



Staff Report

Date: October 8, 2015

To: Mayor Kathleen Hoertkorn and Council Members

From: Leann Taagepera, Contract Planner

Subject: Norman and Mette Hardie, 128 Winding Way, after-the-fact amendment to the landscape plans submitted for hillside lot permit, design review, demolition permit, and variance application approved by the Town Council on July 11, 2013, File No. 1919

Recommendation

Town Council approval of Resolution No. 1914 conditionally approving after-the-fact amendment to the landscape plans submitted for hillside lot permit, design review, demolition permit, and variance application approved by the Town Council on July 11, 2013, File No. 1919 for 128 Winding Way.

Project Summary

Owner:	Norman and Mette Hardie
Location:	128 Winding Way
A.P. Number:	72-250-03
Zoning:	R-1:B-5A (Single Family Residence, 5 acre min. lot size)
General Plan:	Very Low Density (.1-1 units per acre)
Flood Zone:	Zone X (outside 1-percent annual chance floodplain)

Consideration of Amendment to Landscape Plans. The project involves the consideration of an after-the-fact amendment to the landscape plans submitted for hillside lot permit, design review, demolition permit, and variance application approved by the Town Council on July 11, 2013. This item was continued from the April 9, 2015 Town Council meeting. The amendment would permit already-installed landscape stairs.

Background

On July 11, 2013, the Town Council approved a hillside lot permit, design review, demolition permit and variance for a remodel and addition to the residence, new pool and deck area, and new driveway. On April 9, 2015, the Town Council approved an after-the-fact amendment to the 2013 approval to permit 1) retention of several areas of retaining wall that exceeded the Hillside Lot Ordinance six foot height limit; 2) modification to the landscape plan downslope of the

residence, including modification to retaining walls and improvement of steps and new handrails; and 3) variance for an unfinished pool equipment room with a ceiling height that exceeds seven feet and constitutes additional floor area. At that meeting, the Council approved the motion approving the project, but continued consideration of the landscape stairs.

Discussion

According to the property owners and as shown in photographs of the site, landscape stairs existed on the site in the same location as the present stairs. The stairs were not included on the landscape plans that were approved by the Town Council in 2013, as they were an existing condition. During construction of the project, the property owners decided to substantially upgrade the stairs. Due to the substantial modification of the stone stairs that altered the appearance the hillside and made the stairs more prominent, staff concluded that a modification of the approved landscape plan was required for the stairs.

In the staff report prepared for the April 9, 2015 Town Council meeting, staff recommended that the landscape stairs located on the subject property be removed for the reasons stated in the agenda report for that meeting. Following the public hearing, the Town Council requested that consideration of the stairs be continued to a future Town Council meeting.

The property owner has, since the April Council meeting, improved the appearance of the stairs through the addition of more rock/granite material. In addition, the property owner added landscaping to the area near the stone wall and the stairs, in the form of oleander and rock rose bushes, irrigated with a drip system, softening the appearance of the stairs. The owner indicates that these plants are consistent with the other plants on the property in that they are drought-resistant and are on the list of plants recommended by the Marin Municipal Water District.

The Building Department has determined that it is not necessary that the landscape stairs follow the building code, as no building permit is required for their use. However, the City Engineer has determined that a revocable encroachment permit is required. The revocable encroachment permit is issued by staff, rather than the Council, and the requirement for this permit is a proposed condition of approval for the stairs. The encroachment permit will require an indemnity and insurance from the property owner protecting the Town from any liabilities arising from the encroachment.

Neighbor Comments

Staff has received letters from a neighboring property owner in opposition to the approval of the landscape stairs, which are attached. Staff has spoken with and met with this opposing neighbor and with the property owner. It appears that the neighbor continues to object to the stairs and the neighbor or her representative will be able to address the Council at the hearing on the landscape plan modification.

Fiscal, resource and timeline impacts

A fee for the encroachment permit will be required.

