

REGULAR MEETING of the ROSS TOWN COUNCIL on the SPECIAL DATE OF THURSDAY, APRIL 5, 2007

1. 6:32 P.M.

Present: Mayor Strauss; Mayor Pro Tempore Hunter; Council Member Cahill; Council Member Durst; Council Member Skall; Town Attorney Hadden Roth

2. Posting of Agenda.

The Town Manager reported that the agenda was posted according to Government Code.

3. Minutes -March

Mayor Strauss asked for a motion.

Council Member Durst moved and Mayor Pro Tempore Hunter seconded, to approve the March 2007 minutes as amended. Motion carried unanimously.

4. Demands.

The demands were met.

5. Open Time for Public Expression.

Peter Ausnit, Glenwood resident, is grateful to live in Ross that protects the welfare of its citizens and has a Council that take steps to improve the quality of life in this town, but called attention to second-hand smoke. Second-hand smoke is a significant health risk and a great nuisance. He asked the Town to declare second-hand smoke to be a public nuisance as with leaf blowers. He hoped this issue is resolved in the future. He hoped to one-day breath clean air in his home and backyard. Mayor Strauss believed it might be a civil action between neighbors. Mr. Ausnit noted that Belmont banned smoking inside multifamily residences. Dublin declared smoking to be a public nuisance and other towns are considering. Mayor Strauss agreed to discuss this matter with staff. Mr. Ausnit further noted that the County of Marin Board of Supervisors banned smoking in basically every area where they have jurisdiction and he would be glad to provide more literature in that regard to staff.

Charlotte Levin, Ross resident, reminded the Town about excessive speeds being traveled through Town, which is an issue that must be addressed. Mayor Strauss will address that matter under Item No. 8. Ms. Levin noted that San Anselmo is increasing their patrol.

6. Election of Mayor.

Council Member Cahill moved and Council Member Skall seconded, to nominate Scot Hunter as Mayor of the Ross Town Council. Motion carried unanimously.

On behalf of Council and staff, Mayor Hunter presented Council Member Strauss with a plaque in appreciation for all his efforts while serving as Mayor of the Ross Town Council.

7. Election of Mayor Pro Tempore.

Council Member Durst moved and Council Member Skall seconded, to nominate William Cahill as Mayor Pro Tempore of the Ross Town Council. Motion carried unanimously.

8. Report from Committee Heads.

Public Safety -Council member Hunter

- Fire Consolidation Update

Mayor Hunter continues to work with the consultant and hoped to have the consultant ready to make a presentation to Council at the May 10th meeting.

Public Works -Council member Strauss

- Plan for the Downtown Area Report

Council Member Strauss met with MPA along with Council Member Durst and staff who did the School Master Plan. The Town must establish a downtown plan. They received proposals and are in the process of reviewing. In the near future, they hope to retain a firm to help with the downtown planning, including traffic issues, pathways and so forth.

- Town Pathways Update

Council Member Strauss noted that staff is looking into complying with Safe Routes to School Program (SR2S). Town Manager Broad explained that at the last Council meeting he along with Director Jarjoura talked with Ed Steinhauer at TAM about availability of any TAM money for pathway improvements. He reported that there is no money that will be channeled into the Town of Ross to pay for any projects within the 20-year life of Measure A money. The Town will receive about \$20,000 per year from TAM bond money for roadway improvements. It is a fairly modest amount of money to apply to any projects they desired consistent with TAM Measure A funding limitations. Also, \$25 million that came from the nonmotorized projects, not just Ross, but Ross Valley got shutout from the screening process as well. The only project within Ross Valley left on the final list was a study at the hub in San Anselmo. Most money went into the north/south I01-corridor area. They must express their dissatisfaction to Supervisor Brown. He added that what is left, as an outside opportunity for funding, is money available through the SR2S program. Staff provided some analysis in Council's packet. There is an opportunity for Ross to be considered for improvements along Sir Francis Drake and the Safe Routes study recommended looking at improvements as far as installing sidewalks on the east side of Sir Francis Drake up to Laurel Grove and a sidewalk switching over to the west side at the Laurel Grove intersection and run to the San Anselmo edge. Staff further noted that they must call for projects, submit and review what projects will be eligible.

Council Member Durst asked staff if they could protest this decision. Council Member Strauss wondered if they should talk to Supervisor Brown. Council Member Durst believed they must evaluate their best points. Town Manger Broad recommended contacting TAM. Council Member Skall agreed to draft a letter to TAM in regard to Council's disappointment.

Town Manager Broad stated that Shady Lane, outside of SR2S money, will be hard to receive funds even though it is an improvement link between Ross and San Anselmo. Years ago they were pushed to install a concrete sidewalk, but there might be an opportunity to install a four-foot wide asphalt walkway more in character with the rustic area and be far less in cost than a concrete walkway. The study, as part of Safe Routes, shows the improvements along Shady Lane being decomposed granite. That would be an option in terms of ADA compliant materials. Staff noted that Director Jarjoura is concerned about maintenance on decomposed granite because it will require more upkeep than an asphalt walkway.

Council Member Strauss noted that they have decomposed granite with a binding agent. Director Jarjoura indicated that a wood edge must be installed with the decomposed granite in order to provide an acceptable ADA surface. The issue is with weather. There is a cement type material made out of tree sap that is added to decomposed granite to become more or less a concrete type to stay together. With weather and rain, this would require more maintenance than asphalt concrete that would stay and be easy to maintain.

Mayor Hunter asked staff if there is crushed granite on a current project for Council to review. Director Jarjoura noted that 190 and 195 Lagunitas are great examples for Council's consideration, but the issue mainly is ADA compliance. Town Manager Broad would try to find an example of decomposed granite with the binding material, which would be helpful. Council Member Strauss agreed to provide some asphalt material for Council's review as well.

Ross School Liaison - Council Member Skall

- Ross School Update

Council Member Skall met with the Ross School Design Committee on March 29th and the school has funds from the bond. In addition, the school hopes for additional funds from FEMA. They are petitioning the office of public school construction for additional funds. At the meeting the first drawings of the school design were presented. He was very impressed with the fact that the members of the Design Committee were very focused on how the school relates to the Town and Commons. The interior of the school design is being driven by teachers and student interaction. The Committee is very interested in working with the Town, specifically with staff to work through this process. They hired the Town Arborist to be sensitive to mature trees and how that will be integrated into the design and the multipurpose building can be integrated into the Town. Also, the Town may be able to incorporate activities with that multipurpose room. This matter will be forwarded to Council in the next few months. He then announced that the next Design Committee meeting is on April 18th.

