

REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, APRIL 8, 2010

1. 6:30 P.M. Commencement.

Present: Acting Mayor Cahill, Council Member Martin; Council Member Skall; and Town Attorney Hadden Roth

Acting Mayor Cahill announced that agenda Item Nos.: 13, 18, 21 and 22 have been continued to a later date.

2. Posting of Agenda.

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

3. Minutes-March

Acting Mayor Cahill asked for a motion.

Council Member Skall moved and Council Member Martin seconded, to approve the March 11, 2010 minutes as amended. Motion carried unanimously. Strauss/Hunter absent.

4. Demands.

The demands were met.

5. Open Time for Public Expression - None

6. Report from Committee Heads.

Public Works - Council member Martin

• Public Works Committee Update

Council Member Martin reported on the long Public Works Committee meeting that was held this week and thanked Council Member Cahill, Public Safety Director Mel Jarjoura and Police Chief Jim Reis for attending along with several members of the community. In regard to Sir Francis Drake Boulevard and MMWD encroachment permit/construction for main waterline replacement, this property is to start on May 3rd and be completed by June 15th. It will be a disruptive project replacing an old and failing waterline and lateral piping. The contractor awarded the project by MMWD met with the Public Works Committee to ask that the encroachment permit be modified to allow construction to start at 7:30 a.m. and be completed by 6:30 p.m. Monday through Friday. Currently the encroachment permit limits construction between the hours of 8:30 a.m. and 5:00 p.m. and 7:00 p.m. to 10 p.m. with additional construction workdays limited to three weekend days. The contractor stated that with such modification, the project could be completed two weeks earlier. The Committee agreed to allow the project request, however start time for the project must be 8:00 a.m. rather than 7:30 a.m. This contractor will provide two lanes of traffic during the entire construction cycle, though pedestrian passage will be interrupted. The Committee also recommends that the Public Works Director have the authority to modify the requirements of the encroachment permit to mitigate the passage of traffic during this project.

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Public Safety Director Jarjoura announced that work would begin on April 26th.

In terms of the Lagunitas Bridge project, three days ago Public Safety Director Jarjoura received notification that the Lagunitas Bridge replacement project was not in the current Federal Transportation Improvement Program and would not receive the required authorization from Caltrans, a document known as an E76, in this round of approvals. Unfortunately, if the Town does not receive a timely award, the project will have to be postponed for another year, since work is only permitted in the creek from May 15 through October 15. The Town is doing its best to reverse this bureaucratic snag and has asked Assemblyman Huffman to assist. Time is of the essence, since the project must be advertised and a bid must be awarded at least one month prior to commencement of construction. Hopefully, this will be forthcoming in the next few days.

The Sir Francis Drake overlay and the Sir Francis Drake pedestrian path is expected to commence sometime in June. The pathway bid package is being finalized and expected to move forward in July and August.

The Public Works Committee also had discussion about Fernhill/Branson parking restrictions on Fernhill. For over one year there has been discussion of implementing parking restrictions on a limited portion of Fernhill Road across from Branson School to better allow the passage of emergency vehicles. Given that parking restrictions may shift that problem to Bolinas Avenue or other streets, the Public Works Committee recommended that the full Council review a traffic, parking and facility plan prepared by Branson School to address parking and traffic concerns from neighbors. They have been advised that this plan will be ready in time for the May Council meeting.

In regard to construction completion of 23 Baywood Avenue, it appears and staff will confirm with a site visit, that construction of 23 Baywood has been recently completed. Next month, the Public Works Committee will review the project requirements and make recommendations to the Council on the applicant's appeal of construction completion penalties.

Council Member Martin further reported that the Ames and Shady Lane ramp has been completed under the direction of the Public Works Department.

Finance Committee - Council Member Hunter

Council Member Skall reported on behalf of Mayor Pro Tempore Hunter that the Town has a long history of fiscal conservatism, which is directly responsible for their current financially sound position. Even during the last few challenging fiscal years, the Town has been able to continue to increase their reserves each year. The Town has done that through careful attention to income and expenditures not just in adopting their budget, but year round. They have just reviewed the corrected January financials for the current fiscal year and find they are almost dead on with overall budget projects through seven months. Other expense reduction actions include:

1. This past month the Town contracted with the Expense Management Group who will audit all Town utility bills going back three years, which is guaranteed to produce only savings, with no cash outlay for the Town.
2. Planner Christine O'Rourke has been working on reducing Town GHG emissions and in the process uncovered a PG&E street light billing error which will save the

