the air conditioner shall comply with the Town noise ordinance (Ross Municipal Code Chapter 19.20).
3. 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.

4. 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 for review and approval prior to any changes.
5. Failure to secure required building permits and/or begin construction by June 11, 2010, will cause the approval to lapse without further notice.
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 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.

c. **39 Fernhill Avenue, Amendment to Variance, Design Review No. 1661**  
The Branson School, 39 Fernhill Avenue, A.P. Nos. 73-082-01, 73-082-12, 73-141-03 and 73-151-05, R-1:B-A (Single Family Residence, One Acre Minimum Lot Size), Limited Quasi-Public/ Private Service. Amendment to plans approved by the Town Council on September 11, 2007, for new buildings and related site improvements at the private high school campus. The applicant requests approval of plans to replace the existing entry structure at the intersection of Fernhill Avenue and Circle Drive. The applicant's engineer has determined that the existing structure may not withstand an earthquake.

Mayor Cahill asked for a motion.

Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to approve Planning Consent Calendar Item "c" as submitted by staff. Motion carried unanimously.

**39 Fernhill Avenue, Amendment to Variance, Design Review No. 1661**

1. This approval allows for demolition of the existing entry structure and for construction of new entry structures at the entrance to the school.
2. The unimproved areas in front of the entry, within the right-of-way, shall be landscaped to preclude parking. Staff shall review and approve the landscape plan prior to installation.
3. A recorded revocable encroachment permit shall be required from the public works department for all improvements within the Town right-of-way.
4. The project shall be subject to all conditions of the September 11, 2009, Town Council approval.
5. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. No extension of the construction time is granted by this approval and the proposed modifications shall fall under the existing building permit for the project. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice. As detailed in Municipal Code Section 15.50.040 construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required



outlined in the staff report, including the revised indemnity condition provided by staff. Motion carried unanimously.

**Garden Road Conditions:**

1. The approval is to allow the two patio areas and shed behind the garage, within required yard setbacks.
2. 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.

**c. 58 Shady Lane, After-the-fact Variance No. 1931**

John Coan, 58 Shady Lane, A.P. No. 73-161-05, R-1:B-20 (Single Family Residence, 20,000 sq. ft. min. lot size), Low Density (1 - 3 units per acre), Zone A (High Risk Area with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30 year mortgage). Request for after-the-fact watercourse design review and setback variances for back yard landscape improvements including: 1.) gas fire pit within south side yard setback (20 feet required, 9 feet proposed); 2.) synthetic turf sport court and basketball hoop within north side yard setback (20 feet required, 3 feet proposed); and 3.) putting green within south side yard setback (20 feet required, 3 feet proposed) and rear yard setback (40 feet required, 4 feet proposed) and within 25 feet of the top bank of the creek.

<b>Lot Area</b>	<b>12,412 square feet</b>
<b>Existing Floor Area Ratio</b>	<b>2,437 sq. ft. 19.6%</b>
<b>Proposed Floor Area Ratio</b>	<b>2,437 sq. ft. 19.6% (15% permitted)</b>
<b>Existing Lot Coverage</b>	<b>2,288 sq. ft. 18.4%</b>
<b>Proposed Lot Coverage</b>	<b>2,288 sq. ft. 18.4% (15% permitted)</b>
<b>Existing Impervious Surfaces</b>	<b>3,226 sq. ft. 26.0%</b>
<b>Proposed Impervious Surfaces</b>	<b>3,198 sq. ft. 25.8%</b>

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the project subject to the findings and conditions outlined in the staff report, including the revised indemnity condition provided by staff.

John Coan, applicant, is available to answer any questions of the Council.

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Mayor Kuhl opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Town Attorney Greg Stepanicich explained that the expense is now charged to the applicant, which is standard.

Council Member Small supported the staff report, but asked the Council and staff to look at the after-the-fact issues surrounding the creek at their retreat. She felt there should be a greater penalty.

Mayor Kuhl asked for a motion.

**Mayor Pro Tempore Brekhus moved and Council Member Hoertkorn seconded, to approve 58 Shady Lane, After-the-Fact Variance No. 1931 subject to the findings and conditions outlined in the staff report; deleting Condition No. 1, so the basketball hoop can remain; and including the revised indemnity condition provided by staff. Motion carried unanimously.**

**58 Shady Lane Condition:**

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.

**e. 1 Berry Lane, Variance, Design Review and Demolition Permit No. 1915**

Bill Conrow, 1 Berry Lane, A.P. No. 72-231-18, R-1:B-A (Single Family Residence, 1 acre minimum lot size), Very Low Density (.1 - 1 unit per acre), Zone A (High Risk Area with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30 year mortgage). Public hearing to consider an application for a setback variance, demolition permit and design review for a project that includes the following: 1.) 312 square foot addition to lower and upper levels of primary residence, partially within north side yard setback (25 feet required, 3 feet proposed to building wall); 2.) 347 square foot, single-story, addition to guest house, partially within 25 feet of the top bank of a seasonal creek; 3.) 43 square foot storage structure up to 8' 6" tall within north side yard setback (25 feet required, 3 feet proposed); and 4.) landscape improvements including built-in barbecue area within north side yard setback (25 feet required, 15 feet proposed), replacement of patio areas and landscape retaining walls, new arbor, outdoor fireplace and fire pit. The landscape modifications include 200 cubic yards of cut and 30 cubic yards of fill.