Recommendation

Staff recommends approval of an after-the-fact amendment to the landscape plans for the site to include the stone stairs Findings for approval are provided in the attached resolution. While

residents may disagree about the aesthetics of the stairs and choose other materials if the stairs were located on their own property staff does not find the stairs to be in conflict with the General Plan or Town Code.

As part of this agenda item, we also recommend that the minutes for the April 9, 2015 Council meeting be amended to conform the final motion to the audio recording of the meeting and delete the condition regarding the removal of the stairs that was inadvertently included in the minutes.

Alternative actions

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

Environmental review (if applicable)

The project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15304 - categorical exemption for minor alterations to land. A Class 4 Exemption consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of mature, scenic trees except for forestry and agricultural purposes. No exception set forth in Section 15301.2 of the CEQA Guidelines applies to the project including, but not limited to, Subsection (a), which relates to impacts on environmental resources; (b), which relates to cumulative impacts; Subsection (c), which relates to unusual circumstances; or Subsection (f), which relates to historical resources.

Attachments

1. Resolution No. 1914
2. Findings and Conditions of approval
3. Town Council Minutes of April 9, 2015 meeting
4. Neighbor Submittal

TOWN OF ROSS

RESOLUTION NO. 1914

A RESOLUTION OF THE TOWN OF ROSS APPROVING AFTER-THE-FACT AMENDMENT TO THE LANDSCAPE PLANS SUBMITTED FOR HILLSIDE LOT PERMIT, DESIGN REVIEW, DEMOLITION PERMIT, AND VARIANCE APPLICATION APPROVED BY THE TOWN COUNCIL ON JULY 11, 2013, FILE NO. 1919 128 WINDING WAY, APN 72-250-03

WHEREAS, the Town Council considered an after-the-fact amendment to the landscape plans submitted for hillside lot permit, design review, demolition permit, and variance application approved by the Town Council on July 11, 2013 at its April 9, 2015 meeting. This item was continued for further review by staff and the Council. The amendment would permit already-installed landscape stairs, at 128 Winding Way, APN 072-250-03.

WHEREAS, the project was determined to be categorically exempt from further environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15304 - categorical exemption for minor alterations to land;

WHEREAS, no exception set forth in Section 15301.2 of the CEQA Guidelines (including but not limited to subsection (a) which relates to impacts on environmental resources; subsection (b) which relates to cumulative impacts, subsection (c) which relates to unusual circumstances; or subsection (f) which relates to historical resources) was found to apply to the project; and

WHEREAS, on October 8, 2015, the Town Council held a duly noticed public hearing to consider the proposed project; and

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

NOW, THEREFORE, BE IT RESOLVED the Town Council of the Town of Ross hereby incorporates the recitals above; makes the findings set forth in Exhibit "A"; and approves the amended landscape plan for the project described herein located at 128 Winding Way, subject to the Conditions of Approval attached as Exhibit "B".

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 8th day of October 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Kathleen Hoertkorn, Mayor

Linda Lopez, Town Clerk

EXHIBIT "A"
Findings In Support Of Project Approval
128 WINDING WAY, APN 72-250-03

A. Design Review Findings (RMC § 18.41.070(b))

1. *The project is consistent with the purposes of the Design Review chapter as outlined in Ross Municipal Code Section 18.41.010:*

(a) To preserve and enhance the "small town" feel and the serene, quiet character of its neighborhoods are special qualities to the town. The existing scale and quality of architecture, the low density of development, the open and tree-covered hills, winding creeks and graciously landscaped streets and yards contribute to this ambience and to the beauty of a community in which the man-made and natural environment co-exist in harmony and to sustain the beauty of the town's environment.

(b) (1) 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. Promote high-quality design that enhances the community, is consistent with the scale and quality of existing development and is harmoniously integrated with the natural environment;

(2) 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 through maintaining historic design character and scale, preserving natural features, minimizing overbuilding of existing lots and retaining densities consistent with existing development in Ross and in the surrounding area;

(3) 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. Ensure that site design and intensity recognize site constraints and resources, preserve natural landforms and existing vegetation, and prevent excessive and unsightly hillside grading;

(4) Enhance important community entryways, local travel corridors and the area in which the project is located;

(5) Promote and implement the design goals, policies and criteria of the Ross general plan;

(6) Discourage the development of individual buildings which dominate the townscape or attract attention through color, mass or inappropriate architectural expression;

(7) Preserve buildings and areas with historic or aesthetic value and maintain the historic character and scale. Ensure that new construction respects and is compatible with historic character and architecture both within the site and neighborhood;

(8) Upgrade the appearance, quality and condition of existing improvements in conjunction with new development or remodeling of a site.