- Town \$850 per year going forward and has earned the Town a \$2,550 refund this year.
3. The Town installed a \$30 software program to automatically shut all Town computers down at night, saving energy and PG&E costs.
 4. The Town has switched to a superior cleaning service for Town Office, and police station facilities, which also reduced their cost by almost 25% and saves the Town over \$1,500 per year.
 5. The Town switched cell providers and service, which reduced their cost approximately 50% and will save the Town approximately \$3,000 per year.
 6. The Town moved payroll and billables in-house and switched to a local accountant to improve operations and should reduce direct costs by an estimated \$10,000 per year in future years.
 7. The Town submitted their Draft Housing Element to HCD at a cost of \$25,620 based on their contract with Planner O'Rourke for work at \$60/hr. Belvedere had their draft Housing Element prepared with an outside consultant as a major part of a \$300,000 General Plan update, at a cost of \$150/hr. The Town saved over \$45,000 by their financially prudent use of consultants.
 8. As Council is also aware, they also spend \$3,500 to have Planner O'Rourke prepare the HSIP grant, which netted the Town \$442,900. This nets the Town \$439,400 on an investment of \$3,500, a whopping 126.5 times their initial outlay.

Council Member Skall encouraged residents who have not yet received their U.S. Census to pick one up at the Administrative Office at Town Hall. The primary purpose of the Census is to determine how seats in the U.S. House of Representatives are apportioned. The most populous State is expected to either hold steady at 53 seats, or perhaps, lose one seat. Information collected by the Census is also used to determine how more than \$400 billion dollars of federal funding is allocated each year to State and local governments for roads, public works projects, schools, hospitals, senior centers, emergency services, etc. Ross was awarded federal money to repave Sir Francis Drake Boulevard, improve the intersection of Sir Francis Drake Boulevard and Lagunitas Road, and reconstruct the Lagunitas Road Bridge.

7. Report from Ross Property Owners Association.

Anne Hickey, RPOA representative, announced that the RPOA will be hosting Candidates Night for prospective Town Council members on Wednesday, April 28th, at 7 p.m. at Branson School.

8. Flood Control Report.

Council Member Martin reported that yesterday, oral arguments concerning the validity of the Ross Valley flood fee were presented to the California Supreme Court. The Court will determine if secret voting procedures set forth in the State Constitution apply in the application fee assessment enacted by the voters in State Proposition 218. If the Court finds secret voting applicable in fee assessment, it will decide if the secrecy requirement was violated by the County of Marin. A decision from the Court will be made within 90 days. The legal arguments pro and con on this issue are accessible on the web. Just Google "*California Supreme Court Ross Valley flood fee.*"

The flood fee, narrowly approved in 2007 mail-in vote, was designed to raise \$2.2 million per year over 20 years. The tax averages \$125 per parcel and applies to property owners in

Greenbrae, Larkspur, Corte Madera, Kentfield, Ross, San Anselmo and Fairfax. If the flood fee is overturned, it is likely that Supervisor Hall Brown and others will start over and again initiate a flood fee assessment process, which will not only have to receive majority endorsement, but also survive a court challenge.

Two weeks ago, the Marin County's stormwater pollution management entity (MCCSPT) sponsored a workshop to better understand watershed hydrology for effective stormwater management of Marin's creeks. Ross was well attended at the workshop, which included participation from Public Safety Director Mel Jarjoura, Senior Planner Elise Semonian, Public Works Superintendent Robert Maccario, and Robert Haggett. The workshop was organized to provide guidance to local towns and cities concerning implementation of new standards required by the National Pollutant Discharge Elimination System Permit. It also reinforced some of the same standards and rainwater management that Ross hopes to implement under the Stormwater Ordinance in the future.

9. Report from the Ross School.

Bob Dickinson, School Board member, indicated that tonight's report will touch on the status of funding for the multi-purpose room, key dates for the Town to be aware of, and suggestions from the School Board meeting as follows:

- Funding for the MPR –

The State of California sold \$6 billion bonds in March. Of that total, \$700 million has been preliminary designated for K-12 construction projects. Ross School would be funded after \$16 million in projects ahead of them. Appropriation scheduled for the State Allocation Board's March 25th meeting was postponed because they were moving offices in Sacramento. They expect to be on the April 28th meeting agenda for appropriation, which will be known April 16th. The \$700 million appropriation to K-12 projects will be confirmed sometime between April 23-26th. Postponement is always a possibility given the massive unfunded list and competing interest. If appropriation to Ross School is granted, they will file paperwork the next day.