9. Report from Ross Property Owners Association.

Diane Rudden, representing RPOA, reported that the Town permitted the RPOA to purchase two new light poles that are within Ross Common and permission to place a plaque stating that they donated the poles, which she presented to Director Jarjoura. On March 24th RPOA sponsored a CPR class, which was staffed by Jake Peterson and Jim at the Ross Library. Also, students from Ross School designed the banner on the light poles advertising for the garden tour. Wendy McPhee is behind the project and getting the banners printed and Robert Maccario hung the banners. She then asked Council who would be in charge of the disaster preparedness committee because the RPOA wanted that to move forward. Chief Heying received funding for regional disaster preparedness effort along with Kentfield and San Anselmo. They are looking at how to secure the funding. He wanted a professional coordinator to be funded out of that money to work for the benefit of the region. Ms. Rudden asked staff if any paving will occur on Bolinas Ave. Director Jarjoura approached the Town of San Anselmo more than two years ago and suggested that Ross would be willing to pay half of the possible cost and San Anselmo did not have the funds. This week Ross took the initiative and did \$10,000 worth of patching and did a great chunk of Bolinas. In regard to the stop sign and traffic study, they will raise the issue again.

Council Member Durst received a letter from the Mayor of San Anselmo on March 9th about Bolinas Ave. He referred the matter to the Public Safety Committee, so they know who to contact and Ross is trying to politely be aggressive as possible.

10. Flood Control Report deferred to Item No. 13

11. Town Council consideration of Resolution No. 1622 Confirming the Ross Valley Paramedic Authority (RVPA) Tax Levy for Fiscal Year 2007-2008.

Gary Broad, Town Manager, summarized the staff report and recommended that Council adopt Resolution No. 1622, confirming the RVPA tax levy for fiscal year 2007-08.

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

Mayor Hunter asked for a motion.

Council Member Strauss moved and Mayor Pro Tempore Cahill seconded, to adopt Resolution No. 1622, confirming the RVPA tax levy for fiscal year 2008-08. Motion carried unanimously.

12. Town Council consideration and response to the Grand Jury report dated February 14, 2007 entitled "Hogtieing: A Lethal Restraint?"

Barry Heying, Chief, summarized the staff report and recommended that Council approve his response to the grand jury report dated February 14, 2007. Also, Ross subscribes to a policy service in regard to liability concerns and Ross has the most comprehensive policy available.

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

Mayor Hunter asked for a motion.

Mayor Pro Tempore Cahill moved and Council Member Strauss seconded, to authorize Chief Heying to respond to the grand jury in accordance with the received report dated February 14, 2007. Motion carried unanimously.

13. Town Council presentation from Marin County District 2 Supervisor Hal Brown and Assistant Civil Engineer Jack Curley on the Ross Valley Flood Protection and Watershed Program and the proposed drainage system fee for the Flood Zone 9-Ross Valley, and consideration of supporting Resolution No. 1623.

Hal Brown, Supervisor, reported that elected officials, businesses and communities asked that action be taken on flooding. They had historic collaboration before them, which is the unity of the four towns and they now have a program to send to property owners. They spent \$700,000 and had numerous community meetings. He thanked Council Members Strauss and Cahill. He noted that Jack Curley has done a marvelous job bringing together several individuals, including the environmental community. He then thanked Ross Council for being there throughout this entire process. He added that a tremendous amount of progress has been made in one year.

Jack Curley, Assistant Civil Engineer, provided Council with a powerpoint presentation about the Ross Valley Flood Protection and Watershed Program that included the following:

- Flood Damage in the Ross Valley
 - The storm of Dec. 31 2005 was a storm with a 1% probability of happening
 - Had three such events
 - Damage exceeded \$90 million
 - Approximately 1.3 had flood insurance
 - Natural flood plain is a fully developed residential area.
 - Estimated that as much as \$100 million is needed to improve
- Towards Solution
 - 4% probability
 - Major public works projects and innovative actions are needed
 - Environmentally supportive techniques inform and merge new generation of engineering practices
 - Combination of creek restoration, bridge, and culvert replacements and the adding of large detention basins are required to provide 100-year level protection
 - Use of the latest technology, computer generated hydraulic modeling
 - Further hydraulic modeling is required to complete the picture and allow proper planning for the Ross Valley
- Watershed Wide
 - Traditional flood control methods are not effective
 - Integration with environmental needs is not only required, but smart
- Comparison: 12/31 Storm & Existing Conditions
- Inclusive Approach - Progress
 - Include key stakeholders throughout watershed
 - Created Technical Workgroup
 - This group informed both a financial workgroup and a committee of elected officials who could then make informed decisions on process and programs
 - This methodology insures the inclusion of on-the-ground expertise in the governmental process
 - Carrying this process forward is key to success
- Community Outreach
 - Conducted three community meetings
 - Helped to understand scope of project and financial implications
 - 300 people attended final community meeting
- December Survey results
 - Sent 6,000 surveys to property owners
 - Mimic mail ballot
 - Actual rate show on survey
- Poll Results: 67% Yes to \$125
- Support throughout Ross Valley

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- Ross Valley Financing Plan Framework
 - Revenue designated for
 - Leveraging of new funds
- Implementation Draft Examples
- Army Corps of Engineers photographs
 - Fish Ladder
 - View upstream fish ladder
- Simulated discharge at Lagunitas Road 12/31/05 Storm Event
- Proposed mid level bank walls and stabilization
- Extents of Ross solutions
- Rock-ramp fish passage design at Woodacre
- Solutions & FEMA CRS
- The Good News
 - Money is available
 - Prop 1E has over \$1 billion
 - Prop 84 has \$800 million
 - Aggressively pursuing
- Storm Drainage Fee
- Voting Process
 - March 15 – Notices of hearing mailed
 - May 1 – Public hearing
 - May 3-4 – Ballots mailed - 45-day voting period
 - End June – Count ballots

Council Member Durst asked if this would solve that differential in the fish ladder. Engineer Curley noted that it removes that wooden structure and it then stretches that change in elevation over a distance. All information is available at: www.rossvalleywatershed.org.