(9) Preserve natural hydrology and drainage patterns and reduce stormwater runoff associated with development to reduce flooding, streambank erosion, sediment in stormwater drainage systems and creeks, and minimize damage to public and private facilities.

Ensure that existing site features that naturally aid in stormwater management are protected and enhanced. Recognize that every site is in a watershed and stormwater management is important on both small and large sites to improve stormwater quality and reduce overall runoff.

The project will not change the scale and character of the existing development. The stone landscape stairs are consistent with similar features in the Town and the Town's character.

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

(2) Preservation of Natural Areas and Existing Site Conditions.

(a) The existing landscape should be preserved in its natural state by keeping the removal of trees, vegetation, rocks and soil to a minimum. Development should minimize the amount of native vegetation clearing, grading, cutting and filling and maximize the retention and preservation of natural elevations, ridgelines and natural features, including lands too steep for development, geologically unstable areas, wooded canyons, areas containing significant native flora and fauna, rock outcroppings, view sites, watersheds and watercourses, considering zones of defensible space appropriate to prevent the spread of fire.

The project would not adversely affect native vegetation, rocks, or other features described above and would not adversely affect views or watersheds.

(b) Sites should be kept in harmony with the general appearance of neighboring landscape. All disturbed areas should be finished to a natural-appearing configuration and planted or seeded to prevent erosion.

The general appearance of the existing natural oak and bay tree foliage will be maintained and improved.

(d) Materials and Colors.

(1) Buildings should use materials and colors that minimize visual impacts, blend with the existing land forms and vegetative cover, are compatible with structures in the neighborhood and do not attract attention to the structures. Colors and materials should be compatible with those in the surrounding area. High-quality building materials should be used.

The stone steps are composed of natural materials. While they can be noticed from vehicles passing on Winding Way, the stairs turn up the hill, as they follow the topography and would not overly attract the attention of drivers. The materials are compatible with other stone stairs and stone walls and other features in the area. The stone steps are composed of high-quality building materials. Over time, the steps would age to appear more natural on the hillside. Also additional landscaping has been added to soften the appearance of the stairs.

(3) Drives, Parking and Circulation.

(a) Good access, circulation and off-street parking should be provided consistent with the natural features of the site. Walkways, driveways, curb cuts and off-street parking should allow smooth traffic flow and provide for safe ingress and egress to a site.

(b) Access ways and parking areas should be in scale with the design of buildings and structures on the site. They should be sited to minimize physical impacts on adjacent properties related to noise, light and emissions and be visually compatible with development on the site and on neighboring properties. Off-street parking should be screened from view. The area devoted to driveways, parking pads and parking facilities should be

minimized through careful site planning.

(c) Incorporate natural drainage ways and vegetated channels, rather than the standard concrete curb and gutter configuration to decrease flow velocity and allow for stormwater infiltration, percolation and absorption.

The project's landscape stairs allow the visitors to the property to park off-street and access the site, providing a secondary access to the site. The stairs would not result in noise or light.

(4) Exterior Lighting. Exterior lighting should not create glare, hazard or annoyance to adjacent property owners or passersby. Lighting should be shielded and directed downward, with the location of lights coordinated with the approved landscape plan. Lamps should be low wattage and should be incandescent.

The stairs do not include lighting.

(6) Views. Views of the hills and ridgelines from public streets and parks should be preserved where possible through appropriate siting of improvements and through selection of an appropriate building design including height, architectural style, roof pitch and number of stories.

