

## REGULAR MEETING of the ROSS TOWN COUNCIL on the SPECIAL DATE OF THURSDAY, APRIL 16, 2009

1. **6:30 P.M. Commencement.**

Present: Mayor Cahill; Council Member Hunter; Council Member Martin; and Council Member Skall.

2. **Posting of Agenda.**

Town Manager Gary Broad reported that the agenda was posted according to government code.

3. **Minutes – February/March Meetings**

Mayor Cahill asked for a motion.

Council Member Hunter moved and Council Member Martin seconded, to approve the February 26 and March 12, 2009 Town Council Minutes as amended. Motion carried unanimously. Strauss absent.

4. **Demands.**

The demands were met.

5. **Open Time for Public Expression- None**

6. **Report from Mayor Cahill.**

Mayor Cahill reported that within the next few weeks the Town is updating the Town's phone system and website. The Town hopes that these upgrades will provide easier and better communications with residents. Some residents have complained that the current phone system does not allow them to talk to a real person. The new, more user-friendly system will feature a live attendant option. Once the system is in place, please let any member of the Town Council or Town Manager Broad know if there are any glitches in the system. If residents like the improvements, please let the Town know that as well.

Also, it has been over four years since any Town employee left Ross to take a job elsewhere. Many employers know, losing experienced employees and hiring new employees is costly both in training and the efficiencies that come from the lack of familiarity with the procedures and people of the Town. Credit is due to former Town Councils, the current Town Council and Town Manager Broad for the steps taken to retain employees through contracts negotiated with police and fire, adding employee education reimbursement program, creating fire and police chief positions and promoting from within to fill police and fire advancements and annually recognizing employees' five-year milestone anniversaries with the Town. The Town values the terrific work of their employees and will encourage them to spend their careers working in Ross.

*Mayor Pro Tempore Strauss joined the Town Council meeting at 6:32pm.*

7. **Report from Committee Heads.**

Public Works - Mayor Pro Tempore Strauss

- **Public Works Committee Report**

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Mayor Pro Tempore Strauss has been approached by several merchants in Town to look at placing a sign at Frederick Allen Park bike path to alert visitors to the downtown businesses, including Ross Grocery, Café Marmalade and Breaking Away Bicycles, that are ready to serve cyclist and pedestrians. He then provided an illustration of what is proposed in terms of the front and backside of the sign to the Council for consideration. At the request of the downtown merchants, the Council had no objection and felt it is a great idea.

Mayor Pro Tempore Strauss noted that the Public Works committee met on the completion of the Shady Lane pathway and construction is scheduled to start after school ends. Also, the Lagunitas Bridge will be discussed later this evening.

Council Member Martin indicated that they are losing another old oak tree along Allen Avenue. He was notified one week ago that during excavation by the contractor of the school they uncovered roots that ran parallel to the building along Allen Avenue, which requires elevated footings for access and exiting, including a staircase and ramps. There is an existing mature tree root and Town Arborist Becky Duckles who is both the Town's arborist and the arborist hired by the school, recommended that the Town consider removal of that tree or authorize removal. In addition, it appears that the main root was damaged during the excavation. There is another oak tree in the sandbox area in front of the kindergarten that is located roughly 20 feet away from the school, but it will need protection during the construction cycle to make sure it will thrive in the future. The school requests that the Town consider the removal of the Allen Avenue tree. Also, the Town and School District must reconsider a program to add new street trees along Lagunitas Avenue because he believed it is time to develop an intentional replanting program for future generations.

Mayor Pro Tempore Strauss noted that the school would come before the Town for a lot line adjustment and easement and a complete landscape plans is desired, so as part of that, the Town will review. Mayor Cahill believed there might be flexibility in terms of locating a water line. He stated that if the tree is damaged and beyond repair, then it must be removed. Council Member Martin stated the tree on Allen conflicts with some of the footings for the school construction. He brought a retired engineer along during his tour of the site, and given the nature of the building, there are not a lot of alternatives. Everyone hates to lose a mature tree, so they must proactively look at a replanting program.

Council Member Hunter agreed and before any tree must be removed all must be done to save it. Mayor Pro Tempore Strauss suggested leaving the tree in place to see if it will survive. Council Member Martin noted that the Town Arborist recommended that the Town not take that risk. The root has been damaged. The other issue is the disruption from construction, which is within 1-foot of the trunk of the tree and concrete will impact those roots. The school requested that the Town make a decision soon to not impact the construction schedule.

Elizabeth Robbins, School Board member, deferred to the Town Arborist who is a very careful about preserving trees and if she feels the tree cannot be saved then they do not have much choice. The root is right in the trench where the building is being constructed. It is very unfortunate since it is an oak tree. There is not much room for saving the tree. It is not safe to keep the tree, so a decision to remove the tree is needed so the school can move forward. They will certainly want to replace it. A lot of trees were lost due to old age, disease

and construction. They desired beautiful trees for generations to come. Mayor Pro Tempore Strauss agreed to work with the school.

Council Member Martin wanted to be proactive about two trees along Lagunitas Avenue and the remaining oak along Lagunitas in front of the school, so they must proactively enter into some sort of program with the school on a replanting program to bring back some of the original luster of Ross. The Council agreed.

Community Protection- Council Member Hunter

- **Report on Ross Collaboration Meeting (MAGC, Ross Recreation, Ross School, Town of Ross)**

Council Member Hunter reported that at the end of last year they formed a collaboration group of MAGC, Ross Rec, Ross School and Town of Ross in an effort to stay on the same page with what other organizations in Town are doing, concerns and possible problems. They had two meetings and they are finding them to be very beneficial. At the first meeting there was some discussion about the fact that Ross wanted to redo their website. MAGC member had a wonderful web designer and Town Manager Broad contacted the web designer and a contract was signed and they are extremely pleased. At the last meeting they discussed how MAGC and all of Ross on that side of Sir Francis Drake feels very separated from the Town of Ross, Ross School and Town Center. There are two barriers, one is the wall in front of MAGC, but Sir Francis Drake is a greater challenge. They decided, as part of the downtown plan, to look at a bridge or a tunnel. They are interested in looking at the possibilities of a bridge tunnel. If there is no objection from the Council, he wanted to include the possibility of a bridge tunnel into the downtown plan. He then asked staff to investigate whether any grant funds available or any federal, state or county money is available to fund this project.

The Council agreed to explore, as part of the downtown plan, the possibility of building a pedestrian bridge across Sir Francis Drake Boulevard to link the Town's east and west sides.

Finance Committee - Council Member Martin

- **Finance Committee**

Council Member Martin reported that the Finance Committee would meet at the beginning of May to review fiscal year 2009-2010.

- **Marin Energy Authority**

Council Member Martin reported that MEA, along with its technical subcommittee, technical advisory committee and its consultants for CCA are working on the final draft of the RFP for potential energy providers. The RFP will be sent to targeted providers selected because of their experience and qualifications. The RFP requires that bidders provide fixed prices at cost per KWH for various categories of customers including municipal, commercial, industrial and residential users within the County of Marin. The RFP will establish power capacity required as well as the forecast power demand during an annual cycle. It is likely that bidders will respond with a portfolio of renewable energy sources, such as solar, wind, geothermal and biomass. The RFP is expected to be released by May 8<sup>th</sup>. Responses will likely be due by July 20<sup>th</sup>. There seems to be a strong interest from potential bidders around the State. California's Independent System Operator, the organization responsible for the management of the State's energy grid has been extremely supportive and helpful with the formation of this program. They hope to have a good result. There will be a

workshop scheduled from 1-4 in the Green Room of the Marin Center (10 Avenue of the Flags, San Rafael). The workshop is open to the public. The program will focus on ratemaking, feed-in tariffs, procurement, smart grid technology and the RFP process.

- **Marin Telecommunication Agency**

Council Member Martin indicated that MTA is applying for funds available through American Recovery and Reinvestment Act to expand Broadband access to underserved populations in Marin, including senior centers, schools, disadvantaged communities, libraries and schools. Nearly 7.2 billion dollars has been allocated for grant and loan programs to stimulate the development of Broadband infrastructure and services.

MTA also heard from Comcast representatives about their equipment conversion to a new digital system with greater capacity, which has created frustration with their customers. Apparently, people that have older TV's that are directly wired to cable without a cable box will need a digital adaptor in the future. Comcast will provide two such digital adaptors for free per household. Comcast is undertaking a public relations program to inform the public prior to the digital conversion.

**8. Report from Ross Property Owners Association.**

Diane Rudden, RPOA representative, stated that RPOA has been working on the disaster council and will bring information to the Council next month. RPOA greatly appreciated Fire Chief Vallee and Linda Lopez who have been excellent on getting focused. They are making progress. They hope funds are available to help with disaster council. In regard to the ADR group, one year is coming up and there have been some concerns, so the ADR process must be reviewed. Mayor Cahill asked staff to agendize that item. Town Manager Broad agreed.

**9. Flood Control Report - Deferred to Items 14 and 15.**

**10. Introduction and swearing in of new Police Officer Kenneth Nicholas, Jr.**

Police Chief Reis introduced Police Officer Kenneth Nicholas, Jr. and Mayor Cahill Swore in Kenneth Nicholas, Jr. as the newest addition to the Ross Police Department. The Council welcomed back Police Officer Nicholas to the Town of Ross.