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completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice. As provided in the Town of Ross Municipal Code Section 15.50.040, construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.

ww. 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.)

xx. The construction management plan shall be submitted in time to be incorporated into the job set of plans. The construction management plan shall become a binding document, and failure to adhere to the plan may result in stoppage of the project.

yy. 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.

14. 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.

*Council Member Russell reconvened his position on the Town Council.*

**19. 58 Shady Lane, Variance and Design Review No. 1937**

Richard and Jennifer Kaufman, 58 Shady Lane, A.P. No. 73-161-05, R-1:B-20 (Single Family Residence, 20,000 sq. ft. min. lot size), Low Density (1 - 3 units per acre), Zone A (High Risk Area with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30 year mortgage). Application for design review and variances from the side yard setback, floor area, and lot coverage regulations for a new, detached, 399 square foot garage at the rear of the site, partially located in the south side yard setback (10 foot setback required for a garage, 6.5 feet proposed). The maximum roof ridge height would be 15' 8" and materials would match the existing residence. The applicants also propose to enlarge an upper level window on the south-facing elevation of the residence and provide a balcony and railing for the window within the required side yard setback (20 feet required, 6' 11" proposed).

<b>Lot Area</b>	<b>12,213 square feet</b>
<b>Existing Floor Area Ratio</b>	<b>2,251 sq. ft. 18.4%</b>
<b>Proposed Floor Area Ratio</b>	<b>2,650 sq. ft. 21.7% (15% permitted)</b>
<b>Existing Lot Coverage</b>	<b>2,322 sq. ft. 19.0%</b>
<b>Proposed Lot Coverage</b>	<b>2,862 sq. ft. 23.4% (15% permitted)</b>
<b>Existing Impervious Surfaces</b>	<b>3,832 sq. ft. 31.4%</b>
<b>Proposed Impervious Surfaces</b>	<b>3,672 sq. ft. 30.1%</b>

*The existing residence is nonconforming in setbacks and covered parking.*

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the project subject to the findings and conditions outlined in the staff report.

Mayor Pro Tempore Brekhus discussed the garage and asked staff the reason for reducing the size of the garage. Senior Planner Semonian added that as proposed, it is a single car, oversized garage. The reduced size one-car garage complies with the ADR Group and the neighbor concerns. A two-car garage would be a taller and larger structure. Council Member Hoertkorn expressed concern for the dormers.

Rich Kaufman, applicant, appreciated the Council considering their request. There has been a lot of energy put into the process. They are requesting a generously sized one-car garage, which was a result from the ADR Group meeting. They requested modifying a second story window for fire egress. They also desired a railing, but neighbors expressed concern. Regarding the gate, it has a detrimental impact to the yard. A 4-foot gate is meaningful. If there is a technological solution to keeping it he would have an open mind. His neighbor's gate opens immediately, but the problem is inadvertent opening, which is very common. He is not sure of the solution. He can remove the keypad. He presented photographs of all gates along Shady Lane for the Council's consideration. They have reduced the size of the garage already significantly. Both neighbors have sheds in their backyards. They designed the project to be neutral and the wording in the condition is to go back to the previous nature of the property from before he owned it. They are prepared to remove impervious surfaces that equal the 399 sq. ft. for the garage. They wanted to maintain the basketball area, but remove the golf area and front pathway in terms of impervious surfaces.

Senior Planner Semonian added that if the gate is moved back it would be much less attractive to the streetscape.

Mayor Kuhl opened the public hearing on this item.

Peter Nelson, Circle Drive resident, felt the new proposal for the garage from staff is consistent with what was discussed at ADR. He believed there is a remarkable amount of confusing in regard to pervious or impervious surfaces. He understands all the gates on Shady Lane do not conform, so there is important logic to have a gate that makes sense.

Council Member Hoertkorn asked the Council if they are all in agreement about no dormers. Council Member Small hoped the garage is used as a garage. Her concern is to have the garage

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used for a vehicle, bicycles and strollers. This applicant could sell this house and someone could move in and enjoy the light and make it an art studio. The idea is to have the garage be a garage. Architects have a design and the aesthetics reflect the house, but then it looks like a guesthouse, but in her view it is suppose to be a garage. She would not support two French doors, it should be a garage door. Charles Theobald, architect, is trying to create a space that appears as it was always there in regard to historic homes. He is a big proponent of natural light. He liked to present the opportunity to have a wider opening. He also likes the idea of having open space. Mr. Kaufman understands the concern of being an art studio, so he would make the door solid. He rather have a dormer with a blacked out window or something that looks good. The doors are for function, not light and air. He is not chasing light or air and respects the concerns of the Council, but respectfully requested that they focus on functionality.