The project will not impact distant views from public streets and parks. The view of the nearby hill from Winding Way is that of the natural hillside, the stone retaining wall and the steps turning up the hills. The siting of the improvement is not thought to adversely affect the views.

(7) Natural Environment.

(a) The high-quality and fragile natural environment should be preserved and maintained through protecting scenic resources (ridgelines, hillsides, trees and tree groves), vegetation and wildlife habitat, creeks, drainageways threatened and endangered species habitat, open space and areas necessary to protect community health and safety.

The stairs would not affect ridges, trees or other resources described above. The stone stairs and watering for the shrubs would not affect the adjacent oak trees.

13. (b) Proposed work should be viewed in relationship to existing on-site conditions. Pre-existing site conditions should be brought into further compliance with the purpose and design criteria of this chapter as a condition of project approval whenever reasonable and feasible.

The appearance of the landscape stairs have been further improved by the homeowner and will further blend in with the hillside over time.

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

(6) Ross General Plan Policy (RGP) 1.1 Protection of Environmental Resources. Protect environmental resources, such as hillsides, ridgelines, creeks, drainage ways, trees and tree groves, threatened and endangered species habitat, riparian vegetation, cultural places, and other resources. These resources are unique in the planning area because of their scarcity, scientific value, aesthetic quality and cultural significance.

The site is not located near a ridgeline, and will not impact other natural or cultural resources.

(7) RGP 1.2 Tree Canopy Preservation. Protect and expand the tree canopy of Ross to enhance the beauty of the natural landscape. Recognize that the tree canopy is critical to provide shade, reduce ambient temperatures, improve the uptake of carbon dioxide, prevent

erosion and excess stormwater runoff, provide habitat for wildlife and birds, and protect the ecosystem of the under-story vegetation.

The stone stairs would not affect the trees on the site.

(8) RGP 2.3 Reduction in the Use of Chemicals and Non-Natural Substances. Support efforts to use chemical-free and toxic-free building materials, reduce waste and recycle building waste and residential garbage. Encourage landscape designs that minimize pesticide and herbicide use.

The stone stairs do not include chemicals or require pesticide or herbicide use.

(23) RGP 5.3 Fire Resistant Design. Buildings should be designed to be fire defensive. Designs should minimize risk of fire by a combination of factors including, but not limited to, the use of fire-resistant building materials, fire sprinklers, noncombustible roofing and defensible landscaping space.

The stone stairs are composed of fire-resistant building materials.

(27) RGP 6.4 Runoff and Drainage. Stormwater runoff should be maintained in its natural path. Water should not be concentrated and flow onto adjacent property. Instead, runoff should be directed toward storm drains or, preferably to other areas where it can be retained, detained, and/or absorbed into the ground.

The project would not affect runoff or drainage.

(28) RGP 6.5 Permeable Surfaces. To the greatest extent possible, development should use permeable surfaces and other techniques to minimize runoff into underground drain systems and to allow water to percolate into the ground. Landscaped areas should be designed to provide potential runoff absorption and infiltration.

The project would add a small amount of impermeable surface, but are not expected to affect runoff.

EXHIBIT "B"
128 Winding Way
Conditions of Approval

1. The applicant and future property owners shall notify all future property owners of their obligation to comply with conditions of project approval.

2. A Revocable Encroachment Permit is required for the portion of the landscape stairs in the public right-of-way/40' Roadway Easement. The purpose of the Revocable Encroachment Permit is to allow the improvements within the right-of-way/40' Roadway Easement with conditions that Permittee(s) indemnify the Town, maintain the improvements, and if requested, and at the discretion of the Town, remove the improvements (at their sole cost and expense).

3. 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.