**11. Consent Agenda.**

The following five items will be considered in a single motion, unless removed from the consent agenda:

Mayor Cahill pointed out that the three road surfacing projects totaling \$240,485 was nearly 38% under the Town Engineer's original estimate of \$390,000 – saving over \$146,000. The Council congratulated Public Works Director Jarjoura.

- a. Request to award contract and authorize expenditures for Skyland Way/ Walters Road overlay project.

Mayor Cahill asked for a motion.

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

- b. Request to award contract and authorize expenditures for Norwood Avenue/Fernhill Avenue overlay project.

Mayor Cahill asked for a motion.

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

- c. Request to award contract and authorize expenditures for North/East/West Hill Road overlay project.

Mayor Cahill asked for a motion.

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

- d. Town Council consideration of adoption of Ordinance No. 613 to amend the following Municipal Code chapters: Chapter 18.12, Definitions, to add definitions for emergency shelter, transitional housing and caretaker unit; Chapter 18.24, Civic District, to allow emergency shelters and transitional housing as a permitted use; and Chapter 18.16, Single Family Residence District to allow accessory residences for school faculty and staff as a conditionally permitted use on lots containing public and private schools.

Mayor Cahill asked for a motion.

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

- e. Town Council consideration of adoption of Resolution No. 1666 amending the hours for seasonal restricted parking zone for a weekly Farmers Market May through September.

Mayor Cahill asked for a motion.

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

End of consent agenda.

- 12. Town Council consideration of adoption of Resolution No. 1667 amending the fee schedule established by the Marin General Services Authority for Taxicab Regulations.

Town Manager Broad summarized the staff report and recommended that the Council consider adopting Resolution No. 1667, amending the fee schedule established by the Marin General Services Authority for taxicab regulations.

Mayor Cahill 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 Cahill asked for a motion.

Mayor Pro Tempore Strauss moved and Council Member Skall seconded, to adopt Resolution No. 1667, amending the fee schedule established by the Marin General Services Authority for taxicab regulations. Motion carried unanimously.

13. **Town Council consideration of adoption of Resolution No. 1668 Making Certain Findings and Determinations in Compliance with Section XIII B of the California Constitution (GANN Initiative) and Setting the Appropriation Limit for the Fiscal Year Ending June 30, 2009.**

Town Manager Broad summarized the staff report and recommended that the Council consider adopting Resolution No. 1668, making certain findings and determinations in compliance with Section XIII B of the California Constitution (GANN Initiative) and setting the appropriation limit for the fiscal year ending June 30, 2009.

Mayor Cahill noticed that last month the CPI went negative and asked staff if they are facing a potential problem in terms of next year of the limit going lower and reducing their ability to fund programs. Town Manager Broad responded that next year when they put together the budget that can be reviewed. They cannot be in violation two years in a row. It is a good question and staff will discuss with Stu as they work on the budget to factor that in looking ahead, so staff agreed to look at that scenario.

Mayor Cahill 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 Cahill asked for a motion.

Mayor Pro Tempore Strauss moved and Council Member Skall seconded, to adopt Resolution No. 1668, making certain findings and determinations in compliance with Section XIII B of the California Constitution (GANN Initiative) and setting the appropriation limit for the fiscal year ending June 30, 2009. Motion carried unanimously.

*Agenda Items 14 and 15 were combined.*

14. **Town Council consideration of adoption of Resolution No. 1669 Lagunitas Road Bridge Replacement Project CEQA Review: Certifying Final Environmental Impact Report (FEIR), Adopting a Statement of Findings of Fact and a Statement of Overriding Consideration, and Adopting a Mitigation Monitoring and Reporting Program.**

Town Manager Broad summarized the staff report and recommended that the Council consider adopting Resolution No. 1669 Lagunitas Road Bridge replacement project CEQA review: certifying final environmental impact report (FEIR), adopting a statement of

findings of fact and a statement of overriding consideration, and adopting a mitigation monitoring and reporting program.

David Fee, URS Consultant, produced the draft and had a public hearing on February 10<sup>th</sup> and recorded all comments that evening as well as received letters and emails from several individuals, organizations, Ross Historical Society and Friends of Corte Madera Creek. They provided responses to all comments in the FEIR that was submitted to the Council. Consideration tonight is to certify the original draft EIR that was prepared in accordance with the CEQA guidelines, adequately responded too and that the information is adequate in the eyes of the Council. The statement of fact is needed when identifying significant impacts that cannot be mitigated to less than significant level. The bridge is a historic structure and listed under historic places and on the national register of historical places. If destroying a resource of that type, it is automatically a significant unavoidable impact. They must have a statement that states they acknowledge that and by implementing mitigations measures they still feel the project has benefits that go beyond those adverse impacts. They identified unavoidable impacts to traffic in relation to temporary disruption in emergency response while the bridge is closed. In the packet there are findings for statement of findings of fact and statement of overriding consideration that must be adopted before the project can be approved. Finally, a mitigation monitoring and reporting program is required under CEQA. They must document how they will implement and track and report, which has been added to the final EIR for the Council's consideration.

David Anderson, URS Consultant, discussed the schedule and tonight's action will hopefully satisfy the CEQA process. They are waiting on responses in regard to dealing with historic bridge removal. The natural resource issues are pending and the final permits are triggers for biological opinion that has been slow in coming. Due to state and federal delays in issuing permits for the project, the project engineer recommended bridge reconstruction be delayed till the summer of 2010. The revised schedule will ensure the contractor has the maximum four months permitted to work on the Corte Madera Creek. Construction in the creek is restricted to June 15, to October 15.

Mayor Pro Tempore Strauss wanted to push forward with all agencies. URS Consultant Anderson believed it is too risky to award a contract in July or August since they are shut down in October. Mayor Pro Tempore Strauss hates to lose this opportunity this year. He asked if the footings could be poured and possibly go longer than October 15<sup>th</sup>. URS Consultant Anderson noted that AT&T lines must be relocated. Water lines must be relocated. There is one month after permits are acquired that are taken up by that relocation alone before the bridge can be demolished. It pushes the schedule into August before demolition occurs. They have large diameter casting piles that can be prone to problems and if there are problems then there is potential delay. They must give this contractor the full June to October window in which to operate and they are well into July until a contract is awarded.

Mayor Cahill wanted to continue the pressure of keeping the project moving forward. He did not want to relax and get placed on the back burner of this permit process. URS Consultant Anderson noted that getting fully funded should occur as soon as possible. Permits are good for five years and once money is locked in, it is secured as long as a certain amount of progress occurs. Council Member Martin stated that it may be a blessing in disguise to get a proper cast of the lighting fixture and match the antique look of the

concrete. URS Consultant Anderson noted that with the Ross Historic Bridge District, even though replacing it is part of the larger district, if they replicate fixtures, it is viewed as trying to fool the public to believe this is an original. He further added that this is not a renovation project.

Mayor Pro Tempore Strauss asked if they could move forward with road improvements. URS Consultant Anderson did not see any necessary sequence of events. One or the other could compliment. ADA access is needed in place because the bridge will take away that crosswalk. Mayor Pro Tempore Strauss felt they might be better off getting the road improvements done before the bridge and budget that before the next fiscal year. The Council agreed to maintain pressure to get this project done this year.

Mayor Pro Tempore Strauss recommended that the Town move forward with dredging the Corte Madera Creek this year.

Mayor Cahill 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 Cahill asked for a motion.

Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to adopt Resolution No. 1669, Lagunitas Road Bridge replacement project CEQA review: certifying Final Environmental Impact Report (FEIR), adopting a Statement of Findings of Fact and a Statement of Overriding Consideration, and adopting a Mitigation Monitoring and Reporting Program. Motion carried unanimously.

15. Town Council consideration of adoption of Resolution No. 1670 approving the Lagunitas Road Bridge Replacement Project.

Town Manager Broad summarized the staff report and recommended that the Council consider adopting Resolution No. 1670, approving the Lagunitas Road Bridge replacement project.

Mayor Cahill 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 Cahill asked for a motion.

Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to adopt Resolution No. 1670, approving the Lagunitas Road Bridge replacement project. Motion carried unanimously.

16. Town Council consideration of approving plans for a four-foot wide pedestrian pathway along Sir Francis Drake Boulevard.

Public Works Director Jarjoura summarized the staff report and recommended that the Council consider approving plans for a four-foot wide pedestrian pathway along Sir Francis Drake Boulevard.

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Mayor Cahill stated that they have \$200,000 approved as a grant and have been achieving very favorable construction bids for projects and this is likely to come in substantially below the estimate. He then asked staff if there was thought of including the intersection that connects the two paths to pay for the cost of that intersection. Public Works Director Jarjoura tried to overlap, but not as part of the project. It would be a component or additional element to the project. They have enough funds to do the project. There is a 15% leeway in the \$192,000. \$30,000 went to the consultant. There may be one venue for additional monies through TAM for such improvements or additions to the existing project to improve ADA and a traffic light for the crosswalk.

Council Member Hunter asked staff if it comes in well below, will the Town get to keep that money or is that money specifically for this sidewalk. Public Works Director Jarjoura believed if they keep the intersection as an element of the project any extra money would be Town money, so it would be wise to have that element as part of the project.