Mayor Kuhl asked staff if this matter could be worked out between staff. Senior Planner Semonian believed eliminating the rear door and rear window would make it less likely to be used as living space in the future. The size proposed is just over 15 ft. by 26 ft. 4-inches. It is a really oversized one-car garage. Architect Theobald stated given the site can support 20%, the existing house is currently under 20%. They are only asking for 99 sq. ft., which is reasonable. It is a better solution to have an oversized garage, so it is used to store a vehicle.

Mayor Pro Tempore Brekhus noted that this property is at 20% FAR and all other properties are at 15%. Senior Planner Semonian explained that they are limited to 15% FAR because they are in that zoning district. All yellow areas are 15%, which is based on lot size.

There being no further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Mayor Russell believed they reached an agreement on the rear window, but they need to reach an agreement on the size of the garage. The Council agreed with the proposed size of the garage.

Mayor Kuhl asked for a motion.

**Council Member Brekhus moved and Council Member Hoertkorn seconded, to approve 58 Shady Lane, Variance and Design Review, File No. 1939, subject to the findings and conditions outlined in the staff report with the following amendments: eliminate the back window; remove the railing on the residence; allow the applicant to maintain the front gate; remove the double doors and allow the applicant to work with staff; and impervious surfaces to remain neutral. Motion carried unanimously.**

**58 Shady Lane Conditions:**

Approve the construction of a new garage at the site subject to the following conditions of approval shall be reproduced on the cover sheet of the plans submitted for a building permit:

1. Except as otherwise provided in these conditions, the project shall substantially comply with the plans approved by the Town Council on December 12, 2013, dated 11/25/13. Plans submitted for the building permit shall reflect any modifications required by the Town Council and these conditions.

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2. Variances are approved to permit the new structure for covered parking use and not for habitable space.
3. The garage shall be reduced to 20' by 15' in size. The plate height is limited to 8' 6" and the height of the garage shall be proportionately reduced to approximately 14' 1". The window at the rear of the garage shall be eliminated and the double doors proposed on the north elevation shall be modified to a single door. The railing proposed for the south elevation of the main residence is not approved.
4. ~~The gates shall be removed as proposed prior to project final. No vehicle gate shall be located within 18 feet of the east side of the pedestrian path prior to project final. All gates and the garage door shall be automatic prior to project final.~~
5. No toilet is permitted in the garage structure without prior approval of the Town Council.
6. Impervious surfaces shall be limited to existing conditions ~~that existed prior to the installation of the artificial turf, sports court and golf area.~~ Pervious surfaces shall not be converted to impervious surfaces, even after project final, without prior Town Council approval.
7. No patio areas or structures are permitted within the rear yard setback or within 25 feet of the top bank of the creek.
8. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
9. The following conditions relate to protection of the creek during all phases of construction:
  - a) The creek shall be protected during construction to ensure no soil, concrete, cement, slurry, or other construction debris is permitted to enter the creek. If any soil, concrete, cement, slurry, or other debris inadvertently enters the creek, the material shall be cleaned up and removed from the channel immediately
  - b) Staging/storage areas for equipment, materials, fuels, lubricants and solvents, shall be located outside of the creek channel and associated riparian area.
  - c) Spoil sites shall not be located within the stream channel, where spoil may be washed back into the creek. Building materials and construction equipment shall not be stored where materials could fall or be washed into the creek.
10. No changes from the approved plans, before or after project final, including changes to the materials and material colors, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town for review and approval prior to any change. The applicant is advised that changes made to the design during construction may delay the completion of the project and will not extend the permitted construction period.
11. A tree protection plan for all protected trees on or near the project site is required with the building permit application. The plan shall comply with the requirements of Ross Municipal Code Section 12.24.100. The applicants'/project arborist shall review the final construction-level drawings and landscape plans, including civil, structural, grading, drainage, irrigation and utility plans (arborist should note the dates of the plans reviewed). All tree protection conditions recommended by the project arborist shall be included on all relevant sheets of the building permit plans to ensure compliance with the arborist recommendations. The plan shall include a schedule of when the consulting arborist should inspect the site or be present for activities such as trenching in the tree protection area. Written reports or emails shall be provided to the town planner after each inspection. The project arborist shall inspect the site prior to issuance of a building permit to determine if tree protection fencing has been

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properly installed and shall submit written confirmation to the town planner that the tree protection is in place prior to building permit issuance.