20. 128 Winding Way, After-the-Fact Amendment to Variance, Design Review, and Demolition Permit No. 1919

Norman and Mette Hardie, 128 Winding Way, A.P. No. 72-250-03, R-1:B-5A (Single Family Residence, 5 acre min. lot size), Very Low Density (.1-1 units per acre). Town Council consideration of an after-the-fact request for an amendment to the hillside lot permit, design review, demolition permit, and variance application approved by the Town Council on July 11, 2013, for a remodel and addition to the residence, new pool and deck area, and new driveway area. The amendment is requested to permit 1.) retention of several areas of retaining wall that exceed the Hillside Lot Ordinance six foot height limit; 2.) modification to the landscape plan downslope of the residence, including modification to retaining walls and improvement of steps and new handrails; and 3.) variance for an unfinished pool equipment room with a ceiling height that exceeds 7 feet and constitutes additional floor area.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the variance from Hillside Lot wall height limit to allow areas of retaining walls to exceed six feet, floor area variance for pool equipment room, modifications to site retaining walls, and deny landscape stairs and railing in north corner of site. Staff recommended that the venting for all pool equipment is approved as installed so it minimizes the direction of noise toward the property to address the neighbors concern.

Council Member Kuhl asked staff if they had any knowledge that the stairs were present or did the applicant add the stairs. Senior Planner Semonian indicated that the stairs were significantly improved and replaced. Mayor Brekhus pointed out that the stairs are not encroaching on the right-of-way of the public. Senior Planner Semonian noted that no changes can be made to the project plans without review by the Town. This is now the time to have the public and Council comment on the stairs.

Council Member Small noted that the stairs at the bottom were put in by the applicant to make it more usable for his workers. She would never approve an encroachment permit for stairs to access a property from that area. Some of those stairs were underneath all that growth, but to make it a usable path, it was cleared and stairs were added at the bottom. She is not comfortable with approving any stairs in the right-of-way. She is uncomfortable with creating a dangerous situation.

Mayor Brekhus felt the definition of "*encroachment*" should be reviewed. She felt it is not fair for the Council to dictate what happens on this hillside when the public is not using it. The definition of walkway depends on how high above grade. This is serving a circulation function. She believed it does not make sense to restrict this unless they have a reason. Council Member Small noted that safety and drainage is considered in regard to an encroachment permit. She did not believe the stairs are safe. The stairs at the bottom do not meet code. She did not see any reason to approve the stairs. Anything in the right-of-way must be built to building standards.

Norman Hardie, applicant, stated that they put a huge amount of effort into their property. Those steps have been so far out of his mind and off his agenda. He has not changed anything about the right-of-way. This is all a surprise to him. He agreed the stairs should be made safer

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and the railings need to match or be removed. The stairs meet code from a landscape status. He felt the stairs have some charm and asked for additional time to make the stairs safer for his children and more attractive.

Mayor Brekhus opened the public hearing on this item.

Peter Nelson, Circle Drive resident, added that this is an example of the disconnect between the inspector and planning. It is clear that the height of the walls and reasons are completely justified. They are beautiful walls. These steps are not new steps. The steps have been there for 95 years. In his view, there is no encroachment issue.

Riley Hurd, attorney, representing Zara Muren, indicated that he stood in front of the Council during the approval period to ensure that the conditions as the ones that have been violated were in place, it feels a little disrespectful to the approval process from which the applicant now seeks relief. The Hillside Lot Ordinance (*HLO*) requires that applicants minimize disturbance to natural terrain. This is a road right-of-way and these stairs are an obstruction. It is a safety issue, these are non-code compliant stairs. There is no legal way to make these findings for the variance, but if so approved, he asked that the conditions he presented be included.

Zara Muren, neighbor, explained this is a hillside contiguous to the creek. It was never previously used. She expressed concern for the issue of parking. The adjacent parking is public parking and it is critical that it remain public parking. The pool equipment sound is very loud and the Hardies' found a fix by repositioning the vent and she desired that to be a condition in case matters change in the future. Given the present situation, she requested that the Council remove the stairs.

Mr. Hardie discussed the color copy presented to the Council and pointed out that the stairs have been present for a long time. He felt these are historic stairs and did not believe this is an encroachment issue. They did not ask to get this approved and it was not on the plan because it did not occur to him because this is a landscape issue. The building inspector indicated that the stairs are to code in terms of landscape status. It is a shame to tear something out that has been there for a long time. It does not look horrible, and next to his steps is the Muren's fence that has been smashed for years and not repaired. Their fence is 3 ft. from the road, so Muren's fence is on the Town's right-of-way. He is surprised that so much attention is on these stairs. He appreciated the time and effort the Council has given his project. He added that with additional time he could make the steps more attractive.