Engineer Curley noted that the remaining portions of unit 4 and unit 3 funds are available and can be used for only that purpose. The Town passed a resolution asking for certain items and that must be presented along with the Army Corps. They need blessing from the Town to move forward, and then the Corps can start with the environmental documents.

Council Member Durst commented on the \$125 per parcel. Engineer Curley indicated that an assessment engineer reviewed all single-family residences and chose the median parcel size and assigned a fee of \$125 to those parcels that fit into the range of .125 acres to .21 acres. All in reference to that parcel size. Smaller parcel pays less in relationship to that. They capped it at 180 for parcels over one-acre for single-family residences.

Mayor Hunter opened the public hearing on this item.

Joan Holmes, Ross resident, indicated that she did not receive a notice. Engineer Curley agreed to help Ms. Holmes in that regard.

Michael Moore, Shanley Lane, asked if approved when will this project be finished. Engineer Curley had no idea. This is not a single project. It will be a series of projects and efforts. It is his intention to start working as soon as the funds are available. First they must do the hydraulic model and feasibility studies must occur. It will take time and a number of years to

complete. Ms. Moore asked if they should raise the school. Engineer Curley believed it is a good idea to raise any building out of the flood plain.

Louise Mathews, San Anselmo resident, asked if the rate for all residential and commercial properties could be reduced if not exempted by the supervisors and financial working group. Engineer Curley stated no because it was not assigned as a distributed cost. All projects cannot be funded by local assessment, tax or fee. Financial groups looked at equitable fees to vary that fee. As far as properties being exempt, school districts are struggling and it did not seem equitable to place this burden on them. Also, this was decided upon by others and their reasons are not known.

Ms. Mathews noted inconsistency because San Anselmo and Fairfax are not members of Flood Zone 9, not until after the April 19th meeting then 6 weeks until the Board legalizes them as Flood Zone 9. If they are not members, what will happen to fee generated revenues that the voters would have approved on behalf of those two districts? Engineer Curley responded that Fairfax and San Anselmo are members of Flood Zone 9 as of January 10th, but a member is not sitting on the advisory board because procedure must be followed by law. It is a procedural process. It takes a while to get a board date to set a resolution.

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

Council thanked Hal Brown, Katie Rice and Jack Curley for all their efforts. Supervisor Brown noted that they are moving quickly, but it will take time.

Mayor Hunter asked for a motion.

Council Member Strauss moved and Mayor Pro Tempore Cahill seconded, to adopt Resolution No. 1623. Motion carried unanimously.

14. Town Council consideration of Resolution No. 1621 - 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, 2007.

Gary Broad, Town Manager, summarized the staff report and recommended that Council adopt Resolution No. 1621, 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, 2007.

Mayor Pro Tempore Cahill asked if staff goes through this exercise in advance in regard to the budget. Town Manager Broad explained that staff asked Council to review because there are variables not known at the time, but they make an assumption. They are okay if exceeding in a single year. It is only a problem if exceeding in two consecutive years. They are close each year and they must rethink the budget potentially if they found not to be in compliance.

Mayor Hunter opened the public hearing on this item.

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Joan Holmes, Ross resident, asked staff to explain the formula. Town Manager Broad responded that they factor in an increase in population, but the annual increase is so small. If decreased they would have lower appropriations limit that must be complied. It is harder for a community as Ross not growing at 3% and the limit goes up based on the CPI. This is an annual step for all towns, counties and special districts.

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

Mayor Hunter asked for a motion.

Council Member Durst moved and Council Member Strauss seconded, to adopt Resolution No. 1621. Motion carried unanimously.

15. Town Council consideration of Resolution No. 1624 proclaiming April 2007 to be Fair Housing month.

Gary Broad, Town Manager, summarized the staff report and recommended that Council adopt Resolution No. 1624, proclaiming April 2007 to be Fair Housing month.

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

Mayor Hunter asked for a motion.

Council Member Durst moved and Council Member Strauss seconded, to adopt Resolution No. 1624, proclaiming April 2007 to be Fair Housing month. Motion carried unanimously.

Town Attorney Hadden Roth excused himself from the Town Council meeting at 7:57 pm.

16. Planning Application Consent Agenda.

a. 30 El Camino Bueno, Extension of Time Hillside Lot No. HL 114

Colin Lind and Anne Dickerson-Lind, 30 El Camino Bueno, A.P. No. 72-171-04, R-1:B-A (Single Family Residence, One Acre Minimum Lot Size). A one-year time extension to April 17, 2008, for a demolition, variance, design review and hillside lot permit application approved on April 17, 2007, to allow the following: 1.) construction of a 5,789 square foot three story residence (two stories allowed) with a maximum height of 32.5 feet (30 feet allowed), an 805 square foot attached two car garage, and a 113 square foot pool house; 6,707 square feet of total development is proposed*; 2.) construction of a new terrace and a 75 foot by 17 foot swimming pool to the south of the proposed residence; and 3.) 1,475 cubic yards of cut, 730 cubic yards of fill, and 360 linear feet of new retaining walls with a maximum height of 8 feet.

Lot area	2.48 acres	
Existing Floor Area Ratio	5.8%	
Proposed Floor Area Ratio	6.2%	(15% permitted*)
Existing Lot Coverage	3.9%	
Proposed Lot Coverage	6.6%	(15% permitted)

**The slope of this lot is 40%. The hillside lot ordinance would recommend a maximum floor area of 6,708 square feet.*

Mayor Hunter asked for a motion.

Mayor Pro Tempore Cahill moved and Council Member Strauss seconded, to approve Consent Calendar Item “a” as presented. Motion carried unanimously.

Conditions of approval for Lind, Extension of Time Application, File HL 114

1. Except as specifically amended here, all conditions of this project’s April 17, 2006 approval shall remain in full force and effect.
2. Failure to secure required building permits and begin construction by April 17, 2008 will cause this approval to lapse without further notice.
3. 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 contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney’s fees and costs and participates in the defense in good faith.

b. 7 Upper Road, Variance and Design Review No. 1645

Thomas Weisel, 7 Upper Road, A.P. No. 73-011-25, R-1:B-A (Single Family Residence, 1 Acre Minimum Lot Size). Design review and variance to permit 142 linear feet of new retaining walls up to 6 feet tall and 25 linear feet of 10 foot tall fence (6 foot tall fence permitted) for a new sports court to replace the existing garden shed and former sports court. Design review is also requested for a new 164 square foot office shed and 120 square foot greenhouse.

