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October 21, 2013

Ross Property Owners Association
Town of Ross

**Re: Concerns and Recommendations Regarding Increase F.A.R.
Variances and Adherence to Town Ordinances**

Dear Members of the Board of Directors:

I write regarding the letter from RPOA that was sent to Town Council on September 22, 2013 regarding F.A.R., variances and adherence to Town ordinances. I would like to start by advising you that there were certain statements attributed to me in the RPOA Board's letter which I think are inaccurate and need to be corrected.

First, RPOA made the statement on page 3 of its letter, at the very bottom, "We take a serious exception to Elizabeth Brekhus's statement that we are devaluing residents' properties because people will not buy such homes in Ross if they are forced to comply with set-backs and other planning and zoning laws." That is not what I said.

I made the point, at page 6, the fifth full paragraph, that, "...if you buy a home in Ross, and you seek to remodel it and are forced to comply with set-backs, notwithstanding that your property is non-conforming, that we are devaluing residents' properties, because people will not buy such homes in Ross." The statement in the RPOA letter misinterprets this statement entirely. I was not suggesting that residents can violate set-backs whenever they remodel their home. I was advising that many properties are already non-conforming and if we forced those already non-conforming properties to become conforming during a remodel, the value of those properties would decrease significantly.

Note, I have been told, and would love to have the Town study this to know if it is true, that 80% of our homes are non-

RPOA Board
October 21, 2013
Page 2

conforming. In many streets, like Bolinas, Sir Francis Drake, Redwood, and Chestnut, almost every home is non-conforming. If you forced residents on those streets to become conforming, you would turn many of those properties into one bedroom cottages.

Second, the RPOA makes the statement on the last page of its letter, the second full paragraph, "We seriously disagree with Elizabeth's viewpoint that design is subjective, otherwise why have any regulations and simply let homeowners do what they wish?" Again, this is a gross misstatement of what my stated view was in my 7 page letter to the Board dated August 5, 2013. I stated on page 1, last paragraph, that, "I personally have some concerns about the 'excellence of design' standard. After all, excellence of design is a subjective standard. My excellence of design may not be yours. Some residents may not be able to afford excellence of design depending on what that standard is interpreted to mean. As an attorney who has represented both homeowners/applicants and neighbors objecting to projects, I can tell you that this can be an elusive standard fraught with controversy and subject municipalities to liability." I was not saying, as was claimed, that zoning regulations are subjective. I was simply stating that the "excellence of design" standard is subjective. I don't see how one could seriously dispute that.

The Ross Property Owners Association should be commended for bringing up an important issue in our Town and one that has generated a lot of discussion. I have heard from many residents who received your letter but never received my letter or the original letter that was drafted, and asked me to provide it. I have done so.

I can tell you that the statement made by the Board that, "Many residents are upset with the Council's decision in the past two years to consistently approve variance requests for 'over 20% F.A.R.'" is an unquantifiable statement that is difficult to interpret. I don't know how many members of the Association actually feel that way or how many Ross residents would agree with that statement. Additionally, the statement and position in the RPOA letter that in the past, Councils did a better job and "Town Councils managed the variance process very carefully," and by suggestion, this Town Council and perhaps the last Town Council did not manage the variance process very carefully, is not really consistent with my perception of the process. I think we very much grapple with the Town Ordinances and are very careful to try and respect the rules and regulations in place, even when some of us might feel that they are challenging.

RPOA Board
October 21, 2013
Page 3

I have to also continue to take exception with the RPOA's discussion a lot of the specific projects referred to in the letter. I am not sure that a whole lot is accomplished by a letter writing campaign back and forth, but as stated previously, the analysis totally ignores the fact that many of those projects were approved under the basement and attics exceptions which has an exception for increased F.A.R.

I look forward to discussing this further with you at the retreat tomorrow.

Very truly yours,

Elizabeth Brekhus