

# Rifkind Law Group

1010 B Street, Suite 200, San Rafael, CA 94901  
Telephone: (415) 785-7988 \* [www.rifkindlawgroup.com](http://www.rifkindlawgroup.com)

Leonard A. Rifkind  
[len@rifkindlawgroup.com](mailto:len@rifkindlawgroup.com)

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**VIA EMAIL:** [dave.hogan@cityofsanrafael.org](mailto:dave.hogan@cityofsanrafael.org); [Alicia.giudice@cityofsanrafael.org](mailto:Alicia.giudice@cityofsanrafael.org);  
[steve.stafford@cityofsanrafael.org](mailto:steve.stafford@cityofsanrafael.org); [Lindsay.lara@cityofsanrafael.org](mailto:Lindsay.lara@cityofsanrafael.org)

City of San Rafael Design Review Board

Re: Opposition to Conceptual Design Review 33 and 41 Clayton Street  
Hearing Date: June 8, 2021

Dear Design Review Board Members:

Our firm represents Robert and Emily Foehr, 122 Ross Street (25 units), Michelle and Patrick Killian, 209 Marin Street, Peter and Leslie Marks, 60 Woods, Kurt Scheidt, 137 Ross Street, and Ronald and Lori Stickel, 62 Woods, all of whom **oppose** the proposed access for the referenced project via a *new* to be constructed private street almost 500 feet in length to be named "Ross Terrace." Our clients oppose the proposed Ross Terrace access for the reasons stated below.

This project fails to comply with the General Plan that requires preserving existing natural features, retaining as many significant trees as possible, minimize grading, avoiding large expanses of walls in a single plane, and requiring tree canopied spaces around new hillside residential development. Gen. Plan, Community Development Element, Hillsides – CD-6a. This project does not comply in multiple respects with these requirements because its access is compromised and requires massive grading. The applicant has requested three exceptions that should not be granted: Natural state, guest parking and driveway grade.

Your Board heard this project before in 2017 and acknowledged providing access was extraordinarily challenging. Nothing has changed except the fire codes have become stricter, requiring at least a 20-foot-wide access road. The retaining walls remain overwhelmingly tall, require will massive grading and, create a sound-wall like freeway experience for the neighborhood where 58+ trees and local native trails exist for both residents and wildlife. The plan to replace the removed trees is ornamental at best, and we have "paved paradise and put up a parking lot."<sup>1</sup>

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<sup>1</sup> Joni Mitchell song.

1. **45 Units Impacted by Ross Terrace Access Compared to 5 Units on Clayton Street—On this Fact Alone Clayton is the Preferable Access Because it Impacts Less Households.** Ross Terrace will be massively disruptive to 45 housing units. Building a new 20-foot wide, 500-foot-long road with retaining walls up to 14-feet high is an anathema to the neighborhood, replacing green space that provides public pedestrian access towards downtown and an alternative emergency egress. Contrary to the Staff Report, there is more direct impact on 9 times the number of housing units via the Ross Terrace Access than affected on Clayton Street.
2. **Project Grading Exceeds 2,000 Cubic Yards, Which is Massive.** At 10 yards of spoils per dump truck, this represents an incredible **400+** roundtrip dump truck trips through this neighborhood—almost double the number of trips permitted daily by the County for the San Rafael Quarry. Even if 700 cubic yards were remain on site, it would still require some 260+ dump truck trips and these construction impacts will likely cause significant damage to Ross Street. Alternately, Clayton Street needs major re-design and repairs and can be upgraded after access is created from that direction.
3. **Project Fails to Comply with Natural State Requirements.** San Rafael Municipal Code Section 14.12.030(C) provides:

**Natural State.** A minimum area of twenty-five percent (25%) of the lot area plus the percentage figure of average slope, not to exceed a maximum of eighty-five percent (85%), must remain in its **natural state**. This standard may be waived or reduced for lots zoned PD (planned district) or developed with clustered development with the recommendation of the design review board, subject to approval by the hearing body. This requirement does not apply to properties where the general plan has adopted a medium density residential or high density residential land use designation.

Here, both Lot 59 and 60, fail to comply with the natural state requirement set forth in Section 14.12.030(C). Lot 59 has only 54% of the required minimum natural state and Lot 60 has only 53% of the minimum natural state. Clearly, the project is grossly overdeveloped and each residence must be reduced substantially in size to comply with mandatory natural state requirements. Additionally, these calculations do not consider the approximately 10,000 square foot new roadway, to be named Ross Terrace, being constructed transforming natural state to a roadway/parking lot. Staff states, “Natural state includes all portions of lots that remain undeveloped and undisturbed.” The applicant’s alleged Ross Terrace easement rights are certainly a part of the subject lots and such massive disruption of natural state must be included. As designed, this project using Ross Terrace as the access should be dead on arrival. Alternatively,

Clayton Street is already an existing road needing upgrade. The impact on natural state is literally 10,000 square feet less than the Ross Terrace access.