Lot area	178,596 square feet	
Current Floor Area Ratio	9.7%	
Proposed Floor Area Ratio	9.8%	(15% permitted)
Current Lot Coverage	4.6%	
Proposed Lot Coverage	5.0%	(15% permitted)

The existing residence is nonconforming in height and number of stories. The existing garage is nonconforming in setbacks.

Mayor Hunter asked for a motion.

Mayor Pro Tempore Cahill moved and Council Member Strauss seconded, to approve Consent Calendar Item “b” as presented. Motion carried unanimously.

Conditions of approval for Weisel Design Review and Tree Removal Application, 7 Upper Road, File 1645

1. Landscape shall be installed in compliance with the proposed plans prior to project final. Additional screening landscaping shall be installed between the sports court and the street so that the improvements are screened from Upper Road.
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. Night time lighting of the sports court is prohibited. Any lighting for the sports court shall be reviewed and approved by the planning department prior to installation and may require a use permit. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
4. This project shall comply with the following requirements of the Department of Public Safety: a local alarm is required for the gardeners shed.
5. Any portable toilets shall be placed off of the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
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.
7. **NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.** Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
8. **FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY APRIL 5, 2008 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**
9. 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.
10. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
11. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense

of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

End of Planning Consent Agenda.

17. 12 Norwood Avenue, Amendment to Variance and Design Review No. 1551
Ken and Lori Tishgart, 12 Norwood Avenue, A.P. No. 73-091-29, R-1:B-20 (Single Family Residence, 20,000 Square Foot Minimum Lot Size). Variance, design review and amendment to the April 7, 2005 Town Council approval to permit the following: 1.) construction of a 40 foot by 20 foot swimming pool within the east side setback (20 feet required, 14 feet proposed); 3.) new patio area within the setback from the rear property line of 10 Norwood (25 feet required, 22 feet proposed), west side setback (20 feet required, 14 feet proposed) and guideline watercourse setback (25 feet recommended, 10 feet proposed); 4.) modification to the design of the pool pavilion and outdoor fireplace.

Lot area	54,700 square feet
Approved Floor Area Ratio	9.9%
Proposed Floor Area Ratio	9.9% (15% permitted)
Approved Lot Coverage	7.0%
Proposed Lot Coverage	7.0% (15% permitted)

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

Elise Semonian, Senior Planner, summarized the staff report and explained that the applicant intends to paint, landscape and add new concrete in the area that was damaged by removing other concrete. Based on the extent of improvements, staff recommended approval of the project, including the variance.

Lori Tishgart, applicant, removed the proposed concrete stone steps. There is a gentle slope so steps are not needed to the approved pool pavilion. She intends to maintain the orchard state. She is adding heavy screening to the western side of the property and along with screening from the western neighbors that should provide the privacy desired. She further noted that the pool remains in the same footprint.

Mayor Hunter opened the public hearing on this item, and seeing on one wishing to speak, he closed the public hearing and brought the matter back to Council for discussion and action.

Council Member Skall is comfortable with the small modifications made.

Council Member Strauss believed they have an opportunity to remove a nonconforming structure in the watercourse and would be in favor of removing that structure. Also, he still can see a solution where the pool and spa could be moved outside of the setback, if the applicant is willing to remove the structure.

Mayor Pro Tempore Cahill thinks the pool is acceptable at its proposed location. He agreed with the staff report on balance that it is the best solution given proximity to the creek and

adjacent neighbor. The pool house is an existing structure and there are many examples throughout the Town being adjacent to the creek in a watercourse area. This is up on top of a very high retaining wall and it was not impacted by the New Year's flood. The retaining wall held the water down below the pool house. Although it forced water into the lower area, he had concerns that the retaining wall itself is deteriorating and a condition should be added requiring a structural engineer to review and make a recommendation in regard to any repairs needed. Also, the applicant is planning to paint the pool house brown to blend in with the natural landscape and that is a good condition as well, so based on those conditions he would be in favor of this project.

Council Member Durst agreed and by painting the old carriage house a brown color it would blend in with the surroundings. If that structure were taken out, the loss of privacy would be great. They have done a great job preserving the privacy and upgrading the area. She would approve with staff's findings and conditions.

Mayor Hunter found the proposal acceptable. He is very concerned about the shed and wall, but this is an opportunity to get that fixed. They could approve the project with the understanding that if at any time in the future the current owners or future owners come in to do any improvements to that shed or pool house, at that time the wall must be fixed, and if in the process of fixing the wall the shed is found to be in the way that the shed is removed or he could go along with Mayor Pro Tempore Cahill's suggestion. Council Member Strauss noted that such a wall would reduce the flood plain and if improved the situation would be perpetuated.

Council Member Durst noted that staff's conditions are that the shed cannot be removed and any improvements must be of a minor nature. If approved tonight with just staff's conditions, it is left open in the future that the shed would be removed if there were some event of major deterioration of the retaining wall. A separate application would come back to Council in regard to the retaining wall repair and fundamental foundation issues.

Mayor Hunter recommended changing Condition No. 3 to add, "*with approval must require that a structural engineer evaluate the condition of the underlining retaining wall to be evaluated as part of that renovation.*" Council Member Durst suggested stating, "*including work along the creek bank retaining wall and floor structure.*" Council agreed.

Mayor Pro Tempore Cahill recommended requiring as a condition of approval painting the structure brown. Council agreed.

Mayor Hunter asked for a motion.

Council Member Durst moved and Council Member Skall seconded, to approve with staff findings and conditions; adding language to Condition No. 3 in regard to creek bank retaining wall and floor structure; and that the shed be painted brown. Motion carried 4:1. Strauss opposed.