Town Attorney Trisha Ortiz suggested that the Council continue this item to come back with the appropriate findings before taking any action.

Council Member Kuhl added that the stairs were present. They were uncovered during the construction process and the applicant tried to improve the stairs to a certain extent, so he had no objection. In regard to an encroachment, the slope of the land encroached into the technical right-of-way. The applicant did not create the encroachment and he does not have an obligation to provide parking for his neighbors. He had no issue with the stairs.

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Council Member Small wanted to know the implication from the inspector in regard to "landscape stairs." Mayor Brekhus added that "landscape stairs" is not a legal definition. The term "walkway" is not a structure. Council Member Robbins felt the last few steps are not attractive. It is a walkway and does not encroach. Council Member Small is only concerned about the stairs on the Town's property.

Mayor Brekhus asked the Council if there is support for a motion to approve the steps subject to the Hardies' indemnifying the Town should there ever be a lawsuit related to the stairs and continuing obligation to landscape and soften the appearance of the stairs. If so, she is ready to make that motion. Council Member Kuhl agreed to second. Council Member Small noted that venting of the pool equipment must be discussed as well.

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 Brekhus asked for a motion.

Mayor Brekhus moved to approve 128 Winding Way, After-the-Fact Amendment to Variance, Design Review, and Demolition Permit No. 1919; with the added conditions that the pool venting remain in its current location now and forever; that the Hardies' agree to indemnify the Town should there ever be litigation concerning those stairs; and within the next 90 days the Hardies' work with staff to agree to some landscaping where the stairs are in the public right-of-way that would soften the appearance. Motion carried unanimously.

Mr. Hardie is not crazy about the indemnification, but the other choice is to completely remove the stairs and not have any liability.

Senior Planner Semonian pointed out that since staff recommended against the stairs, no findings were included for approval, so staff recommended that the Council is inclined to approve the stairs, but asked the Council to continue in order for staff to make the appropriate findings. Also, staff asked the Council to take into consideration that this may delay the project approval.

Mayor Brekhus moved and Council Member Kuhl seconded, to approve 128 Winding Way, After-the-Fact Amendment to Variance, Design Review, and Demolition Permit No. 1919 subject to the findings and conditions outlined in the staff report and the additional requirement that the venting for the pool equipment remain at its current location now and forever and continuing the stairs to the next Town Council meeting.

128 Winding Way Conditions of Approval:

The Council continues consideration of the north landscape stairs and railing to the regular May Council meeting to allow staff to consider any liability that the Town may have in association with approval of the stairs and to prepare any written findings that may be necessary.

Staff recommends that the Council, after carefully reviewing the facts and the arguments presented after a public hearing, site visits, review of as built improvements, staff reports, correspondence, and other information contained in the project file, approve a wall height

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variance to permit the walls to exceed the six foot height limit, approve a floor area variance to permit the pool equipment room to have a ceiling height over 7 feet, and approve other site wall modifications, based on the findings submitted by the applicant, the findings in Resolution 1832, and subject to the following conditions:

1. The venting for all pool equipment shall be permanently relocated to the area northwest of the pool and shall be constructed in a manner to minimize the direction of noise towards the property at 10 Canyon Road including, but not limited to, doubling the vent output size as compared to the original location in the pool room. Furthermore, any and all venting from the existing pool room that exits the west wall shall be permanently decommissioned and removed via a masonry seal over the existing vent hole.

2. Prior to project final, the applicant shall remove the stone and concrete stairs and railings to Winding Way, located in the north corner of the site and partially within the right-of-way, and shall restore the area to a natural and unimproved state.

3. The pool equipment room is permitted to have a ceiling height in excess of 7 feet but shall not be used for habitable space and cannot be traded off for other floor area in the future.

4. 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.