- Key Dates-

Approval of the State Allocation Board's meeting on April 28th or May 26th will keep the School on Schedule:

- June 1st is the planned abatement and demolition of the MPR.
- June 21st is the planned removal of all but two portables and one portable bathroom.
- Sometime in June/July 2010, they plan to restore that portion of the Common agreed to at the March Town Council meeting.
- Sometime in September/October 2011, they plan to fully restore the Common.

- Feedback from the School Board Meeting –

Trees:

- They understand that the Town has exercised its option to require Ross School to plant trees along Lagunitas and Allen Avenue. They are attempting to schedule a meeting with Mayor Strauss and Town Manager Gary Broad for the week of April 19th. He learned that the schools construction schedule calls for resurfacing the sidewalk along Lagunitas in mid May 2010, so they are hopeful about coming to a resolution by the May Town Council meeting if a vote of the Council is required.

Ball Field Location:

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- One parent at the School Board meeting indicated that Ross Valley Little League and Ross Rec are trying to unify their baseball programs. This may or may not be an opportunity for collaboration by the Town. It was also suggested that if and when the Town revisits the decision about the location of the ball field, that Ross Rec be asked for their input.

Mr. Dickinson then thanked the Council for their helpful cooperation and leadership.

Town Manager Broad noted that the Town did not ask Ross School to provide trees, just the tree wells and irrigation sleeves. The Town and Ross School will meet with their landscape architect and appropriately involved people, so placement of the tree wells can be worked through. Staff is not aware of that matter needing to come back to the Council.

Acting Mayor Cahill opened the public hearing on this item.

Rupert Russell, Shady Lane resident, expressed concern for the graffiti on the new school building and asked if any special security measures are being considered. Mr. Dickinson noted that administration met with the Ross Police Department in terms of patrol and monitoring, so it is on their radar screen. Town Manager Broad noted that Police Chief Jim Reis will be sending out an email on that subject tomorrow morning asking for input.

There being no further public testimony on this matter, the Acting Mayor closed the public hearing and moved into the next agenda item.

At the request of a member of the public, Item C was pulled from the consent agenda.

10. Consent Agenda.

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

- a. **Town Council consideration of adoption of Resolution No. 1700 commending the Ahrens Family for operating the Ross Cash Grocery for two generations and over 64 years.**

Acting Mayor Cahill asked for a motion.

Council Member Martin moved and Council Member Skall seconded, to approve Consent Calendar Item “a” as submitted by staff. Motion carried unanimously. Strauss/Hunter absent.

- b. **Town Council consideration of adoption of Resolution No. 1701 proclaiming April to be Fair Housing Month.**

Acting Mayor Cahill asked for a motion.

Council Member Martin moved and Council Member Skall seconded, to approve Consent Calendar Item “b” as submitted by staff. Motion carried unanimously. Strauss/Hunter absent.

End of Consent agenda.

- c. Town Council consideration of adoption of Resolution No. 1702 approving the authorization to receive background information on employee hirings.

Iris Winey, Chestnut Avenue resident, expressed concern for one provision in Resolution No. 1702, which she felt is subject to interpretation. Fire Chief Tom Vallee explained that the language included in Resolution No. 1702 comes from the State of California, so staff found the language acceptable.

Acting Mayor Cahill asked for a motion.

Acting Mayor Cahill moved and Council Member Martin seconded, to adopt Resolution No. 1702, approving the authorization to receive background information on employee hirings. Motion carried unanimously. Strauss/Hunter absent.

11. Disaster Council (DISCO) Update

Fire Chief Tom Vallee reported that there are now over 1,000 people in the Town's telephone notification system and the Fire Department trained 27 residents in disaster preparedness during three recent "Get Ready" Ross classes. Also, the Town's new warning siren would be fully operational in a few days, as soon as a \$2.95 part arrives. The Fire Department will be testing the siren in the next week or two. Town staff will be able to activate the new siren remotely from any cell phone.

Acting Mayor Cahill asked staff to inform the public about the siren testing in "The Morning After." Town Manager Broad agreed.