12. The project shall comply with the Fire Code and comments of the Ross Valley Fire Department (RVFD), including the following (additional conditions may be imposed during review for compliance with the Fire Code):

a) The applicant shall maintain an effective firebreak around the structure by removing and clearing all flammable vegetation and/or other combustible growth. Consult the Ross Valley Fire Department Fire Protection Standard 220 Vegetation/Fuels Management Plan available online at [Rossvalleyfire.org](http://Rossvalleyfire.org).

b) Address numbers at least 4" tall shall be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. The address numbers shall be illuminated by a light controlled by a photocell and switched only by a breaker so the numbers will remain illuminated all night.

c) A Knox override switch is required for the gate unless exempted by the Ross Valley Fire Department.

d) Sprinklers are required.

e) Fire Alarm may be required.

f) Applicant may propose alternate materials or method in accordance with Section 104.9. All approved alternates requests and supporting documentation shall be included in the construction drawings.

g) The following inspections are required by the Ross Valley Fire Department: 1.) defensible space/vegetation management plan; 2.) Sprinkler Hydro/Final and 3.) project final.

13. The project shall comply with the following conditions of the Town of Ross Building Department and Public Works Department:

zz. Applicants may be required to return for additional Town Council review, which requires payment of additional application fees, for any roof projections that are not identified on the plans submitted for Town Council review. Where a roof area is visible from off site, roof projections shall be located to minimize their appearance. Exposed galvanized material is discouraged. All vents and flue pipes shall utilize a finish to blend into adjacent surfaces. If possible, vents may be concealed from view in forms compatible with the structure. Vents for cooking appliances should be located or directed to avoid noise and odor impacts to adjacent sites and shall be located out of required setback areas.

aaa. The plans submitted for the building permit shall detail the gutter and downspout design and location for review and approval by the Town. Applicants may be required to return for additional Town Council review, which requires payment of additional application fees, for any gutters or downspouts that are not identified on the plans submitted for Town Council review. A specification sheet shall be provided and the proposed color and finish material shall be specified. Downspouts should be located to minimize their appearance from off site locations. Gutters and downspouts should have a finish to blend into adjacent surfaces or underlying trim. Exposed galvanized material is not permitted.

bbb. 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

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people shall file for a business license. A final list shall be submitted to the Town prior to project final.

ccc. A registered Architect or Engineer's stamp and signature must be placed on all plan pages.

ddd. 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.

eee. Plans submitted for a building permit shall detail the required openings in the foundation walls to allow for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (See FEMA Technical Bulletin 1-93 <http://www.fema.gov/pdf/fima/job2.pdf> for more information)

fff. Flood resistant materials shall be used below the base flood elevation. All structural and non-structural building materials at or below the base flood elevation must be flood resistant. A flood-resistant material is defined as any building material capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. Flood-resistant materials must be used for all building elements subject to exposure to floodwaters, including floor joists, insulation, and ductwork. Any building utility systems must be elevated above the base flood elevation or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. (See FEMA Technical Bulletins 2-93 and 11-01 at <http://www.fema.gov/> for more information)

ggg. A FEMA elevation certificate shall be submitted to the Town with the building permit plans and prior to project final.

hhh. The drainage design shall comply with the Town's stormwater ordinance (Ross Municipal Code Chapter 15.54). 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).

iii. An encroachment permit is required from the Department of Public Works prior to any work within a public right-of-way.

jjj. 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.

kkk. 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).



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lll. A copy of the building permit shall be posted at the site and emergency contact information shall be up to date at all times.

mmm. 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.

nnn. Inspections shall not be provided unless the Town-approved building permit plans are available on site.

ooo. 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).

ppp. 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.

qqq. 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.

rrr. 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.

sss. Smoke detectors provided with AC power and interconnected for simultaneous alarm are required.

ttt. Carbon monoxide alarms shall be provided outside of each dwelling unit sleeping area in the immediate vicinity of the bedroom(s) and on every level of a dwelling unit.

uuu. Address numbers at least 4" tall shall be in place adjacent to the front door. If not clearly visible from the street, additional numbers are required. The address numbers shall be internally illuminated or illuminated by an adjacent light controlled by a photocell and switched only by a breaker so the numbers will remain illuminated all night.

vvv. The applicant shall work with the Public Works Department to repair any road damage caused by the construction. Applicant is advised that, absent clear video evidence to the contrary, road damage must be repaired to the satisfaction of the Town prior to project

final. Damage assessment will be at the sole discretion of the Town, and neighborhood input will be considered in making that assessment.

www. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance (copies available at [www.townofross.org](http://www.townofross.org)). If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice. As provided in the Town of Ross Municipal Code Section 15.50.040, construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.

xxx. 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.)

yyy. The construction management plan shall be submitted in time to be incorporated into the job set of plans. The construction management plan shall become a binding document, and failure to adhere to the plan may result in stoppage of the project.

zzz. 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.

14. 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.