Mayor Pro Tempore Strauss asked that the proposal from Questa include work for the crosswalk. Lighting might be needed, which is not covered by the grant. ADA accessibility can be covered by the grant. They must make this a high priority, so they can dovetail the projects. Public Works Director Jarjoura agreed to pursue.

Mayor Pro Tempore Strauss wanted to walk the site one more time before implementation.

Council Member Martin asked staff the deadline in which monies must be spent. Public Works Director Jarjoura explained that construction must be completed this calendar year 2009 to avoid funding forfeiture.

Questa Engineer Jeff noted that construction budget is estimated at \$170,000 including 15% contingency, which is \$192,000. They are over to begin with and it did not include any intersection work. It is easily \$50,000 plus, especially with the lights. Their cost estimates are fairly current and they have been reasonably close on their estimates. The next step is to get responses and public comments, and then revise plans to submit as construction ready plans to Caltrans. They are anxious to react and revise plans per comments and address concerns of the public. After hearing public input from the December Council meeting they reviewed options and the pathway begins on the east side of Sir Francis Drake Boulevard just north of Ross Terrace Drive, crosses over to the west side at the Lagunitas Road intersection, and terminates at Bolinas Avenue.

Questa Engineer Nelson explained that the pathway is a 4-foot wide asphalt pedestrian pathway along Sir Francis Drake Boulevard. Most private driveways will need to be re-graded to compensate the 2% cross slope to meet ADA standards. Some removal of trees and shrubs must occur within the right-of-way, but they are making great effort to avoid removing any trees.

Questa Engineer Nelson discussed Berry Lane and they will install a berm to allow crossing that will be stripped with high visibility yellows. There will be storm drain improvements to accommodate the width of the pathway. The pathway will be adjacent to the existing fence. Questa Engineer Jeff noted that they tried to get as far away from Sir Francis Drake as possible to avoid the majority of trees. Two dead Bay trees and some other small trees will be removed. They have done a good job avoiding trees to the greatest extent possible. The plan

does not include landscaping other than replacement trees. The right-of-way is available where property owners take control, plant and maintain the area.

Questa Engineer Nelson added that in front of 24 Sir Francis Drake they propose removing a section of hedge, a mature section. The alternative was removing the tree or go over the roots of that tree that are above grade. They opted for removal of the hedge rather than removal of the tree. They are open to input from the Council. He further noted that the hedge is located in the right-of-way.

Council Member Hunter pointed out a problem with irrigation and suggested providing one conduit so a drop system could be threaded through. Questa Engineer Jeff agreed to install a 1 or 2 in. PVC conduit to be shown on the plans and have that as a line item on the bid to inform the contractor, so that is doable.

Questa Engineer Nelson stated following Berry Lane there is an existing pathway that will be removed and replaced with an ADA pathway. It has been lifted from the tree roots. At the intersection, they understand that closure of the bridge will be 2010 and they had hoped to coordinate that work at the same time, but it sounds as if this portion of work will take place independent of the bridge work and have finished grade that matches the bridges finished grade. The islands must be accessible. They will incorporate the MAGC entry design. Portion of work that is outside of the intersection scope begins at the Fire Department entrance and they will provide accessible ramps and partial regarding of the driveway. The anticipated driveway from the Fire Department north will not be impacted by the intersection improvements. The ramp would be concrete.

Mayor Pro Tempore Strauss desired a unified look throughout Town. Questa Engineer Nelson stated that if they are required to have a truncated dome, as long as they meet the color difference that is acceptable to Caltrans. Questa Engineer Jeff stated that they are commonly yellow and when an intersection is retrofitted they are installed. There are different colors. Mayor Pro Tempore Strauss felt the brick brown color is more appropriate for Ross. Questa Engineer Nelson added that the building code is quite clear. It is a contrast difference.

Mayor Cahill wanted the aesthetic decisions to go back to the Public Works Subcommittee. Questa Engineer Nelson agreed to present a range of options to the Public Works Subcommittee. He then explained that once they leave the Fire Department they are on the side of Sir Francis Drake where 4 feet will separate the fog line and they will have an AC concrete berm to allow vehicle traffic and a 4-foot wide pathway. For most part, the pathway and parking are exclusive, so one precludes the other.

Public Works Director Jarjoura noted that in terms of enforcement, if there is a previously dedicated approved parking area for a resident on Sir Francis Drake, then the Council should make a determination as to whether that privilege will be removed. Staff found it acceptable to park from the fog line all the way up to the sidewalk or path. It is not acceptable for vehicles to park on a sidewalk or on a pathway used by pedestrians because pedestrians will be forced to walk on the traffic lane. If there is enough room for a vehicle to park parallel and not be on the pathway that would be acceptable. Questa Engineer Nelson added that at the south section to MAGC the pathway is separated a great deal from the edge of the road, so there is no conflict since there is no parking. There are a few houses where residents could

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park on a gravel or grass area adjacent to their driveway. For the most part there is a red curb, so parking is not allowed. Lots 20, 22, and 26 could pull into their driveway and park where there is no tree. Continuing north there is an AC berm just before the right-turn lane of MAGC and that goes to the first residence. From Berry Lane, someone could park some distance from the road, so there could be parking and a pathway. From Berry Lane to Lot 28 there would be a conflict. From Lot 28 to MAGC there is an existing berm, so there is no conflict. From Laurel Grove to Lot 47 parking is available on that side of the road. The pathway is being moved as far as possible from the road. Staff further noted that they are calling for the relocation of the fence.

Council Member Martin walked the site and found discrepancy from the drawing in regard to Lot 45. Two trees are to be removed that are dead trees. The elms appeared to be alive in his view. The fence is being relocated in that area as well for the path, but it did not show the large oak tree on the owner's property that would conflict with the fence and asked Questa to re-examine that area. Questa Engineer Nelson agreed to investigate in more detail.

Questa Engineer Nelson noted that Lot 45 is very close to the travel lane. They are staying behind those trees and it looks as though when removing the ivy from that fence for the pathway the fence must be repaired. It is very tight at that point. At Lot 41, they propose an AC berm across the first portion of driveway for the pedestrian protection. It is within the Town's right-of-way, but it would preclude access that had previously been enjoyed by that homeowner and desired the Council's feedback. It is a 60-foot wide driveway where it meets Sir Francis Drake. The concern is that pedestrians leaving the safety of the pathway must traverse a 60-foot side driveway. They suggest that the driveway be reduced by 20-foot. They propose going behind the tree. This portion is quite steep, so they propose removal of the mature hedge past Lot 47 to achieve separation from traffic. For Lot 49, which is the Flood Control District parcel, they propose moving the 6-foot fence back. The whole area is asphalt and they wanted to keep pedestrians away and have an AC berm. They propose to move the fence back on the Flood Control District parcel and the private property next to it. They will leave the fence location on the current right-of-way. In regard to Lots 55, 57, and 59, there is an existing concrete sidewalk with 2 in. lip that will be removed and replaced with 2% cross slope with an AC berm. Pathway continues to the bridge. Once it leaves the bridge it continues on the existing footpath through the dirt that will be AC. The pathway from the bridge to the aggregate sidewalk, they propose limited improvements. They will accommodate ADA access. They met with the Public Works Subcommittee and were directed to remove the exposed aggregate. They have concerns, one is cost. They are quite close to the grant budget in their estimate. The existing exposed aggregate sidewalk has a cross slope just out of compliance with ADA. Given the sidewalk is lifted due to trees, they are concerned that the AC pathway will be further deteriorated by the trees. They propose either to end the project at the existing facility or removing the existing concrete and replace with AC or leave the existing facility and provide a separate pathway through the trees, which is within the Town's right-of-way.

Mayor Cahill opened the public hearing on this item.

Wayne Holter, Sir Francis Drake resident, desired clarification as to whether re-grading the driveway is part of the project and expressed concern for bottoming out at the driveway. Questa Engineer Nelson agreed to review the existing curb and make sure that her concern

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is addressed. The proposal is to remove the hedge and elevate the pathway above existing grade as well as protect the tree.

41 Sir Francis Drake resident appreciated a safe path for children, but expressed concern for the berm in terms of aesthetics. He then asked if any trees would be removed from his property. Questa Engineer Nelson noted that the berm would go from the fence with the hedge to the tree. 41 Sir Francis Drake resident might have an objection to the reduction in his driveway, but he is just not clear at this point. He further desired some other way for the path other than the berm approach.

55 Sir Francis Drake resident is very concerned about parking in front of his house and encouraged the Council to visit his home and try to exit or enter his driveway. It is a safety issue and did not understand why they are encouraging pedestrians and cyclist to travel through that area. It is already an unsafe area and believed this will create a major issue.

JT Spencer, 45 Sir Francis Drake resident, is confused about the parking and whether or not they are allowed to park on that pathway. Questa Engineer Nelson responded that there would be no parking on that pathway. Mr. Spencer asked if they considered flooding and rain in regard to adding impervious surfaces. The berm will act as a dam and all the properties on that side have a down slope on their driveways, so all that water will flow into the yards. Questa Engineer Jeff explained that changing from dirt to AC they studied, and given the size of the watershed and volumes of water, they determined it was not an effect. The berm would not be continuous and it will have periodic openings to allow water flow.