Conditions of approval for Kenneth and Lori Tishgart, 12 Norwood Avenue, File Var 1551

1. The landscaping shall be installed as proposed prior to project final.
2. The following modifications to the approved master landscape plan shall require an amendment to be submitted to the Town for review and approval. Staff shall review

- any proposed revisions to ensure they are appropriate for the creek area and will not harm existing mature trees (for example, traditional turf lawn areas and invasive plants shall not be approved).
- a. Any modifications in the front yard area within 25 feet of the bank of the creek
 - b. Any new impervious surfaces
 - c. Any modifications to the yard area north of the pool pavilion
3. Modifications to the pool house structure, which includes the former carport, are limited to painting it a color approved by the planning department, resurfacing the concrete floor, and landscaping with plants that are not invasive to the creek. No other work is permitted to the structure without approval from the Town, including work to the creek bank retaining wall and floor structure. The creek side of the pool house structure shall be painted brown.
 4. The project shall be subject to the conditions of the April 7, 2005, Town Council approval.
 5. No work is permitted in the creek without appropriate JAARPA permits.
 6. The applicants shall immediately take the precautions identified in the March 29, 2006 Bartlett arborist report. Heavy equipment shall not be located under the dripline of any tree.
 7. The applicants shall immediately place hay bales at the site as specified on the building permit plans to prevent runoff into the creek in the area of the pavilion and to protect the creek side trees during construction.
Prior to issuance of a building permit for the pool work or any landscaping associated with the project, the applicants shall submit a revised drainage plan that demonstrates all site and landscape drainage, including the pool and pavilion area, will be dissipated on site and not directed towards the creek. All lawn areas shall be designed so that any runoff or excess irrigation flows away from the creek.
 8. The landscape and irrigation plans must be designed in accordance with Marin Municipal Water District (MMWD) landscape ordinance #385. Prior to providing water service for new landscape areas, or improved or modified landscape areas, the District must review and approve the project's working drawings for planting and irrigation systems. Any questions regarding the District's current water conservation and landscape Ordinance should be directed to Charlene Burgi at (415) 945-1525. Should backflow protection be required, said protection shall be installed as a condition of water service. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559. The applicants shall provide evidence that MMWD has reviewed and approved the landscape and irrigation plan prior to project final,
 9. This approval is limited to the items described in the public notice. Details associated with the April 7, 2005 Town Council approval, such as the design of the railings and the materials, are not changed by approval of this application.
 10. 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. This approval does not extend any construction completion dates for any other permits for this site.
 11. No changes from the approved plans shall be permitted without prior Town approval. Redlined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.

12. 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.
18. **94 Sir Francis Drake, Variance and Design Review No. 1643**
Gus Shuwayhat, 94 Sir Francis Drake Boulevard, A.P. No. 72-151-04, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). Variance and design review to permit a 603 square foot single-story addition to the rear of the existing residence within the north side setback (15 feet required, 3 feet proposed).

Lot area (per applicant)	11,900 square feet
Existing Floor Area Ratio	14.6%
Proposed Floor Area Ratio	19.7% (20% permitted)
Existing Lot Coverage	14.6%
Proposed Lot Coverage	19.7% (20% permitted)

The existing residence is nonconforming in setbacks and legal covered parking (1 space required).

Elise Semonian, Senior Planner, summarized the staff report and explained that since the lot coverage variance was not requested and noticed, the project cannot be approved tonight. If Council supports the application as proposed, staff recommends that Council continue the item to the May 10, 2007 Council meeting. Staff noted that applicant requested a modification to Condition No. 1 in regard to submitting a survey confirmation that the main wall of the addition will be constructed at least three feet from the property line. The applicant expressed concern for the cost and would rather not be required to provide a survey confirmation, and while staff understands the cost, staff continues to believe a survey confirmation is needed.

Council Member Strauss felt it would be dangerous to not require a survey and agreed to continue in order to verify the survey. He also expressed concern for the trees. Council Member Durst agreed a survey is needed because the space is very tight.

Mayor Pro Tempore Cahill asked staff to discuss the concrete parking pad in the back. Senior Planner Semonian desired enough parking for residents and guests. Staff noted that the total impervious surface is not that great. Also, the applicant wanted to make the area a nicer place for his kids to play.

Gus Shuwayhat, applicant, provided some drawings to Council for their consideration and because the cost of a survey is outrageous, he did not want to be required to submit a survey. He added that three feet is very conservative. If they did do a survey and it showed that they were two feet over then his neighbor of 92 Sir Francis would then be three feet from their

property line, so then all would have to shift. He feels they are real close and requested a modification to Condition No. 1 in regard to the survey confirmation.

Mayor Hunter noted that they must evaluate the property and not the individual before them. He recognized the cost of a survey is high, but if they allow development without knowing property lines they will run into trouble down the road, so that is the rational behind requiring a survey.

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

Council Member Durst reiterated that the spaces are so tight, so a survey is needed. She believed the design preserves the classic lines of the house and had no objection in that regard. Absent confirmation as to where the property lines are, to stay three feet back from that property line is not much to ask. She is fine with the design as long as it is provable that it is three feet back from the property line. Council Member Skall concurred.

Council Member Strauss found the design acceptable, but cannot take action without further information in regard to the survey and trees. He further added that this is not a complete application at this point in time.

Mayor Pro Tempore Cahill agreed it is a wonderful improvement to this home and believed the layout is acceptable. He further agreed that a survey is needed.

Mayor Hunter echoed the comments. He believed the applicant did a nice job with a very difficult lot, but a survey is needed.

Mayor Hunter asked for a motion.

Mayor Pro Tempore Cahill moved and Council Member Skall seconded, to continue this matter to the May 10th Town Council meeting. Motion carried unanimously.

Council took a short recess at 8:27pm.

19. 31 Upper Road, Design Review No. 1640

Judy and Tom Hyde, 31 Upper Road, A.P. No. 73-111-10, R-1:B-5A (Single Family Residence, 5 Acre Minimum Lot Size). Design review to allow: 1.) expansion of the garage from 555 square feet to 938 square feet; 2.) 570 square foot addition above the garage for a guest bedroom suite; 3.) 340 cubic yards of cut associated with re-sloping and widening the driveway; and 4.) retaining walls up to 10.25 feet in height along the driveway. The project also involves construction of a new covered entryway and modification to the existing dormers.