**20. Town Council consideration of Nuisance Abatement Orders and penalties for 51 Wellington Avenue, trampoline structure within setbacks and over permitted lot coverage.**

*This item was removed from the agenda.*

**End of Public Hearings on Planning Applications – Part II.**

- 21. No Action Items:**  
**a. Council correspondence received**

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Mayor Kuhl asked for a motion.

**Council Member Russell moved and Mayor Pro Tempore Brekhus seconded, to adopt the Consent Agenda as submitted. Motion carried unanimously.**

**End of Consent Agenda.**

*Council Member Robbins recused herself from Agenda Item 12a. to avoid a conflict of interest.*

**12. Public Hearings on Planning Projects - Part I.**

*Public hearings are required for the following planning application. Staff anticipates that this item may be acted upon quickly with no oral staff report, Council discussion, or public comment. If discussion or public comment is requested, the Council may consider the item later in the agenda.*

**a. 58 Shady Lane, Design Review No. 2018-024 DR, and Town Council consideration of adoption of Resolution No. 2077.**

Richard and Jennifer Kaufman, 58 Shady Lane, A. P. No. 073-161-05, R-1:B-20 (Single Family Residence, 20,000 sq. ft. min. lot size), Low Density (1-3 Units/Acre), Zone AE and X (lot partially within a regulatory floodway). The applicant is requesting Design Review to allow for the construction of an upper bank retaining wall and bank erosion protection measures adjacent to the properties at 58 and 60 Shady Lane.

Planning Manager Heidi Scoble summarized the staff report and recommended that the Council approve Resolution No. 2077 approving design review to allow a creek stabilization project.

Kevin Wasniewski, representing the applicants, briefly read into the record a statement from the applicants apologizing for not being present due to a prior engagement. Thanked everyone for inspecting the bank and indicated that they have been in communication with their adjacent neighbors all supporting this bank stabilization.

Council Member McMillan asked staff why formal design review and Council approval is needed on something that seems so necessary. Planning Manager Scoble responded that anytime there is a project within 25 ft. from the top of the bank Design Review is required.

Mayor Kuhl opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and brought the matter back to the Council for action.

Mayor Kuhl asked for a motion.

**Mayor Pro Tempore Brekhus moved and Council Member Russell seconded, to approve Shady Lane Design Review No. 2018-024 DR, and adopt Resolution No. 2077. Motion carried 4-0. (Robbins recused)**

*Council Member Robbins resumed her seat at dais.*

**End of Public Hearings on Planning Projects - Part I.**

# ATTACHMENT 6

**MINUTES**  
Regular Meeting of the  
Ross Advisory Design Review (ADR) Group  
7:00 p.m., Tuesday, January 18, 2022

Video and audio recording of the meeting is available online at the Town's website at:  
[townofross.org/meetings](http://townofross.org/meetings).

**1. 7:00 p.m. Commencement**

Chair Mark Kruttschnitt called the meeting to order and called roll.

Present: ADR Group Members Josefa Buckingham, Laura Dewar, Mark Fritts, Mark Kruttschnitt, Stephen Sutro; Director Patrick Streeter and Planner Matthew Weintraub representing staff.

**2. Approval of Minutes.**

The ADR Group unanimously approved the October 19, 2021 meeting minutes.

**3. Open Time for Public Comments**

No comments were submitted.

Chair Kruttschnitt expressed gratitude for Director Streeter's service and welcomed Town Manager Christa Johnson.

**4. Planning Application.**

**a. Corte Madera Creek Flood Risk Management Project**

**Project Applicant:** Marin County Flood Control and Water Conservation District

**Project Location:** Corte Madera Creek between Lagunitas Bridge and the Ross-Kentfield boundary

**A.P.N.:** 073-242-27; 073-242-06; 073-242-10; 073-242-13; 073-242-14;  
073-242-19; 073-273-39; 073-273-40; 073-273-49; 073-273-50;  
073-273-51; 073-273-52; 073-273-53; 073-273-54; 073-273-55;  
073-273-56; 074-011-82

**Project Summary:** The applicant is requesting approval of Design Review to make channel improvements consistent with Alternative 1 of the Final Environmental Impact Report (FEIR) for the Corte Madera Creek Flood Risk Management Project Phase 1, as recommended by the Ross Town Council on May 13, 2021, and as adopted by the Marin County Board of Supervisors on August 17, 2021. The project includes: remove the existing wood fish ladder; regrade, stabilize, and revegetate the creek bed and banks at existing constriction points; remove existing wood retaining walls; extend concrete wingwalls no higher than existing grade at tops of banks; and construct new fish resting pools within the channel.

Planner Weintraub introduced the project.

Project Manager Joanna Dixon, Marin County Flood Control & Water Conservation District, and Senior Program Coordinator Gerhard Epke, GHD, provided project background and described the project.

ADR Group Members asked for and received further information regarding:

- Design, finish and screening of the new sheet pile wall in relationship to hydrology.
- Chain link fence design.
- Construction access and staging areas near Lagunitas Bridge.