Kurt Rauzi, 1 Sir Francis Drake resident, desired more improvement to the intersection and the west side of Sir Francis Drake. He believed the purpose is to safely move children to school, so why not improve both sides. Mayor Cahill noted that many parents wanted that portion to be on the east side rather than west side. Several reasons were stated, even given the fact that they have to cross the crosswalk.

James Meyer, 43 Sir Francis Drake resident, wanted to know when construction would be implemented. Questa Engineer Nelson responded this calendar year. Quest Engineer Jeff explained that money must be spent by the end of November. Mr. Meyer believed this project is being rushed.

41 Sir Francis Drake resident asked if this is pathway is just for pedestrians. Questa Engineer Jeff explained that they are not precluding bikes.

Kathy O'Brien, 40 Sir Francis Drake resident, shared concerns others have mentioned and is curious, aesthetically speaking, in many areas they are very close to fences and wondered about greener and the effect of more asphalt. She believed it would look more like a freeway. She is afraid for vehicles thinking it is another lane. This is a neighborhood. She desired a workshop to have real discussions and problem solving between residents.

Mr. Spencer asked if there was an EIR done. Questa Engineer Jeff stated that it was categorically exempt. CEQA documents were done, but not a full EIR.

Mr. Meyer asked how many trees would be removed. Questa Engineer Jeff indicated that 4 or 5 trees would be removed, which will be replaced. Extensive landscaping was not part of

the grant and there is no budget available to include landscaping. This work does not preclude adjoining or abutting neighbors from planting in the right-of-way. Mr. Meyer requested that the landscape architect attend the next meeting to further discuss the plan. Questa Engineer Jeff indicated that Landscape Architect Margaret Henderson is available to answer any questions.

Mrs. O'Brien wanted something to be done to mitigate the AC surface. She hoped for a better visual appearance. Questa Engineer Jeff responded that there are some products available which is a color stamping process. It would not be done within the grant budget. There is brick and cobblestone design, but they are very close to the budget. Questa Engineer Nelson stated that there is an opportunity for the homeowner to pay for the additional improvements in regard to materials. Mrs. O'Brien expressed concern for the safety as well. Mayor Cahill noted that Shady Lane has a pathway for aesthetics and pervious quality to the roadway that addresses some concerns, which will be discussed at the Council level.

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.

Council Member Martin wanted to get a grasp on the reduction of on-street parking, so they must have an assessment on that as well as the one discrepancy on the drawing in regard to the trees and fence. Also, this is news for a lot of neighbors and suggested considering a public workshop. Timing is an issue, so they must jump on this to maintain their framework of allotted time. Maybe even an onsite "walkthrough" with neighbors to problem solve. There is an interest to have the pathway, but there are legitimate aesthetic, safety and parking issues that must be addressed. He preferred previous surfaces, but understands the budget issue.

Mayor Pro Tempore Strauss wanted to ask the consultant if they could come back in May. He suggested that a letter be sent out to all homeowners to inform them of what is occurring. Town Manager Broad noted that notices were sent out in December to the south side residents for that meeting and notices were sent out for this meeting as well.

Mayor Pro Tempore Strauss agreed tree replacement must be considered as well as the broader issue of the tree canopy in Town. In terms of the AC touching fences, he wanted the path to meander more. He wanted to see the hedge material. He did not want to view these cheap fences without landscaping, which is not a nice model for the Town. They are faced with residents maintaining the landscaping otherwise the plants will not survive. He noticed a break in the AC in front of Town Hall in regard to Sheet 5 and wanted to have a uniformed appearance. Questa Engineer Nelson noted that it is just the concrete curb in that area. The ramp will be concrete, but the existing sidewalk will remain AC as it is now. Mayor Pro Tempore Strauss desired consistency. Questa Engineer Nelson added that the Fire Department access would be a concrete driveway as well as the ramp.

Council Member Skall stated that this is a very important project for SR2S and it is very important to utilize this money and meet the deadline. The community desired multiple communication efforts. Even though it was posted, it is still never enough. They must have a public workshop before May. This is a major impact to several residents. He liked the idea from Council Member Hunter about irrigation being brought into the plan. They must have clear ideas about the actual legal enforcement on parking to completely understand before

they assume how it should be addressed. If there is extra money for this particular side of the roadway, then perhaps making it nicer on both the east and west sides should be reviewed.

Council Member Hunter agreed with the Council's comments. It has taken some residents by surprise and this idea of a "walking" workshop will be the best way to inform residents. It is a very important project, but each resident must understand the options. He further noted that the workshop must occur before the May Town Council meeting.

Mayor Cahill apologized to residents that felt they had not been properly notified and particularly thanked Mrs. O'Brien for her comments about not making this look like some second-class thoroughfare that no one cared about. It is a very important part of the Town and this is an opportunity to improve the area.

Questa Engineer Jeff stated that before they revise the plans should schedule a workshop on a Saturday morning so all residents are able to attend. He suggested considering possible dates tonight. Mayor Cahill suggested Saturday, April 25<sup>th</sup>, 2009. Town Manager Broad stated that it must be noticed and it must follow the Brown Act requirements if it is a Town Council meeting. Mayor Cahill believed it is "workshop" held by the consultants. All Council can attend since it is not an official meeting, just a workshop to receive input.

Questa Engineer Jeff suggested Saturday, May 2<sup>nd</sup>, 2009 to be better prepared for the workshop and allow the public more time to prepare and make arrangements. Mayor Cahill noted that they must revise the design and present to the Council at the May 14<sup>th</sup> Town Council meeting. Questa Engineer Jeff agreed.

The Council agreed to hold a "walking" public workshop on Saturday, May 2<sup>nd</sup> for residents to meet with the Town and project engineers to discuss issues affecting individual properties. The meeting will start at 10 am at Town Hall and proceed along Sir Francis Drake Boulevard.

Questa Engineer Jeff discussed the E76 construction review that cannot be submitted until the plans are approved. Mayor Pro Tempore Strauss recommended approving the plans in concept pending public modifications from the May 2<sup>nd</sup> workshop in order to expedite the permit process and avoid delays. Questa Engineer Jeff noted that it is construction ready approval from Caltrans. Council Member Hunter wanted to make sure they have the ability to modify after the workshop and respond to residents on Sir Francis Drake, so if approved tonight, do they still have that ability. Questa Engineer Jeff responded that as long as they are making the project softer and more user-friendly to the neighbors, then they are moving in the right direction.

Mayor Cahill discussed the options in regard to that section at the far end of Town where there is an existing concrete pathway and felt, based on cost, to not change the pathway. The Council agreed since the pathway is in good shape.

Mayor Cahill asked for a motion.

**Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to approve the plans for a four-foot wide pedestrian pathway along Sir Francis Drake Boulevard**

**subject to future refinement based on public input at the May 2<sup>nd</sup> workshop; and to apply for funding.** Motion carried unanimously.

17. Follow-up discussion of the five Town Council goals for 2008-2009 and the implementation of these goals.
  - a. Staff job description updates and performance reviews
  - b. On-going emergency preparedness, with a focus on seniors
  - c. Town and Ross Valley flood control
  - d. Downtown plan
  - e. Police and Fire Department reorganization

The Council reported progress on their five Council goals as follows:

**Goal A - Staff job description updates and performance reviews**

Mayor Cahill announced that a performance review public hearing would occur at the May Council meeting. Town Manager Broad added that Patti DiVella is working on the draft, so progress has been made and they are on target for the Council to review in May.

**Goal B - On-going emergency preparedness, with a focus on seniors**

Council Member Skall stated that they are making progress and once again thanked Diane Rudden for opening her home as well as Fire Chief Vallee for all the details. The next meeting will be held on June 16<sup>th</sup>.

**Goal C - Town and Ross Valley flood control**

Council Member Martin indicated that reversal of Ross Valley Flood fee has impeded any forcible solution to reducing frequency and intensity of flooding Ross Creek and Corte Madera Creek during winter months. The court of appeals decision will be appealed at the California Superior Court. There is no immediate coordinated resolution for the risk of flooding. It is up to Ross Council and the Town to develop immediate standards and action to try to reduce the possibility of flooding in the future. Also, he agreed with Mayor Pro Tempore Strauss's earlier comments about dredging and recommended that the Council immediately begin to take other flood control actions, including dredging Corte Madera Creek this year and setting aside funds for clearing vegetation and debris from the creeks. He also suggested that the Town adopt tougher building standards that could reduce or eliminate storm water runoff. He further suggested meeting with San Anselmo and Fairfax to explore those communities to adopt tougher standards and other methods as a united community to address flooding issues during the coming years.

**Goal D - Downtown plan**

Mayor Pro Tempore Strauss met with the SWA Group and hoped to have a meeting in May, but the date is not certain. A workshop will occur in the near future.

**Goal E - Police and Fire Department reorganization**

Council Member Hunter reported that at the last meeting they approved the notion of a contract with Ross Valley Fire Department for hiring a battalion chief. Town Attorney Hadden Roth reviewed and made edits to the contract, which was sent back to RVFD for approval. They is a meeting scheduled for May 12<sup>th</sup> and if RVFD accepts the edits, they would be ready to go on May 15<sup>th</sup> when the contract kicks off with a new battalion chief.