12. Town Council, sitting as Planning Commission, consideration of Ordinance No. 619 adding Chapter 15.54 to Title 15, Buildings and Construction, to establish requirements for drainage plans and stormwater runoff, and modifications and additions to Title 18, Chapter 18.41, Design Review, to add new purpose and design review criteria related to low impact development and management of stormwater runoff.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council, sitting as the Planning Commission, consider Ordinance No. 619, adding Chapter 15.54 to Title 15, Buildings and Construction, to establish requirements for drainage plans and stormwater runoff, and modifications and additions to Title 18, Chapter 18.41, Design Review, to add new purpose and design review criteria related to low impact development and management of stormwater runoff.

Staff recommends that the Town require design review for projects resulting in over 1,000 square feet of new impervious landscape improvements. The intent of the provision was to allow the Town to review the proposals to ensure that they do not increase site runoff, as they would otherwise be exempt from the proposed stormwater ordinance. The review could be done at a staff level, where appropriate.

Council Member Skall clarified with staff that a slurry seal would not be considered a new surface. Senior Planner Semonian responded in the affirmative.

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Council Member Martin indicated that piecemeal grading must be addressed. Senior Planner Semonian supported making it cumulative, but staff needed additional time to consider how this should be incorporated into the zoning code. Council Member Martin believed it is good to address paving and drainage.

Acting Mayor Cahill opened the public hearing on this item, and seeing no one wishing to speak, the Acting Mayor closed the public portion and brought the matter back to the Council, sitting as the Planning Commission, for discussion and action.

Acting Mayor Cahill discussed a few specific items in the ordinance. He found this to be a great process. It is a significant change for the Town, but a good one. Under Section B of stormwater management, he desired an explanation on the following language: "*Applicants are encouraged to reduce peak runoff from pre-project or pre-development conditions.*" He pointed out that there is a requirement that the applicant would not increase runoff beyond pre-project. Senior Planner Semonian responded that asked applicants are asked not to increase runoff at all, but it would be better if runoff is reduced.

Acting Mayor Cahill expressed concern for fire safety under design review, which states, "*development should minimize the amount of native vegetation clearing.*" He believed there might be a conflict. It also appears under Item J5. He believed there are some inconsistencies and a caveat should be included to consider fire safety. Senior Planner Semonian agreed to address the inconsistency.

Acting Mayor Cahill expressed concern for design review criteria and standards where Item "T" was added, which is low impact for stormwater management. He thought Item "T" was encouraged, and left to the homeowner to achieve the goal of reducing off site drainage. As written, it requires a homeowner to do all the various items, which is not the intent. Senior Planner Semonian agreed to review the language to ensure that it is clear that property owners have options for addressing site runoff, which is the intent of the provision.

Council Member Martin discussed the cost of stormwater and pointed out that low impact development is not expensive. It is basically how the landscape is approached such as perforated pipes and upgraded French drains. It is not an expensive procedure and it is good stewardship of properties. Also, San Anselmo in May will consider a similar ordinance and Fairfax will likely pursue as well. Regionally, Ross may have some upgrades with how rainwater is handled to reduce the stress on their system.

The Council, sitting as a Planning Commission, agreed to recommend introduction of an ordinance that contains regulations to reduce stormwater runoff from new development. The proposed ordinance would add design guidelines and building regulations to the municipal code and require projects valued over \$250,000 to include a stormwater management plan. The ordinance's intent is to ensure development projects do not produce any new net increase in peak runoff from the site as compare to pre-project conditions. Staff recommended that the Council modify the text ordinance so that the Town could waive the stormwater management plan requirement and exempt projects that do not increase impervious surfaces. The Council also agreed to recommend a design review requirement for projects that create over 1,000 square feet of impervious surfaces. These projects could potentially be reviewed at staff level, similar to new fences.

Acting Mayor Cahill asked for a motion.

Council Member Martin moved and Council Member Skall seconded, sitting as a Planning Commission, recommended that the Council introduce Ordinance No. 619 with the modifications discussed. Motion carried unanimously. Strauss/Hunter absent.

13. Town Council, sitting as a Planning Commission, to take public input on draft changes to the Hillside Lot Ordinance and Hillside Development Regulations. *No action will be taken at this meeting; this item will be considered at the May and June 2010 Town Council meetings.*

14. Town Council consideration/action on an amendment to the existing cellular lease agreement between the Town of Ross and Crown Castle to allow Clearwire Communications to install 3 new antennas at a height of 34 feet on the existing 40-foot tall pole adjacent to the Town's Corporation Yard building. Crown Castle has proposed to increase its monthly lease payment to the Town by \$525 from \$1,150 to \$1,675.