Lot area	112,820 square feet	
Existing Floor Area Ratio	5.6%	
Proposed Floor Area Ratio	6.4%	(15% permitted)
Existing Lot Coverage	4.5%	
Proposed Lot Coverage	5.3%	(15% permitted)

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Elise Semonian, Senior Planner, summarized the staff report and noted that staff is concerned with the retaining walls not complying with design review standards. Staff preferred the applicant to return to a design with lower retaining walls that would require half the excavation and reduce the height of the retaining walls and amount of grading. Staff pointed out that a 10-foot wall is a substantial wall and recommended that the wall be reduced to 8 feet, as recommended by the Hillside Guidelines, which she provided to Council for their review.

Council Member Durst asked staff if there are any comments about bulk and mass of walls and garage relative to the house. Senior Planner Semonian noted that there is concern with the rear side of the garage in terms of bulk and mass. Topography would be filled to hide some wall, but a side that no one will view. It is stepped up the hillside and the garage and addition fit in well with the height of the home.

The architect noted that the goal was to provide guest parking. They felt it kept guest parking from being in the emergency lane and it is a benefit to that area. It is a fairly steep hillside. They are trying to have more landscaping in front of the house. They were trying to make navigation in the driveway better. They could do permeable surfaces on the driveway, but added that it is a tricky site and they tried to balance massing, shape, hillside and topography the best they could.

Tom Hyde, owner, pointed out that the design regardless is only to be seen by them, no neighbors or vehicles. The criteria should be somewhat different in this situation when the impact is on virtually no one. Guidelines are guidelines and not limits. This is attractive in their view that works and improves the property and is safe for themselves and guests. He desired the application approved as modified with the most recent renderings showing the 8-foot walls.

Council Member Strauss asked staff to discuss the conditions of approval. Senior Planner Semonian explained that any project that involves additional floor area the Hillside Ordinance would kick in related to Condition No. 1.

Council Member Durst pointed out that one reason to redo was to make the entrance more significant and asked if the garage doors would remain the same. The architect explained that they are about 6 inches wider and will be paneled wood doors with glazing.

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

Council Member Strauss is comfortable with the 8-foot reduction in wall height. He is concerned about the floor area, but with that condition added by staff he is comfortable. In general, he is fine. Mayor Pro Tempore Cahill concurred.

Council Member Durst stated that her main concern is that the main entrance become more significant, so she is fine with the proposal.

Council Member Skull found it acceptable. Mayor Hunter agreed with the previous comments made by Council.

Mayor Hunter asked for a motion.

Council Member Strauss moved and Council Member Durst seconded, to approve Item No. 19 with conditions and findings included in the staff report with the exception of Item No. 1, which shall be rewritten to state, *“any future projects at site that increase the floor area above the accumulative level shall be subject to the Hillside Lot Regulations and come before Council;”* and Item No. 2 must include that the applicant must revise drawings to reflect the most recent submittal of 8-foot walls. Motion carried unanimously.

Conditions of approval for Hyde, 31 Upper Road West, Design Review, File 1640

1. Any future projects at this site that create new floor area shall be subject to the Hillside Lot Regulations if the floor area proposed, plus the approved addition, result in over 1,000 square feet of floor area.
2. The applicant shall submit revised drawings for review and approval by staff that have a maximum retaining wall height of 8 feet.
3. The area beneath the garage may have only an unfinished concrete or dirt floor, may not have sheetrock walls and no electrical, plumbing or heating is permitted in the area.
4. A landscape plan shall be submitted to the Town for review and approval, and the landscape shall be installed, prior to project final.
5. Prior to issuance of a building permit, the applicant shall submit a tree removal permit to the Planning Department for trees proposed to be removed in connection with this project.
6. Prior to issuance of a building permit, the applicant shall submit evidence that the Marin Municipal Water District, who has a tank and water lines in the area, has reviewed and approved the project plans.
7. The applicant shall document that the lower level storage space was converted to habitable space with appropriate permits or shall obtain any required permits for conversion of the space.
8. All new exterior lighting shall be shielded or directed downward.
9. All site drainage shall be dissipated in a manner that prevents erosion and conforms to current storm water discharge practices in Marin County. The applicant is responsible for ensuring storm water runoff is maintained in its natural path.
10. No grading shall be permitted between October 15 and April 15. (Grading is considered to be any movement of earthen materials necessary for the completion of the project. This includes, but is not limited to cutting, filling, excavation for foundations, and the drilling of pier holes.)
11. This project shall comply with the following requirements of the Department of Public Safety: 1.) Clear all brush impinging on access roadway; 2.) Roadway must have a vertical clearance of 14 feet; 3.) A street number must be posted {minimum four inches on contrasting background}; 4.) The property must be cleared of all dead or dying flammable materials; and 5.) A local alarm system is required.
12. 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.

13. Any portable toilets shall be placed off of the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
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.
15. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
16. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY APRIL 5, 2008 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
17. 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.
18. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
19. 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.
20. **31 Winship Avenue, Variance and Design Review No. 1646**
Kevin Howley, 31 Winship Avenue, A.P. No. 72-153-10, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). Variance and design review to allow the following modifications to the existing residence: 1.) modification of the lower level to reduce the size of the garage and mechanical area from 558 square feet to 337 square feet and create 230 square feet of living area; 2.) reconstruction of the roof over the master bedroom to increase the maximum building height by approximately 2 feet within a side setback (15 feet required, 9.25 feet existing) ; 3.) construction of an outdoor fireplace within the side setback (15 feet required, 3 feet proposed) and rear setback (40 feet required, 30 feet proposed); 4.) modification of existing entry stairs on the west and south elevations; 5.) 350 square foot rear deck; and 6.) extension of patio areas within the north and south side setbacks (15 feet required, 0 feet proposed) and rear setback (40 feet required, 20 feet proposed).

Lot area	12,072 square feet
Existing Floor Area Ratio	20.3%
Proposed Floor Area Ratio	20.4% (20% permitted)

Existing Lot Coverage	17.5%	
Proposed Lot Coverage	18.5%	(20% permitted)

Elise Semonian, Senior Planner, summarized the staff report and explained that the applicant eliminated the patio area and will submit a landscape plan for the side, so because the new square-footage is at the maximum permitted, staff supported the project and recommended Council approve subject to conditions in the staff report.