18. **Town Council consideration of introduction of Ordinance No. 614 to amend Municipal Code Chapter 18.28, Community Cultural District, to allow limited, ancillary residential development as a conditionally permitted use.**

Project Planner O'Rourke summarized the staff report and recommended that the Council consider introducing Ordinance No. 614 to amend Municipal Code Chapter 18.28, Community Cultural District, to allow limited, ancillary residential development as a conditionally permitted use.

Mayor Cahill 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 Cahill asked for a motion.

**Council Member Hunter moved and Council Member Skall seconded, to introduce and waive the reading of Ordinance No. 614, amending Municipal Code Chapter 18.28, Community Cultural District, to allow limited, ancillary residential development as a conditionally permitted use. Motion carried unanimously.**

19. **Discussion of Town of Ross draft housing element 2009-2014, to include potential housing strategies and sites to meet the Town's regional housing needs allocation. This meeting is intended to allow staff to receive feedback from the Council and public.**

Town Manager Broad noted that Project Planner O'Rourke is the Town's housing specialist and she attended several organized meetings at the County level to collaborate and bring together the best and greatest ideas. Staff will provide the Council an overview of the draft housing element and present to the public for input and any changes will be incorporated.

Project Planner O'Rourke discussed the draft housing element 2009-2014 and noted the following areas that will be discussed: provide an overview of the purpose and requirements; look at the goals and programs of the previous housing element and talk about accomplishments; identify existing housing needs in Ross and demographic trends and housing affordability issues and get into more detail about regional housing needs assessment (RHNA); and housing strategies that include identifying housing sites and develop programs to meet housing needs of all economic segments in the community. Staff explained that the Town has been allocated, through the Association of Bay Area Government's planning process, a total of 27 new housing units for the 2007-2014 period. Four units have already been approved, which leaves 23 units of which only 8 may be new single-family homes developed on vacant lots.

Council Member Hunter expressed concern for the second unit ordinance. Project Planner O'Rourke could certainly amend the second unit ordinance to allow for more second units. Staff is making a case to count the guesthouses, but is not sure how HCD would respond.

Council Member Hunter suggested removing the fee to apply for a second unit. Project Planner O'Rourke agreed.

Council Member Martin discussed future uses at 6 Redwood, which is a one-unit house the Town has rented out and there are several possibilities for that site. He asked staff how locked in is the Town under this policy for considering alternate uses for that parcel such as open space or connecting to Ross Common. Project Planner O'Rourke responded that it should be taken out of the housing element if that is the intention. They must be realistic about development or not. They are not required to develop any housing, but they must plan for it and make sure zoning is in place with incentives to facilitate and encourage housing.

Mayor Cahill desired clarification as to what must be reported at the end of the period. Project Planner O'Rourke explained that an annual report is required to be filed every year. Nothing happens if they do not meet the requirement, but an adopted housing element is required to be eligible for certain funding.

Mayor Cahill 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.

Mayor Cahill suggested adding St. Anselm's parking lot to the inventory of affordable housing sites as well as permitting three stories on the site to accommodate housing for very low-income households. Retailers struggle in our downtown. With residential above and retail below the Town could encourage condo and rental apartments to help retailers and allow seniors to downsize into a smaller rental or condo unit and still stay in Town and walk to services. Project Planner O'Rourke agreed to include those sites in the housing element.

Council Member Martin asked if there is a category where seniors at one point were a homeowner and now live with assisted care, could they be included in the tabulation of these quotas. Project Planner O'Rourke responded that housing allocation is new units. During the census that would be factored in, but they cannot be counted as very low income. They must build a separate unit on the property to be considered a unit. Council Member Martin stated that they could adopt policies to assist families of distress that might need a caretaker unit or some sort of housing. Project Planner O'Rourke responded in the affirmative.

Mayor Cahill stated that often neighbors are unhappy with the concept of second units. We want to encourage second units, but there is a great deal of pushback in the community. Project Planner O'Rourke agreed to be more proactive and explain the case of why second units are needed in the community. Council Member Hunter agreed that second units have not been well articulated to the community.

In response to new State laws, the Council agreed to include programs in the housing element to permit emergency shelters and single-room occupancy hotels in the commercial district, and to treat transitional and supportive housing as a residential use in all districts that permit housing. The Council also agreed to carry over sites identified in the previous housing element for affordable housing. These sites provide a total estimated capacity of 9 to 16 units and include the Branson School, the Marin Art & Garden Center, and the town-owned properties at 37 Sir Francis Drake Boulevard and 5 Redwood Drive.

The Council asked staff to provide suggestions in regard to incentives for deed-restricted units as well. Project Planner O'Rourke agreed.

The Town plans to submit its draft-housing element to the State Department of Housing and Community Development (HCD) in May. The public will have another opportunity to comment on the draft sometime in July, after HCD has completed its initial review.

*The Council took a short recess at 9:45pm.*

20. **2 Upper Road West, Variance, Design Review and Use Permit No. 1720**  
Alan Grujic, 2 Upper Road West, A.P. No. 73-062-12, R-1: B-5A (Single Family Residence, 5-Acre Minimum Lot Size). Use permit, design review and a variance to permit construction of: 1.) 747 sq. ft. guesthouse over the existing garage within the rear yard setback (40 feet required, 20 feet proposed); 2.) landscape modifications including a new pool and lawn area east of the residence and relocation of the driveway, which involves 1,380 linear feet of new retaining walls up to 8 feet in height, 1,225 cubic yards of cut, and 2,092 cubic yards of fill (proposed net import of 867 cubic yards of fill); and 3.) expanded parking area within the rear yard setback (40 feet required, 2 feet proposed). A tree removal permit is requested to allow the removal of 7 oak trees ranging from 9 inches to 26 inches in diameter.

Lot area	74,487.60 square feet
Present Floor Area Ratio	13.8%
Proposed Floor Area Ratio	14.8% (15% permitted)
Present Lot Coverage	13.8%
Proposed Lot Coverage	15.0% (15% permitted)

Senior Planner Semonian summarized the staff report and recommended that the Council approve the guesthouse addition and deny the remainder of the project based on the findings and conditions outlined in the staff report. If the Council is inclined to approve the remainder of the project, staff recommends that the Council continue the matter to allow staff to prepare an initial environmental study for the project. Staff was unable to determine that the project is exempt from CEQA based on the slope of the site and the grading proposed.

Council Member Skall is very confused because the Town Manager's report provided recommendations for reduced cut and fill and there was no indication of the concerns addressed in elaborate detail in this staff report. He asked staff what happened in terms of the December report and this report. Council Member Skall indicated that the Council provided instructions at the December meeting and this new report is bringing up more concerns than what was discussed originally.

Mayor Pro Tempore Strauss brought up certain issues at the December meeting that were incorporated into this report. Council Member Skall believed the December meeting and this staff report present two very different expectations of the client. Senior Planner Semonian indicated that the December report was prepared before the December meeting and this report incorporated the concerns raised by the majority of the Council at that meeting. Staff is recommending denial of the project and must present sufficient findings for the Council to deny the project. The Council may still decide to approve the project and then staff would return with findings and conditions in favor of the project.

Michael Yandle, landscape architect, stated that, since the December meeting, staff was going to identify the site as a hillside lot, which he took exception to. However, he met with staff and determined that it was incorrect language and it was removed. He was surprised by the language in the staff report. He is present with the civil engineer. Mr. Grujic could not attend due to spring break, but expressed that he is fully committed to the project and protecting and enhancing the sense of privacy around his and the adjacent properties. He is committed to do whatever it takes to minimize impacts and disturbance to neighbors. He is committed to living in Ross and raising his family in the community. He worked with neighbors and asked that he be treated equitable and that his property rights are respected. In responding to the Council's concerns, they submitted a thoroughly and comprehensive packet. For the past 25 years, he built beautiful projects with 40 completed in Ross. The greatest compliment received is that the garden appears as if they were always present due to experience, use of scale and proportions, response to site and architecture, and appropriate level of development of the site. He took the same approach to this garden. They responded to the Council and neighbor concerns in a meaningful way. They reduced impervious paving. They improved the site drainage. He showed the existing site and pointed out a terrific buffer that runs all around the property and all of that is preserved and enhanced in this plan. They are working within the disturbed areas of the site. It is a unique site. They have two property lines with contiguous neighbors. The Council is under a great deal of pressure when developing on hillsides, but they are not in that same category. This is not a present undeveloped site. It is a 20% slope as measured by staff. Also, he is a big proponent of the hillside guidelines and responding to the spirit, specifically stepping projects down slope. This is not an exercise in moving a pool. It is about creating a proper base for the home. A gathering space and stepping the project down the hill, resolving poorly designed driveway and turnaround that is all wrapped in a beautiful garden setting. The Council must consider if there was no pool on this site then where would it be placed. His design response was to place the pool in a small area 4 feet down from finished floor to have a safe transition. Improvements are in the middle of the site. The edge of the pool to wall is 24 feet. There is one area of this proposed plan that is a flattened area and is 125 feet back from the immediate neighbor. They dramatically reduced the imported fill due to direct response from the Council. They walked the site and the back area has been disturbed and if they pushed two 4-foot walls back 25 feet from the existing wall terraced, they could move considerable amount of fill for the road improvements in front. They utilized a storm water recycling system. All downspouts and asphalt road are piped into a catch basin. Drainage plan helps and captures all water runoff into storage tanks. They reduced the impervious surfaces by taking the 47000 sq. ft. asphalt drive and removing it and replacing with a pervious product. It has an 8 in. gap filled with gravel that allows percolation. By proposing the walls, they are continuing to step the project. They are using a "pandeck" living roof system at the pool area. In regard to impacts, he first considered the immediate impacts to immediate properties as well as perceived and real impacts relative to those projects and then community wide. In this case, there are no impacts to adjacent properties. It is not visible to the surrounding community. There are still objections from the Wiener's and Richard's. They took the property through ADR and the Council. Worked with neighbors. Sent out flyers to respond to concerns. Story poles were erected at the most extreme portions of the site. They produced before and after perspectives included in the Council's packet. This is a previously disturbed site. Not a hillside lot. It is appropriately scaled to the house and site. It steps down slope and not seen from off site. It is consistent with other levels of development. They reduced imported fill and it falls within ranges of previously approved projects. They proposed state-of-the-art Green measures. They are introducing