Chair Kruttschnitt opened the public comment.

Sterling Sam, property owner at 29 Sir Francis Drake Boulevard, commented that the project will use more area on his property than any other residential property; that he has not been provided an exact area calculation or tax reappraisal; and he questions why the 2005 Army Corps of Engineers flood wall project was not implemented.

Project Manager Joanna Dixon, Marin County Flood Control & Water Conservation District, responded that the subject property has been surveyed and the District is in process of coordinating the easement with Mr. Sam.

Chair Kruttschnitt closed the public comment.

ADR Group Members discussed the merits of the project and provided the following comments:

Mark Kruttschnitt:

- Recommends maximum height for chain link fence for safety; and black vinyl finish.

Stephen Sutro:

- No design comments.
- Supports the project.

Mark Fritts:

- Concurs with black vinyl finish on chain link fence; supports extending fence up to Frederick Allen Park.

Josefa Buckingham:

- No problem with design of the whole project.
- Supports investing in fence design which is most visible component.

Laura Dewar:

- Concurs with black vinyl finish on chain link fence; supports investing in fence design which is most visible component.
- Likes the extension of existing decorative wall detail to new segments.

The ADR Group unanimously recommended Design Review approval with preference for black vinyl finish on new chain link fence.

Chair Kruttschnitt closed the hearing.

**b. 36 Glenwood LLC Residence, 36 Glenwood Avenue (A.P.N. 073-131-30)**

**Property Owner:** 36 Glenwood LLC

**Project Designer:** Hart Wright Architects

**Project Summary:** The applicant is requesting approval of Design Review to construct a new 728-square foot detached accessory building (“art studio”) and to construct new landscape structures including pond, bridge, deck, and shade structure in the rear yard of the existing single-family residence.

Planner Weintraub introduced the project.

Architect Eliza Wright, Landscape Architect Eric Blasen, and applicant Eric Soifer provided project background and described the project.

Chair Kruttschnitt opened the public comment. No comments were received. Chair Kruttschnitt closed the public comment.

ADR Group Members discussed the merits of the project and provided the following comments:

Laura Dewar:

- Overall great project; makes sense to reduce the grass area due to drought conditions.
- Notes that the studio design is distinct and separate from the primary buildings.
- Agrees with revised, reduced trellis height.
- Recommends approval.

Josefa Buckingham:

- Supportive of the project; lot is very large and improvements are not visible outside the property.
- Notes that the studio design is distinct and separate from the primary buildings.
- Notes that the studio is close to a minimum required side yard setback; agrees that sufficient screening is provided.

Mark Fritts:

- Supports isolated location and distinct design of the studio.

Stephen Sutro:

- Supports the project as designed without any suggested modifications.

Mark Kruttschnitt:

- Supports the project as designed without any suggested modifications.

The ADR Group unanimously recommended Design Review approval as proposed.

Chair Kruttschnitt closed the hearing. ADR Group Member Kruttschnitt was recused from the meeting. ADR Group Member Buckingham elevated to chair.

**c. Wiginton Residence, 58 Shady Lane (A.P.N. 073-161-05)**

**Property Owner:** Robert and Madeline Wiginton

**Project Designer:** Polsky Perlstein Architects

**Project Summary:** The applicant is requesting approval of Design Review to make alterations and additions at the back of the existing single-family residence, including a new second-story addition, new first-story deck, and conversion of a new attached first-story accessory dwelling unit. Nonconformity Permit is requested to allow for alterations to an existing nonconforming residence that do not result in an increase to nonconforming floor area. Accessory Dwelling Unit (ADU) Permit Exception is requested to allow for the amount of area converted to an accessory dwelling unit to transfer as an allowance for a new addition. Variance is requested to allow for the construction of a new deck which is nonconforming with respect to side yard setback and building coverage.

Planner Weintraub introduced the project.

Architects Jared Polsky and Elizabeth Raar provided project background and described the project.

ADR Group Members asked for and received further information regarding:

- Roof design.
- Base materials.
- ADU ministerial standards; entrance location; parking requirements.

Chair Buckingham opened the public comment. No comments were received. Chair Buckingham closed the public comment.

ADR Group Members discussed the merits of the project and provided the following comments:

Stephen Sutro:



- Generally, supports the project concept of ADU conversion and rear addition.
- Material selection and details are harmonious.
- Uncomfortable with complex roof forms at the rear; recommends simplification.
- Wants to see a revised design prior to project moving forward.
- Could support the project with a simplified roof form that matches existing and minimizes visual massing.

Mark Fritts:

- Significant new second-story mass in side yard setbacks.
- Concerned with elevated rear deck extension due to visibility.
- Recommends simplifying roof forms/details to better match existing design.
- Does not support current project design.
- Could support the project with a simplified roof form that matches existing and minimizes visual massing.

Laura Dewar:

- Front and rear designs feel like two different buildings; not compatible.
- Greater impact to massing than height.
- Could support the project with a simplified roof form that matches existing and minimizes visual massing.