4. **Project Fails to Provide Required Guest Parking.** SRMC Section 15.07.030(c) requires two off-street guest parking spaces. Lot 59 provides zero guest parking spaces because a single guest space is located in the area required for access to the garage parking. Lot 60 provides just one guest space. The result is parking will occur in the proposed hammerhead turnaround or within Ross Terrace—hindering emergency access vehicles, or possibly 500 feet away on Ross Street, which is already severely parking impacted. The guest parking plan fails miserably.
5. **Project Driveways are too Steep.** The project plans provide for driveway slopes approaching 25%, where only 18 percent is permitted. SRMC Sec. 15.07.030. If one house were constructed lower on the two lots, the driveway slope grade could be met.
6. **The Proposed Ross Terrace Access Has Excessive Grade.** SRMC Section 15.07.030 provides streets and driveways shall not exceed 18% grade. Here, the initial grade from Ross Street to Ross Terrace is approximately 25%. Further, *there is no engineering proof a fire truck can achieve the transition from Ross Street to Ross Terrace* without physical either bumper or undercarriage impact with the roadbed, causing likely damage and potentially disabling responding emergency vehicles. The only way the 25% excessive grade can be reduced is through even more massive grading, causing the retaining walls approaching 14 feet in height to be even taller. This is not an acceptable result. Further such adjoining property owners have legally enforceable access rights to Ross Terrace and the proposed massive retaining walls will interfere with such access. For these reasons, the proposed Ross Terrace access should be rejected.
7. **Clayton Street Needs Improved Emergency Vehicle Access.** Improving existing Clayton Street will *enhance* existing poor emergency vehicle access.
8. **Loss of Existing Public Access.** Developing Ross Terrace will cut off public access to Clayton Street that has been used by the public for over a hundred years as access towards downtown.
9. **Loss of Alternative Emergency Escape.** Developing Ross Terrace with massive retaining walls will cut off alternative public emergency egress, e.g., a fire escape route for the 45 units affected.
10. **Loss of Parking Spaces on Ross Street.** Developing Ross Terrace will cause the loss of at least four (4) valuable parking spaces on overparked Ross Street.
11. **Light, Noise and Traffic Impacts to Residents.** Developing Ross Terrace will create headlight impacts on Ross Street housing facing the new driveway. Additionally, because of the excessively steep grade vehicles will have to go into

low gear and generate significant engineer noise affecting 45 housing units. The hidden nature of the new roadway, with its massive retaining walls, is an invitation to criminal activity.

12. **Drainage Impacts.** A Ross Terrace access will increase the amount of surface waters draining towards Clayton Street. The Project plans do not address drainage impacts on Clayton Street.
13. **Utility Impacts.** A Ross Terrace access will adversely affect existing utilities for several adjacent units that have been in place decades.
14. **Loss of Green Space and Wildlife Habitat.** Developing Ross Terrace eliminates a public social trail in place for over 100 years, and eliminates green space.
15. **Developer Does Not Have Preference on the Access Route.** The developer does not care which access, Ross Terrace or Clayton, only that he is approved to construct his two-unit project. The majority of the neighborhood deeply cares and is strongly opposed to constructing a new 500-foot roadway through the middle of the neighborhood. Even the developer believed Clayton Street was the correct access for the project, having directed his engineer, ILS and Associates to prepare engineering plans for Clayton access in 2016, and again in 2019.
16. **Maintenance.** Imposing the maintenance of 500-foot private road and adjacent retaining walls on the proposed two new homes invites the likelihood of abdication by future homeowners of the two-unit project, leaving the surrounding neighbors with a concrete eyesore. A shorter 150-foot private access route from Clayton is more feasible.

There are several provisions of the City's design review ordinance that require the Board to recommend that the project does NOT receive conceptual design review approval:

**No Balance Between the Project and the Natural Environment.** The Board cannot support or recommend conceptual design review approval for this project with a Ross Terrace access. The very purpose of design review fails: "first and foremost, maintain a proper balance between development and the natural environment." SRMC Sec. 14.25.010. A Ross Terrace access *obliterates* the natural environment. The project access creates Caltrans level infrastructure in a small residential neighborhood.

**Project Access on Ross Terrace Fails to Comply with Design Review Requirements in Multiple Respects:**

- The proposed Ross Terrace access fails to "display sensitivity to the natural hillside setting and compatibility with nearby hillside neighborhoods, and maintain a strong relationship to the natural setting." SRMC Sec. 14.25.050C(1).

- The proposed Ross Terrace access fails to *minimize* grading, retain more of the project site in its natural state, minimize visual impacts . . . and with sensitivity to nearby structures. SRMC Sec. 14.25.050C(2).
- The proposed Ross Terrace access *maximizes* grading. Site design requires a project to minimize grading and removal of natural vegetation. Highly visible hillsides and wildlife habitat should be preserved and respected. SRMC Sec. 14.25.050E(2).
- The project solution for access is creation of a new 500-foot road bounded by massive retaining walls fails that fails the “good” circulation test. SRMC Sec. 14.25.050E(3)
- Ross Terrace access fails to preserve the natural landscape in its natural state as much as practical and should be rejected in favor of the shorter less intrusive Clayton Street access. SRMC Sec. 14.25.050G.
- Construction impacts will be increased with a Ross Terrace access and cause substantial disruption to 45 households. SRMC Sec. 14.25.050H.

We anticipate that the developer will claim the Clayton access is not viable because the Fire Department does not support it and it requires acquisition of private property for right of way purposes. Given the significant impacts that will occur with a Ross Terrace access, we respectfully request the Board direct staff, including the Fire Department, to explore every opportunity to enhance fire safety access on Clayton Street, which is demonstrably deficient, before allowing a new freeway level of improvement on Ross Terrace.

Respectfully submitted,

RIFKIND LAW GROUP

By:   
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Len Rifkind