solar panels and photovoltaic. The geotechnical engineer reviewed and deemed it appropriate for development. They respect the neighbors desire for peace and quiet. They are certain when all their homes were built there were some inconveniences. It is part of living in a community that wants to improve their homes and garden. This is a really experienced construction team in place and ready to go. They can coordinate daily with Public Works in regard to construction traffic. It takes conservative effort to organized truck traffic by the Town and contractor. They might be able to accept fill from the Lagunitas project for their improvements, so sourcing could be very local. They are happy to accept the conditions set for the Glenwood home that seem to work well. It is about building beautiful gardens and architecture.

Mayor Cahill asked about the net reduction in import. Landscape Architect Yandle responded that 867 cubic yards of infill is proposed, but they must consider expansion that takes it to 1041 cubic yards.

Council Member Martin asked if the Town's Hydrologist report was reviewed. Project Civil Engineer responded that the finished project has less impervious surfaces. The pool area with concrete patio was removed. 5700 sq. ft. was removed. There is a net reduction of impermeable areas. The intent is to have holding tanks to reduce fill and store retention systems that will further reduce peak flows. He agreed to show the natural watercourse. They rerouted hydrology and the intent is to remove and redirect flow to the other side and provide a disperse area. It will provide filtration during low flow and higher flow it will provide a velocity break. In terms of sloping area, it is challenging and they will retain a small portion and add filtration. It is a natural location for water, and it is fairly easy to maintain. The water flow travels around so they are bypassing neighbors and bringing it directly and reducing the impermeable surface. By providing more flat areas, they provided an opportunity for the rainwater to infiltrate. Between the detention system, flat areas and reduced impermeable surfaces that should be reducing peak flow, so in the end the project will be a hydrological improvement. Landscape Architect Yandle agreed to allow the Town's Hydrologist review all the plans. Project Civil Engineer believed the Town's Hydrologist was very positive about what they are proposing.

Mayor Cahill opened the public hearing on this item.

Nora Laherty, Upper Road West resident, submitted a letter objecting to the project, not to the guesthouse. Moving the pool site would be great for them personally. However, they cannot support this project as it stands due to the environmental impacts. She expressed concerns for their private road and quality of life issues. With reduction of imported fill that is appreciated, the mass and scope of the project is too disruptive to the road, environment and quality of life. Cutting the hillside will impact their quality of life. She asked the Council to consider their unstable hillside and review records of projects on Upper Road West to find how much extra support from retaining walls were needed. Please consider all residents on the hill and residents on Bolinas and Upper Road directly in the path of trucks. She believed a compromise could be made without disrupting the road, environment and quality of life. Perhaps a smaller pool. She further thanked staff for their efforts.

Isobel Wiener, 41 Upper Road resident, is very appreciative of efforts made by Mr. Grujic in terms of accommodating neighbors and reducing fill. Her husband submitted comments in regard to previous approvals in the recent past of similar projects in Ross where comparable

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amounts of fill was used to re-contour the site and that story poles should be erected to show the retaining walls and the tops marked with ribbon, in addition to showing the outline of the pool terrace in order to understand the project. They cannot quantify the project, and once they can, then they can work to resolve.

Pamela Sher, 40 Upper Road resident, expressed concern for construction truck trips on Upper Road, which impacts their quality of life. She suggested that after seeing the scope of this project and changes made from the last plan, what kind of changes could be made to ameliorate the concerns of the neighbors. Perhaps a smaller pool and less truck trips. She expressed concern for the removal of trees. No tree can replace a mature oak tree.

Merritt Sher, 40 Upper Road resident, stated that Upper Road and Upper Road West has several pedestrians, it is a major walking route. Adding truck traffic to what is an already congested area will be a safety hazard and very difficult to maneuver. The area will be substantially impacted from the truck traffic. Too many big trucks over a sustained period of time is not acceptable.

Mark Laherty, 15 upper Road West resident, stated that notification process is antiquated. A few notices were placed within 500 feet of the project, but this truck traffic will impact a greater area of Ross.

Tom Fanoë, 8 Upper Road West resident, wanted to know how all trucks will enter the property. He noted that it is a delicate road and expressed concern for the amount of truck traffic. He expressed concern for being blocked. Landscape Architect Yandle explained that they would go through the current entry. They will build the lower road first. The trucks are able to maneuver. Also, fill would occur between 10am and 2pm. Within that window around 10 trucks could come through during that time. That seems to work with the school and headed to work movement. He agreed construction traffic is an issue throughout the entire Town. He believed around 10 yards or less per truck, so 200 round trips.

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 Pro Tempore Strauss believed a great job was done on the plan, but found the bulk and mass of the amount of soil required to be imported for the deck not fitting with the design intent of the Town. To create a flat site on a hillside goes against all thinking of the Town's General Plan. He expressed concern for the amount of elevated grade to create this pool area, while there are other solutions. He can support the guesthouse, but urged the Council not to approve the guesthouse without seeing how the applicant wanted to do the entire project. He agreed with the staff report and this is environmentally not the correct approach.

Council Member Martin concurred with Mayor Pro Tempore Strauss's comments. Also, he wanted to see more detail on the drainage plan with calculations with peak storm water and peak saturation. He wanted considerable improvement to the drainage problems on that parcel that would be positive.

Council Member Skall asked the neighbors how the Wiener project was dealt with. Mrs. Sher noted that they were much younger. Mrs. Wiener stated that they did not bring in

outside fill. She further noted that this is an unprecedented amount that has not been quantified.

Council Member Skall felt the applicant came back with their proposal with compromises based on the information provided at the December meeting. He felt the applicant made a good faith effort to come back based on the discussion from the December meeting.

Council Member Hunter agreed with Mayor Pro Tempore Strauss and Council Member Martin. He appreciated Landscape Architect Yandle's work. He quoted a former Councilmember that used to say, "*not everybody has a God given right to a swimming pool.*" The idea of moving this concrete bathtub and importing fill does not make environmental sense. It is still too much fill. The idea of reduction of impervious services is appreciated. The use of cisterns is beneficial, but still too much dirt for the wrong reasons. He supported the guesthouse, but if they are coming back then perhaps the Council should wait to see how the entire project would integrate.

Mayor Cahill stated that a 15-foot high structure is too high. He believed they must follow the topography of the land. It is unfortunate that the applicant felt misled. It is just too big in good conscience to approve. Otherwise, the guesthouse is fine. They must follow the topography and it will be challenging to get the pool in front. They must explore reducing the net fill, and of course, if they follow the topography that should be accomplished. He concurred that all the work on drainage is a superb response and commended those efforts. He recommended a continuance to allow an opportunity to redesign with the comments of the majority of the Council. Staff felt it would be cleaner to come back with a new application. Staff suggested continuing the matter to next month.

Landscape Architect Yandle commented on development on the hillside in regard to no walls over 8 feet and no combined conditions of sloped wall of 16 feet. This meets those specific languages very well. He indicated that his client had asked the Council to vote on this matter tonight rather than continue. Council Member Hunter noted that they could approve the pool house and deny the rest. Mayor Pro Tempore Strauss wanted to review the entire project because there may be other opportunities on this site.

Mayor Cahill asked if they approve the pool house and deny the pool and flat area surrounding the pool, what happens to the driveway and drainage. Senior Planner Semonian stated that conditions of approval are set up to approve only the pool house and the Council could require a drainage plan to be submitted that reduces net runoff. Staff's recommendation is for pool house approval and nothing else. Staff agreed to modify the current condition to state, "*that a drainage plan shall be submitted with the building permit with the goal of not increasing runoff from the site.*"

Mayor Cahill asked for a motion.