Josefa Buckingham:

- Narrow lot; half as wide as neighboring lot; existing small house is in scale with the lot.
- Rear addition appears to be an entirely different design than the existing building; exacerbates tight conditions on the lot.
- Suggests alternative of converting the existing accessory building to ADU.
- Recommends different base material such as stone.
- Does not support current project design.
- Fundamentally opposed to converting space within a residence to ADU and reallocating the space for a second-story addition; supports detached ADU.

The ADR Group voted 3-1 to recommend revisions to the currently proposed project design and additional review by the ADR Group prior to consideration by the Town Council. ADR Group Member Buckingham voted against the project.

Chair Buckingham closed the hearing.

**d. Haswell Residence, 21 Fernhill Avenue (A.P.N. 073-131-30)**

**Property Owner:** Stephanie and Russ Haswell

**Project Designer:** Polsky Perlstein Architects; Imprints Landscape Architecture

**Project Summary:** The applicant is requesting approval of Design Review to renovate the exterior materials, features, and appearance of the existing single-family residence, including additions and alterations; and to construct a new pool and associated landscape

in the rear yard. Variance is requested to allow for the construction of a new pool within the minimum required rear yard setback. A separate application has been submitted for ministerial review of Accessory Dwelling Unit (ADU) Permit to construct a new detached accessory dwelling unit.

Planner Weintraub introduced the project.

Architects Jared Polsky and Laura Van Amburgh, and Landscape Architect Brad Eigsti, provided project background and described the project.

ADR Group Members asked for and received further information regarding:

- Proposed new rear spiral staircase.
- Eave soffit materials.
- Pool and paving materials.
- Landscape layout.

Chair Buckingham opened the public comment. No comments were received. Chair Buckingham closed the public comment.

ADR Group Members discussed the merits of the project and provided the following comments:

Josefa Buckingham:

- No problem supporting the project.
- Pool setback encroachment is mitigated by location adjacent to driveway, away from living spaces, and with existing landscape screening.
- Supports exterior renovation of primary residence.
- Supports proposed ADU location (subject to separate permit).
- Recommends omitting rear spiral staircase which is not compatible.

Stephen Sutor:

- Supports pool location and exception for pool setback.
- Supports the project with the exception of the rear spiral stair which does not meet minimum standards for Design Review.
- Recommends omitting rear spiral staircase which is not compatible.

Laura Dewar:

- Supports pool location and exception for pool setback.
- Supports proposed retention of palm trees, which provide unique character.
- Supports exterior renovation of primary residence as fitting for Ross.
- Recommends omitting rear spiral staircase which is not compatible.

Mark Fritts:

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- Generally, supports the project.
- Supports exterior renovation of primary residence.
- Recommends omitting rear spiral staircase which is not compatible.

The ADR Group unanimously conditionally recommended Design Review approval with the condition that the rear spiral staircase be omitted.

Chair Buckingham closed the hearing.

**5. Conceptual Advisory Design Review.**

None.

**6. Communications**

**a. Staff**

Next scheduled ADR Group regular meeting date and time: February 15, 2022 at 7:00 p.m.

**b. ADR Group Members**

No communications.

**7. Adjournment**

Chair Buckingham adjourned the meeting at 8:56 p.m.

**MINUTES**  
Regular Meeting of the  
Ross Advisory Design Review (ADR) Group  
7:00 PM, Tuesday, February 15, 2022

Video and audio recording of the meeting is available online at the Town's website at:  
[townofross.org/meetings](https://townofross.org/meetings).

**1. 7:00 p.m. Commencement. Call to Order.**

Chair Josefa Buckingham called the meeting to order and called roll.

Present: ADR Group Members Josefa Buckingham, Laura Dewar, Mark Fritts, Stephen Sutro; Planner Matthew Weintraub representing staff. ADR Group Member Mark Kruttschnitt was recused.

The ADR Group welcomed Interim Planning and Building Director David Woltering.

**2. Approval of Minutes.**

The ADR Group unanimously approved the January 18, 2022 meeting minutes.

**3. Open Time for Public Comments.**

No comments were submitted.

**4. Planning Applications.**

**a. Wiginton Residence, 58 Shady Lane (A.P.N. 073-161-05)**

**Property Owner:** Robert and Madeline Wiginton

**Project Designer:** Polsky Perlstein Architects

**Project Summary:** The applicant is requesting approval of Design Review to make alterations and additions at the back of the existing single-family residence, including a new second-story addition, new first-story deck, and conversion of a new attached first-story accessory dwelling unit. Nonconformity Permit is requested to allow for alterations to an existing nonconforming residence that do not result in an increase to nonconforming floor area. Accessory Dwelling Unit (ADU) Permit Exception is requested to allow for the amount of area converted to an accessory dwelling unit to transfer as an allowance for a new addition. Variance is requested to allow for the construction of a new deck which is nonconforming with respect to side yard setback and building coverage.