Lauren Hill, architect, indicated that the focus of the project is the swapping of floor area at the back of the single car garage to bring that space forward to the front of the house to receive daylight and create a den/media room and bathroom. They are comfortable that the proposed dimensions are useable in terms of the garage. Also, the other points are straightforward and she is available to answer any questions.

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

Council Member Durst is fine with the proposal as presented. There were some conditions onsite that the Howley's must address. They need to remove gravel on the sidewalk right-of-way because the rocks are getting into the roadside drainage system. Planting area and sidewalk must be redone to be in compliance with the Municipal Code to not be permitted to exceed 18 inches in height. There is also a little planting strip that must be lowered. Also, the driveway transition to the street must be repaired during construction.

Council Member Skall is comfortable with the staff report.

Council Member Strauss visited the site and became aware that they are giving up the potential for two spaces in the garage. If they went back an additional 6 to 8 feet another car could get off the street and with that he would support. In order to have two covered garages there would be very little foundation work. They are just shifting the crawl space around. He supported the project, but felt it is a good swap for the room to get another car off the street with children. Mayor Pro Tempore Cahill believed it is a great idea because it improves the project. The project itself is a great improvement to the house. Parking is counted as floor area, but this is an excellent example to allow increase in FAR to accommodate a second car off the street, so he is in favor. Council Member Durst agreed. The area is very skinning on parking and the streets are narrow and it would be nice to get cars off the street.

Council Member Strauss asked staff if they have specific standards for parking and is staff comfortable with 38 feet rather than 40 feet. Director Jarjoura stated that there is no particular dimension in the code. It is 18 feet for a standard car. Architect Hill noted that they have 38 feet total, so 19 feet for a car.

Mayor Pro Tempore Cahill asked staff if this must be re-noticed because of this change in the garage. Town Manager Broad recommended conditionally approving to include the additional floor area and place the matter on the consent agenda for the next meeting. If approved, staff must add conditions to include that the garage will be used for parking and not for other uses. Also, staff must add a condition that in the future this area cannot be

traded to allow another living space. Staff will bring back an updated staff report, including the additional floor area to be placed on the consent for the next meeting. The applicant agreed to a continuance to next month with the item being placed on the consent agenda.

Mayor Hunter asked for a motion.

Council Member Strauss moved and Mayor Pro Tempore Cahill seconded, to continue Item No. 20 to the May 10th Town Council meeting to be placed on the consent agenda with the appropriate findings and conditions. Motion carried unanimously.

Council Member Durst recused herself from the next agenda item in order to avoid the appearance of a conflict.

21. 24 Upper Road West, Design Review No. 1642

Timothy J. Peterson (applicant), Mohammed Diab (owner), 24 Upper Road West, A.P. No. 73-011-25, R-1:B-A (Single Family Residence, 1 Acre Minimum Lot Size). After-the-fact design review for a new 32 foot by 24-foot water storage tank within 25 feet of a watercourse to serve the applicant's property at 13 Woodhaven Road and the property at 24 Upper Road West.

Lot area	43,560 square feet
Existing Floor Area Ratio	7.0%
Proposed Floor Area Ratio	7.0% (15% permitted)
Existing Lot Coverage	4.1%
Proposed Lot Coverage	5.8% (15% permitted)

Elise Semonian, Senior Planner, summarized the staff report and recommended that Council approve the after-the-fact approval based on the conditions in the staff report to add additional landscaping, if necessary. Staff attached a geotechnical report and the Public Works Director will review as part of the building application. Also, staff noted that a full set of structural and geotechnical drawings were submitted.

Director Jarjoura noted that there was no inspection on staff's part and the lien is on the report by both the geo and structural engineer. Senior Planner Semonian noted that photographs were taken. The size of the previous tanks were the same capacity, just a series of plastic tanks.

Mayor Pro Tempore Cahill asked staff if there is penalty fee required. Senior Planner Semonian explained that the Town charges double the application fee. In regard to the building permit process, there are penalties attached. One penalty is that the applicant is trying to sell his house, but the Town will not sign off until the tanks are approved. Town Manager Broad recommended redoing the Town's fee structure.

Timothy Peterson, applicant, explained that this project was nearly completed, when he finally made contact with his neighbor and realized the tanks were empty. All were collapsed and there was a large slide that happened during the storm of December of 2005. He spoke to staff in regard to the appropriate permits and was told if just a repair a permit is not needed. He considered placing these tanks above ground due to the expense involved. That would require Council meetings and so forth and having to go through that was out of

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the question. He was informed that a repair could move forward by staff. The house was completed and he needed to sell this house, so at that point they quickly pulled the tanks, repaired the retaining walls and reinstalled the tanks. He hired a geotechnical engineer during installation. They were faced with a huge cut on an already unstable hill and had 25 guys in a period of one week along with consultants. They installed the first three sides and the soils engineer indicated that a retaining wall is needed on the downhill side and recommended designing to serve as a tank as well. He intended to get permits. He was red-tagged day three that forced him to go through the permitting process. It was a massive project. He is doing his best to rectify the situation and it is now a better situation. He consulted with a landscape architect to recommend the appropriate screening.

Council Member Strauss asked for an explanation about the piers. Mr. Peterson noted that all piers went into bedrock. Council Member Straus asked staff how Council can approve while still waiting for stamped drawings. Director Jarjoura noted that he submitted a plan. Council Member Strauss noted that it is an after-the-fact submittal and asked how Council can approve if they do not know if it works, and if not does not work, they must review an alternative. Senior Planner Semonian noted that it is a design review application that would be subject to a building permit as a new house.

Council Member Strauss wondered if there was another location in regard to the watercourse. Senior planner Semonian noted that the location was as far up on the site as possible to create as much water pressure as possible. It cannot get any further away from the watercourse and remain on site. Council Member Strauss wished there was another solution. Mr. Peterson stated that this was over engineered. Soils engineer was present during the entire process. The structural engineer developed the design parameters based on the soils engineer's involvement, constant communication throughout the project occurred. He further added that it took about one and a half weeks.

Mayor Hunter clarified that a permit is not needed to repair, but once the tanks were pulled out, the retaining walls had to be completely rebuilt. Mr. Peterson assumed the walls were okay, but there was a larger problem with the tanks once pulled out and he wanted to secure the hillside. He elected not to come down to the Town. He focused his energy on stabilizing the hill. He did not have an answer other than it was an emergency repair. He spoke to Senior Planner Semonian and Director Jarjoura one week before starting the work as a repair, but a larger scaled repair occurred than anticipated. He intended to submit for permits.