**Council Member Hunter moved and Mayor Pro Tempore seconded, to approve the guesthouse subject to findings and conditions, including the verbal condition just articulated by staff and deny the rest of the project. Motion carried 4-1. Skall opposed.**

2 Upper Road West Conditions:

The project shall comply with the following conditions of approval, which shall be reproduced on the first page of the building permit plans:

1. The approval is for the 747 square foot guesthouse proposed above the existing garage structure, which is partially within the rear setback area of the sit. The pool, driveway, and lawn project is not approved and plans submitted for the building permit shall reflect this change.
2. EXCEPT AS OTHERWISE STATED IN THESE CONDITIONS, NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR PLANNING DEPARTMENT APPROVAL. The project construction shall comply with the approved plans. Red-lined plans showing any proposed changes, including changes to materials or colors, shall be submitted to the Town Planner for review and approval prior to making any modifications.
3. The guesthouse may not be rented unless a Second Unit permit is obtained from the Town.
4. All costs for town consultant review of the project shall be paid prior to building permit issuance. Any additional costs incurred to inspect or review the project shall be paid as incurred and prior to project final.
5. 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.
6. The project shall comply with Bay Area Air Quality Management District Regulation 6, Rule 3, regarding wood-burning devices.
7. The project shall comply with all requirements of the Marin Municipal Water District.
8. The applicants shall submit a detailed arborist report that details the health of the oak tree proposed for retention near the guest house/garage structure as well as any other tree protected by Ross regulations. The report shall identify measures that must be taken before, during and after construction to protect and preserve the tree(s). The applicant shall provide staff with a letter or report from the arborist that confirms that the arborist review the construction level drawings (including foundation plans, any proposed trenching for utilities, landscape plan, etc.) to prepare the tree protection plan.
9. A drainage plan shall be submitted with the building permit application that demonstrates that there will be no net increase in runoff at the site. Drainage shall conform to current discharge practices in Marin County.
10. All lighting shall be shielded and directed downward. Exterior lighting of landscaping by any means shall not be permitted if it creates glare or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public right-of-ways is prohibited.
11. 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. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses 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.
12. This project shall comply with the following requirements to the satisfaction of the Department of Public Safety:

1. A street number must be posted {minimum 4 inches on contrasting background}
  2. All dead or dying flammable material must be removed as per R.M.C. Chapter 12.12
  3. Sprinklers should be extended to the new construction.
  4. The applicant shall clear all brush impinging on the access roadway.
  5. The Roadway shall have a vertical clearance of 14 feet.
  6. A 24 hour monitored alarm system is required.
13. Any portable toilets shall be placed off of the street and out of public view.
14. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. 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 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.
15. Failure to secure required building permits and/or begin construction by April 16, 2010 will cause the approval to lapse without further notice.
16. 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.
17. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
18. 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.
21. **191 Lagunitas Road, Variance, Design Review, Hillside Lot/Hazard Zone Use Permit, and Demolition Permit No. 1725**  
Paris and Martha Royo, 191 Lagunitas Road, A.P. No. 73-211-06, R-1: B-5A (Single Family Residence, 5 Acre Minimum Lot Size). Demolition permit to remove existing single-family residence, guesthouse, pool and cabana (5,471 square feet of floor area). Design review and hillside lot/hazard zone 3 use permit to allow construction of a new 2-story residence and basement level garage, swimming pool, and 1,116 square foot, detached, guesthouse/workout room. The applicants propose to retain the existing garage, located within the required east side yard setback. 1,603 cubic yards of cut and 1,671 cubic yards of fill are proposed. Design review for new 6 foot tall auto and pedestrian gates between 6.5-foot tall stone faced columns, to replace the

existing driveway gate. A variance is requested to build a trellis over the driveway proposed within the west yard setback (25 feet required, 3 feet proposed). A tree removal permit is requested to allow the removal of 5 trees less than 18" in diameter.

Based on an initial study, staff has concluded that the project will not have a significant effect on the environment and recommends that the Town Council adopt a Mitigated Negative Declaration of Environmental Impact for the project.

Lot area	136,289 square feet
Existing Floor Area Ratio	6,245 square feet (4.6%)
Proposed Floor Area Ratio	9.097 square feet (6.7%)*
Existing Lot Coverage	2.8%
Proposed Lot Coverage	4.0% (15% permitted)

*\*The slope of the lot is 33%. The Town Hillside Lot ordinance recommends a maximum floor area of 9,148 square feet.*

Senior Planner Semonian summarized the staff report and recommended that the Council approve the project with findings and conditions in the staff report and the modifications to the conditions as indicated by staff.

Council Member Martin asked staff if Item 5 would address concerns relative to the thinning out of the redwood trees. Senior Planner Semonian responded that Landscape Condition. No. 11 addresses that concern and staff is requiring understory plantings as well. Staff further noted that only one native tree is proposed for removal.

Mayor Pro Tempore Strauss believed the below grade driveway is a side yard structure that would require a variance. Senior Planner Semonian indicated that the regulations are not clear as to whether the driveway would be considered a structure. Mayor Pro Tempore Strauss believed it is a procedural question and desired clarification from the Town Attorney. Council Member Hunter stated that it is a driveway and it is getting two vehicles off the road, so there are many benefits. The applicant explained that the driveway is a specific exclusion and provides precedence to indicate that this does not require a variance.

Mayor Cahill asked staff if this driveway area is counted in FAR or lot coverage. Senior Planner Semonian noted that it is counted as FAR.

Mayor Pro Tempore Strauss suggested that the applicant return with a variance application. The applicant will do what is desired, but believed the Council can interrupt.

The applicant explained that they added more windows. After speaking to neighbors, they found the plans acceptable. Japanese maples were requested, which they agreed to plant. He provided a model for the Council's consideration as well as a materials board and noted that he is available to answer any questions.

Mayor Cahill opened the public hearing on this item.

195 Lagunitas Road resident desired green plantings at the southwest corner. The applicant agreed.

Samantha Lyman, neighbor, stated that the owner has gone out of his way to consult with all surrounding neighbors and believed they have done a great job.

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.

Council Member Hunter believed it is within their purview to determine if it is a structure and he determined it as a driveway and is in favor of approving the project. Council Member Skull concurred. He also reminded everyone that they had agreed the existing garage was to be removed.

Mayor Pro Tempore Strauss agreed, but found the legal issue troubling. Council Member Martin liked the project, but is also confused about the legal issue.

Mayor Cahill believed the consensus is to approve as submitted with the idea to place on the consent agenda next month to work out the legal issue in regard to the variance for the structure in order to protect the owner and the Town. The Council agreed.

Mayor Cahill asked for a motion.

**Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to continue the matter to the May 14, 2009, Town Council meeting. Motion carried unanimously.**

22. 3 Ross Common, Commercial Use Permit No. 1734

John and June Lord, (owner), and SL:ID Studio/Samantha Lyman and Samantha Penman and Alain Pinel Realtors (applicants), 3 Ross Common, A.P. No. 73-273-13, Local Service Commercial District (C-L). A Local Service Commercial District use permit application for a retail home furnishings and housewares boutique shared with a real estate office in a 500 square foot, ground floor, tenant space. Proposed days and hours of operation for the retail use are 11 am to 5 pm Monday through Saturday. The real estate office use would operate 10 am to 4 pm Monday through Sunday. There would be one to three on-site employees and estimated customer traffic of five to twenty five people per day.

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

Council Member Hunter asked staff how this use would be policed or controlled to ensure it is not only an office use. Senior Planner Semonian responded that conditions of approval are very specific in that regard.

Mayor Pro Tempore Strauss asked staff if floor space is allocated to the real estate use. Senior Planner Semonian noted that it is very minimal. It is along the wall.

Samantha Lyman, applicant, noted that they primarily sell home furnishings. The bulk of their sales is goods, not services. They are keeping the design building across the street. The

sofas are examples of furniture they do sell. They also keep a binder showcasing their pieces. The real estate agency will use the space to welcome their clients to Ross.

Craig Slivestri, Alain Pinel Realtors, stated that this will provide visible presence in Town and provide a comfortable and attractive place to meet their clients to discuss and browse through listings, and plan a tour. It is a prototype and this idea was born in Ross and it is exciting for their company because it is a new concept. This partnership is a paring of complimentary businesses.

Council Member Martin asked if a business plan was developed. Ms. Lyman crunched the numbers and it makes sense. Samantha Penman, applicant, stated that sales tax over the last quarter was over \$100,000, which can only get better with this joint venture. It benefits the Town and brings traffic to the store, which will benefit surrounding businesses as well. Ms. Lyman stated that they are bigger on public relations. Their success has been pretty organic. They sell home furnishings, fixture, candles and accessories. They routinely stock inventory and sell it, so it depends what they find. They may turn merchandise every three months to keep it fun, fresh and appealing.

Council Member Martin asked how they would accomplish this goal without confusing a passerby. Ms. Lyman explained that they have the same black and white color scheme. Signage will be simple, so it is all about the graphics. Sharing space is not confusing. The messaging is in the windows. It will not leave question about what they are selling. They have two other employees on occasion, but the two of them have staffed their business so far.

Real Estate Agent Slivestri noted that five agents are from Ross and no one is assigned to this office, it will just be a meeting place. All five Ross residents are mobile agents. They have a complete office at home. There will be two workstations during the hours of operation. There will be no pictures in the windows. They will have a flat screen TV displaying listings and showcasing properties. He further believed the lease is five years.

Mayor Cahill opened the public hearing on this item.

Janell Hobart, Ross resident, noted that Ms. Lyman is extremely talented and successful and noted her support for the application.

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 Pro Tempore Strauss liked the idea, but is not sure if this proposal goes along with the downtown plan.

Council Member Martin shared the concern for the downtown plan since that is a very strong corner. Currently, they have a horrible retail condition. He feels for the owner that this is a viable alternative. He wondered if there is a way to approve as a conditional use to be reviewed after some period of time. Senior Planner Semonian explained that use permits run with the land and cannot be revoked after a certain time. Ms. Lyman indicated that if a short-term condition were placed on this application, they would not proceed because of the investment in the business.