Planner Weintraub introduced the project.

Architect Jared Polsky described the project revisions in response to the previous recommendations by the ADR Group:

- Redesigned addition as simple “shed roof” to match the front of the house; less massive and complicated.
- Removed side dormers.
- Subtracted 93 square feet from the proposed new addition.

Chair Buckingham opened the public comment. No comments were received. Chair Buckingham closed the public comment.

ADR Group Members discussed the merits of the project and provided the following comments:

Stephen Sutro:

- Appreciated changes made to form, massing, and bulk; revised project is sensitively designed and compatible with original architecture.
- Supports the project as designed.
- Nice, elegant way of implementing higher density; mitigates for nonconformities.
- Town Council will make a ruling on the request to transfer floor area from a converted accessory dwelling unit to a new addition to the primary residence; consistent with housing development regulations and policy.

Laura Dewar:

- Wonders if the request to transfer floor area from a converted accessory dwelling unit would set a precedent.
- Supports the project design.
- Appreciates changes to the rear façade which make it appear as a unified design.

Mark Fritts:

- Asked for and received information on proposed side yard setback: 8’-6” from side property line.
- Concur that design is improved and appreciates removal of square footage to minimize side yard encroachment.
- Second-story addition is “quieter” and fits in with the overall building architecture.
- Does not support the proposed first-floor elevated rear deck due to privacy concerns.
- Does not support the policy that allows for transfer of floor area converted to an accessory dwelling unit to a new addition to the primary residence.
- Appreciates the architecture but does not support higher density on the lot “in spirit”, unless new square footage is limited to one story.

Josefa Buckingham:

- Agrees with Mark Fritts; comments are consistent.
- Request to transfer floor area from a converted accessory dwelling unit to a new addition to the primary residence is discretionary.
- New second-story addition would exacerbate nonconformities.

- New first-floor rear deck would exacerbate nonconformities and is not required for the accessory dwelling unit.
- Concerned about parking exception for accessory dwelling unit.
- Historically small property with limited development.
- “ADU bonanza” leads to overbuilding.
- Natural place for a new accessory dwelling unit is detached in the rear yard.
- Cannot support the project due to concerns about density, parking, and overbuilding.
- However, applicant did a really good job making the new second-story addition fit better with the existing house and the original spirit.

Planner Weintraub provided information on previous projects that transferred floor area from a converted accessory dwelling unit to a new addition to the primary residence; and on Design Review criteria and standards in relation to accessory dwelling unit regulations and floor area exceptions.

ADR Group Members provided the following additional comments and clarifications:

Mark Fritts:

- Does not support the project because of the impact of increased second-story bulk and mass and setback encroachment, which would result from floor area transfer.

Josefa Buckingham:

- Echoes Mark Fritts’ comments with respect to the second story.
- Does not support the proposed first-floor rear deck for the same reasons.

Staff asked ADR Group Members to provide any recommendations they may have to revise the project for consistency with Design Review criteria and standards.

ADR Group Members provided the following additional comments and clarifications:

Josefa Buckingham:

- Second-story addition is well designed as is; cannot be reduced further in size and accommodate a new bedroom.
- Has issue with exacerbating a nonconformity and increasing floor area.
- If Town Council approves it, so be it.
- Prefers new floor area at the ground story, either attached or detached.
- A new rear deck of reasonable size cannot be accommodated on the lot; recommends minimal landing and steps to grade.

Mark Fritts:

- No recommendations for a second-story addition; prefers new floor area at the ground story, either attached or detached.

- Concurs that a new rear deck of reasonable size cannot be accommodated on the lot; compromise would be to set back the deck behind the side wall of the building.

Stephen Sutro:

- Recommends moving the deck back from the side property line, extending further back.

David Woltering provided information on State housing regulations and relationship to local housing codes and discretionary decisions.

Architect Jared Polsky noted that both property owners to the sides have submitted letters supporting the project.

The ADR Group voted 2-2-1 with respect to recommending Design Review approval to the Town Council. ADR Group Members Buckingham and Fritts voted against the project. ADR Group Member Kruttschnitt was recused.

Chair Buckingham closed the hearing.

**5. Conceptual Advisory Design Review.**

None.

**6. Communications.**

**a. Staff.**

Next scheduled regular meeting date and time: March 15, 2021 at 7:00 PM.

**b. ADR Group Members.**

ADR Group Member Mark Fritts asked staff to provide information on current terms of ADR Group Members at a future meeting; and asked for and received information on the Ross Common Master Plan.

ADR Group Member Buckingham asked staff to provide information on regulations and standards related to accessory dwelling units and housing development at a future meeting; and ADR Group Members discussed a potential meeting with the Town Council to discuss the topics.

**7. Adjournment.**

Chair Buckingham adjourned the meeting at 7:51 p.m.