Council Member Strauss wanted to make sure it was adequately placed in that location. Mr. Peterson assured Council that it is adequately placed.

Mayor Hunter opened the public hearing on this item.

Diane Durst, Ross resident, warned Council back in 2004 by submitting a letter about the issues around Upper Road and the delicate nature of that hillside that needed to be respected. Placing houses and tanks in the watercourse was not a good idea.

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

Council Member Strauss expressed concern and preferred continuing the item until the applicant presented alternative solutions.

Director Jarjoura will not assume any liability unless Council asks for an outside structural engineer. The building department needs a letter from the structural engineer assuming liability and that it be up to code. A soils engineer must submit a letter in regard to the pier holes, excavation and stability of the soil in order for the Town to accept, approve and final the project.

Council Member Strauss expressed concern for the tanks being in the watercourse. Mayor Hunter believed there would be more disruption in the watercourse, if removed.

Mayor Pro Tempore Cahill recommended another structural engineer to conduct a peer review. It is their obligation as a Town to make sure this was done properly.

Mayor Hunter understands if a structural engineer is willing to sign off, he assumes liability and he did not see a reason for a peer review. Mayor Pro Tempore Cahill noted that it is a collaborative process and a peer review is important to have that level of review because it was not reviewed by a structural engineer hired for the Town. Council Member Strauss concurred.

Mr. Peterson noted that two consultants were involved as well as a structural engineer and soils engineer. Most jurisdictions require special inspections that were preformed and those individuals take the liability. Director Jarjoura noted that the owner hired a special inspector, not the Town. Also, what the Town building official will inspect and follow is the instruction and design that the civil and soils engineer put together. They ask the soil engineer during the project to certify that the depth is adequate. He added that the building department would inspect periodically any excavation, rebar, concrete and spacing of concrete, which was not done and that is why it is after-the-fact. They could check on the soils and structural engineers credibility, and if well known with licenses up-to-date, then no problems or if Council desired a peer review in order for the Town to sign off that is another option, but staff did not see the need for a peer review.

Mayor Hunter is bothered about this after-the-fact, but if staff were comfortable he would agree to approve after-the-fact with the caveat that if staff feels after reviewing that a peer review is needed that it be done without coming back to Council. Council Member Strauss did not have enough information to make a determination tonight. He is not in favor of the tanks being in the watercourse. He added that if the applicant came in Council would have been able to evaluate, so he is unable to vote because there is not enough information. He suggested a continuance for the applicant to come in with a peer review or enough information demonstrating that this was adequately reviewed.

Mayor Hunter opened the public hearing on this item.

Ross resident (Mr. Viate) pointed out to Council that these water tanks were approved at 24 Upper Road in the watercourse and setback. Town Manager Broad indicated that when approved there was no watercourse restrictions on the books.

Director Jarjoura added that the building code allows the building official to approve an emergency repair without going through the procedure, and then the applicant would come

back for an after-the-fact. Staff knew of an emergency due to the slide, but there are ways in the building code to allow an after-the-fact repair.

Council Member Strauss desired a peer review. Director Jarjoura noted that it would take a few weeks to review. Mayor Pro Tempore Cahill agreed to a continuance.

Town Manager Broad noted that the Town will receive reimbursement in regard the time John Moe spends on this matter.

Mayor Hunter recommended continuing this item.

Mayor Hunter asked for a motion.

Mayor Pro Tempore Cahill moved and Council Member Skall seconded, to continue the application for the after-the-fact approval and direct staff to review the structural quality of the project and report back to Council at the May meeting with the soils report. Motion carried unanimously. Durst recused.

Mayor Pro Tempore Cahill recommended that staff work on the penalty provisions in order to make them more in conformance with other jurisdictions. Town Manager Broad agreed.

Council Member Durst reconvened her position on the Town Council.

22. 16 Walters Road, Amendment to Hazard Zone, Hillside Lot and Design Review No. 1641

Rocky Stich, 16 Walters Road, A.P. No. 72-171-06, R-1:B-A (Single Family Residence, One Acre Minimum Lot Size). Amendment of hazard zone 3 use permit, hillside lot and design review application approved on January 9, 2003, to allow a 650 square foot addition to the existing residence. The addition to the east side of the residence would add 119 square feet to the main level in the area of an existing patio and 531 square feet to the upper level, increasing the size of the residence from 2,783 square feet to 3,433 square feet.

Lot area	65,675 square feet
Existing Floor Area Ratio	4.9%
Proposed Floor Area Ratio	5.9% (15% permitted*)
Existing Lot Coverage	3.5%
Proposed Lot Coverage	3.6% (15% permitted)

**The lot slope is 39%. The Hillside Lot Ordinance guidelines would recommend a maximum floor area ratio of 6.6%.*

Mayor Hunter asked for a motion.

Mayor Pro Tempore Cahill moved and Council Member Skall seconded, to continue Item No. 22. Motion carried unanimously.

23. Correspondence - Letter from Winship Park “Gypsy - Princess of Ross”

Mayor Pro Tempore Cahill suggested that Council Member Durst indicate that it is an important part of Ross and interested citizens should talk to neighbors who own this piece of property to allow plantings. Also, the light poles should be cleaned up as well by the Town with cooperation of the neighbors to make this a nice bridge.

Council Member Durst suggested crafting a letter directing neighbors of Winship Park to come together and develop a way to make sure the planting strip is maintained in a thriving condition.

Mayor Hunter asked Council Member Durst to craft a letter to suggest that Winship Park form a committee. Council Member Durst agreed to craft a letter to individuals on the petition to be reviewed by the Mayor.

Council Member Durst also noted that she received a Traffic Calming Petition directed toward the Town of San Anselmo.

Town Manager Broad asked Council to send an email of their present assignments and whether to stay or change. Also, a volunteer for MCC Legislative Committee is needed, which meets the second Monday of every month at the Town Hall in San Rafael. Mayor Pro Tempore Cahill volunteered.

24. Other Business- None

25. Adjournment.

By order of the Mayor, the meeting adjourned at 10:00 P.M.

R. Scot Hunter, Mayor

ATTEST:

Gary Broad, Town Manager