Council Member Skall stated that this is an applicant willing to move forward with a business downtown and believed the Council should approve this application.

Council Member Hunter really thinks it is very creative and must take their word that agents will meet clients and move on, not work from the space. He wished them much success. Real Estate Agent Slivestri noted that a floor agent would be present to write documents.

Mayor Cahill found the application terrific and noted his support.

Mayor Cahill asked for a motion.

**Council Member Hunter moved and Council Member Skall seconded, to approve the Use Permit as outlined by staff. Motion carried unanimously.**

**3 Ross Common Use Permit Conditions:**

1. This use permit shall allow the joint operation of a retail home furnishings and housewares boutique and real estate office in conformity with the description, hours and days of operation in the use permit application, and subject to the following conditions of approval.
2. Any expansion or modification of the approved use (such as operation of only the real estate office at the space) shall be through a subsequent public hearing by the Town Council.
3. This use permit shall expire within one year from the date of approval if not exercised.
4. The applicant is responsible for ensuring that all improvements comply with disabled access regulations, regardless of whether a building permit is required for the work.
5. A sign permit is required from the Town prior to installation of any new signage. Any exterior modifications, including repainting, shall require approval by the Planning Department staff. Town staff shall review any proposed signage with two members of the ADR Group prior to approval.
6. 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.
7. 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.
8. NO CHANGES FROM THE APPROVED PLANS AND USE SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.
9. 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.
10. 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.

23. **68 Bridge Road, Design Review No. 1666**  
Janell Hobart, 68 Bridge Road, A.P. No. 73-302-11, R-1: B-20 (Single Family Residence, 20,000 Sq. Ft. Minimum Lot Size). Design review to allow replacement of the existing 6 foot 10 inch automobile gate on Bridge Road, in the front yard, with a 6-foot tall, solid wood, gate.

Senior Planner Semonian summarized the staff report and recommended that the Council approve the application subject to findings and conditions.

Janell Hobart, applicant, stated that her clients are very generous to Ross and they are present, accessible and friendly, but had recent issues that were very scary. They feel exposed. They have large dogs and people are feeding them. They are unable to rest comfortably at their home. She further noted that the gate is setback 29 feet from the edge of the road.

Mayor Cahill 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.

Council Member Martin and Mayor Pro Tempore Strauss supported the application.

Council Member Hunter expressed concern for the application. He really thinks they can have 50% of the gate open and still provide a more substantial gate so their security is not threatened. He wanted to avoid the appearance of a long wall.

Mayor Cahill personally felt they have approved gates that have been recessed from the street. The 50% open gate policy makes sense at the street, but when recessed it does not make sense. He supported the application.

Mayor Cahill asked for a motion.

**Mayor Cahill moved and Mayor Pro Tempore Strauss seconded, to approve the application with the solid gate, including the findings and conditions outlined in the staff report. Motion carried 4-1. Hunter opposed.**

**68 Bridge Road Conditions:**

1. The proposed gates shall be designed and constructed in substantial conformance to the plans.
2. This project shall comply with the following recommendations to the satisfaction of the Department of Public Safety: 1.) a street number must be posted (minimum 4 inches on contrasting background); and 2.) a Knox Lock box is required if the gate is motorized; and 3.) all dead or dying flammable materials shall be removed and cleared per Ross Municipal Code chapter 12.12.

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. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses 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.
4. 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.

*Council Member Skall excused himself from the Town Council meeting at 11:43 pm.*

**24. 198 Lagunitas Road, Variance No. 1732**

Jamie O'Hara and Cynthia Weldon, 198 Lagunitas Road, A.P. No. 73-131-01, R-1:B-A (Single Family Residence, 1 Acre Minimum Lot Size). Variances for the following: 1.) conversion of an existing covered rear entry and storage shed to a mudroom within the rear yard setback (40 feet required, 32 feet proposed) and addition of 104 square feet to add a laundry room and storage room; 2.) construction of an outdoor shower within the rear yard setback (40 feet required, 26.5 feet proposed); and 3.) addition of 88 square feet for a bathroom on the west side of the second floor.

Lot area	34,375 square feet
Existing Floor Area Ratio	16.1%
Proposed Floor Area Ratio	16.6% (15% permitted)
Existing Lot Coverage	10.1%
Proposed Lot Coverage	10.4% (15% permitted)

*The existing residence is nonconforming in setbacks and number of stories. The applicants have withdrawn their request to construct an outdoor fireplace and barbecue kitchen within the setbacks.*

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

John Clark, architect, stated that the scope of work is for two minor additions and for construction of an outdoor shower to be integrated into the cedar siding of the house. They reviewed the project with staff and neighbors and made revisions to address concerns.

Mayor Cahill 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 Cahill asked for a motion.

Mayor Pro Tempore Strauss moved and Council Member Martin seconded, to approve the project with findings and conditions. Motion carried unanimously. Skall absent.

### Conditions of Approval for 198 Lagunitas Road

The project shall be subject to the following conditions, which shall be reproduced on the first page(s) of the project plans:

1. No changes from the approved plans, before or after project final, 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 change.
2. 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. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses 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.
3. This project shall comply with all requirements of the Department of Public Safety.
4. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. 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 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.
5. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
6. Failure to secure required building permits and/or begin construction by April 16, 2010 will cause the approval to lapse without further notice.
7. 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.

25. 42 Winship Avenue, Variance and Design Review No. 1737

Jon Dickinson, 42 Winship Avenue, A.P. No. 72-161-03, R-1:B-10 (Single Family Residence, 10,000 Sq. Ft. Minimum Lot Size). Design review and variances for a new, 504 square foot, two-car, garage within the front setback (25 feet required, 8 feet proposed) and side setback (15 feet required, 3 feet proposed). The new garage would replace the existing 336 square foot, one-car, garage. The project also involves replacement of the horizontal siding on the rear walls of the residence with stucco, to match the original structure.

Lot area	11,895 square feet
Existing Floor Area Ratio	37.4%
Proposed Floor Area Ratio	38.8% (20% permitted)
Existing Lot Coverage	25.9%
Proposed Lot Coverage	27.3% (20% permitted)

*The existing residence and garage are nonconforming in setbacks.*

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

Jon Dickenson, owner/applicant, is present to answer any questions.

Mayor Pro Tempore Strauss spoke to Mr. Dickenson about adding a trellis over the two garage doors to mitigate what will otherwise be a large two-car garage and he agreed. Mr. Dickenson indicated that he liked the idea.

Mayor Cahill 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 Cahill asked for a motion.

**Council Member Martin moved and Council Member Hunter seconded, to approve the application with the addition of a trellis and planting material. Motion carried unanimously. Skall absent.**

42 Winship Conditions:

The project shall be subject to the following conditions, which shall be reproduced on the first page(s) of the project plans:

1. The applicant shall add a landscape trellis to the face of the garage, above the garage doors.
2. No changes from the approved plans, before or after project final, 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 change.
3. The garage doors shall be automatic. The garage shall be available for vehicle parking. The town planner may limit lighting, electrical and other improvements on

- the building permit plans for the garage to ensure it will only be used for garage purposes.
4. 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. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses 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.
  5. This project shall comply with all requirements of the Department of Public Safety, as outlined in their ongoing project review.
  6. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. 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 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.
  7. Any portable toilets shall be placed off the street and out of public view. Any temporary fencing shall not be an orange or other bright color.
  8. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
  9. Failure to secure required building permits and/or begin construction by April 16, 2010 will cause the approval to lapse without further notice.
  10. 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.
26. **18 Canyon Road, Variance and Design Review No. 1692**  
**\*\*This item has been continued.\*\***  
Douglas Abrams, 18 Canyon Road, A.P. No. 72-031-27, R-1:B-5A (Single Family Residence, 5 Acre Minimum Lot Size). Design review and variances to allow: 1.) conversion of 216 square feet of garage storage space to living space within side yard setback (25 feet required, 8 feet proposed); 2.) expansion of master bedroom at main

level and addition of two new bedrooms at upper level within front yard setback (25 feet required, 5 feet proposed).

Lot area (less road easement)	23,598 square feet	
Existing Floor Area Ratio	13.2%	
Proposed Floor Area Ratio	14.8%	(15% permitted)
Existing Lot Coverage	10.7%	
Proposed Lot Coverage	11.2%	(15% permitted)

*The existing residence is nonconforming in setbacks, maximum height, and number of stories.*

**\*\*This item has been continued.\*\***

27. Correspondence

- **Left Turn for Bicycles on Shady Lane**

Town Manager Broad agreed to investigate. The Council suggested using “*share the road*” stencils as used in San Rafael.

- **Jack Silver Letter**

Town Manager Broad indicated that the letter would be forwarded to the Town Attorney.

- **MAGC Sign for Pixie Fair**

Town Manager Broad noted MAGC desired a “*bunny*” sign along Sir Francis Drake. Mayor Cahill agreed to respond.

- **Grand Jury Email**

Town Manager Broad indicated that the matter would be addressed at the June Town Council Meeting.

28. Other Business - None

29. Adjournment.

By order of Mayor Cahill, the meeting adjourned at 11:55pm.

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William R. Cahill, Mayor

ATTEST:

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Gary Broad, Town Manager