21. 34 Poplar Avenue, Amendment to Variance and Design Review Permit No. 1933

Dante and Mouna Ghilotti, 34 Poplar Avenue, A.P. No. 73-272-05, R-1:B-7.5 (Single Family Residence, 7,500 sq. ft. min lot size), Medium Low Density (3-6 units per acre), Zone AE (High Risk Area with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30 year mortgage) and within Floodway. Public hearing to consider amendments to an application for design review and variances approved November 14, 2013. The proposed project includes the following: 1.) demolition of shed along the south property line; 2.) 189 square foot addition to the first floor of the residence, including a new den within the required north side yard setback (15 feet required, 2.5± feet proposed) and master bedroom extension partially within the required south side yard setback (15 feet required, 10.5 feet proposed); 3.) interior remodel; 4.) rear deck and stairs to grade; and 4.) new dormer on west facing roof and improvement of 439 square feet of attic area for a bedroom. A nonconformity permit is requested to relocate the garage, which is nonconforming in setbacks, approximately 11.5' to the east to permit development of two uncovered parking spaces between the garage and Redwood Avenue. If the dormer addition is not supported, the applicants request an Attic Exception to permit improvement of 390 square feet of the attic area as floor area, without the 49 sq. ft. dormer addition.

Marian Miller Stilz
10 Canyon Road
The Cottage
Ross, CA 94957

September 30, 2015

Mayor and Members of the Council
Town of Ross
Ross, CA 94957

Ref: October 8, 2015 Hearing of After-the-Fact Variance and Project Modifications
128 Winding Way

Dear Mayor and Council Members,

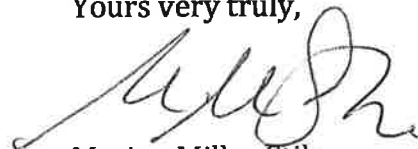
I rent a lovely cottage at 10 Canyon Way in Ross. I love this area to live because of its natural beauty.

Sadly, the hillside of Winding way – right next door to where I live – was stripped of all vegetation by the owners of 128 Winding Way who chose to put in a staircase. In my opinion, the hillside has been ruined. In addition, the exotic plans put in the hillside last Spring do nothing to restore the hillside to its natural character.

I would also like to strongly assert that street parking for guests has often been limited or unavailable because my friends assumed that any available spaces near the stairway is private parking. We used to rely on this very important area of public parking due to the rarity along our narrow road.

Therefore, I am opposed to the amendment to permit the stairway. Please vote to require the removal of the stairway and for the restoration of the hillside to its natural state.

Yours very truly,



Marian Miller Stilz

**R.M. Pomeroy
21 Canyon Road
Ross 94957**

September 30, 2015

Town of Ross
Town Council

Hardie, After-the-Fact Amendment to the Landscape Plans, 128 Winding Way

Project Summary Owner: Norman and Mette Hardie
Location: 128 Winding Way
A.P. Number: 72-250-03
Zoning: R-1:B-5A (Single Family Residence, 5 acre min. lot size)

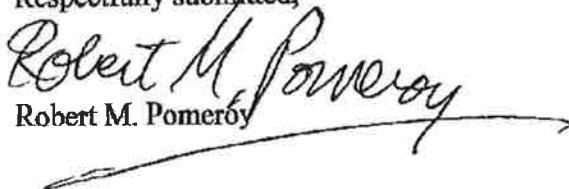
To Whom It May Concern:

As a concerned property owner who lives on Canyon Road, I was dismayed to read in the Notice of Public Hearing of the Ross Town Council, scheduled for October 8, that the Hardies are petitioning for a permit for already-installed north landscape stairs.

As stated in my letter of April 7, the stairs have taken out the natural cover of the slope, and has effectively removed an area that was sufficiently wide enough to allow for overflow parking on Winding Way. This property has already been granted great leniency through after-the-fact approval of retaining walls higher than the allowed 6'0, as well as permitting a pool equipment room with higher than allowable ceiling height (less than 7'0).

I would strongly recommend that the stairs be removed and the slope returned to its natural contours and cover.

Respectfully submitted,


Robert M. Pomeroy