Town Manager Gary Broad summarized the staff report and recommended that the Council consider and take action on an amendment to the existing cellular lease agreement between the Town of Ross and Crown Castle to allow Clearwire Communications to install three new antennas at a height of 34 ft. on the existing 40-foot tall pole adjacent to the Town's Corporation Yard building. Crown Castle has proposed to increase its monthly lease payment to the Town by \$525 from \$1,150 to \$1,675.

Council Member Martin asked staff the term. Town Manager Broad responded that it is a 25-year period. The increased payment is expected to bring in nearly \$100,000 over the remaining 15 years of the lease term.

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

The Council agreed to approve an amendment to an existing cellular lease agreement between the Town of Ross and Crown Castle to allow Clearwire Communications to install three new antennas at a height of 34 ft. on the existing 40-foot tall pole adjacent to the Town's corporation yard building. Two Sprint antennas are currently located at the top of the pole.

Acting Mayor Cahill asked for a motion.

Council Member Martin moved and Council Member Skall seconded, to approve Item 14 and for the Acting Mayor and Town Manager to proceed with negotiating an amendment to the existing sale lease agreement between the Town of Ross and Crown Castle. Motion carried unanimously. Strauss/Hunter absent.

15. Town Council discussion of its five Town Council goals for 2009-2010. The Council identified the following five potential goals at its August 2009 Town Council workshop.

a. Downtown plan – No report

b. Public facilities

Acting Mayor Cahill reported that Marcene Taylor of Mack 5 prepared conceptual cost estimate for a new public facilities building and for a remodel of the existing public safety building. The cost estimate for the new building is about \$360 per sf, which is over \$5 million for hard costs alone. The cost estimate for remodeling the existing building is about \$200,000 more. Mack 5 estimates that soft costs for this type of structure runs about 25% to 45% of hard costs. The estimate for the new building is based on Gensler's plans prepared and program developed in 2005 by Dan Winey, but updated to raise the building out of the flood plain and to incorporate the current list of employees by adding about 5,000 sf of additional space. The cost estimate is very preliminary. It is based on a plan that the Town will not build. However, the cost estimate gives an order of magnitude, so they will not be shocked when the cost estimate for the schematic design prepared by Architect Kathy Strauss is presented in June.

Also, one element that the Council should strongly consider in any new construction is to retain the historic character of the existing structure. He hopes to have Architect Strauss's design, Mack 5's cost estimate including soft costs based on Architect Strauss's design and financing options prepared and presented at the June Town Council meeting.

c. Flood control

Council Member Martin had nothing further to report.

d. Hillside lot ordinance review

Council Member Skall appreciated all the public comment and thanked staff for all their hard work and looked forward to having a discussion at the next meeting.

e. Unfunded mandates/pensions – No report.

16. 2 Upper Road West, Variance and Design Review No. 1772, Town Council consideration of adoption of Resolution No. 1703 Approving a Settlement Agreement and Adopting Findings and Conditions to Approve Variances, Conditional Use Permit, Tree Removal and Design Review Application

Alan Grujic, 2 Upper Road West, A.P. No. 73-062-12, R-1: B-5A (Single Family Residence, 5-Acre Minimum Lot Size), Very Low Density (.1-1 Units/Acre). Use permit, design review and a variances 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 1,215 linear feet of new retaining walls up to 5 feet in height, 715 cubic yards of cut, and 1,444 cubic yards of fill (proposed net import of 728 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 four Significant Coast Live Oak trees

ranging from 12 inches to 24 inches in diameter. The guesthouse portion of the project was previously approved by the Town Council on April 16, 2009.

Lot area	74,488 square feet
Existing Floor Area Ratio	13.8%
Proposed Floor Area Ratio	14.8% (15% permitted)
Existing Lot Coverage	13.8%
Proposed Lot Coverage	14.8% (15% permitted)

Senior Planner Elise Semonian summarized the staff report and recommended that the Council consider the project and if the Council believes that it can make the findings and conditions to approve the project, then the Council should consider and adopt Resolution No. 702. Staff further recommended that the findings be modified to reflect some corrections to the staff report as follows: 1.) The project will take 12 to 14 months, not 12 to 24 months; and 2.) The cut behind the residence is about 8 additional feet, not 25 feet.

Senior Planner Semonian provided the Council with a drainage plan submitted by Landscape Architect Yandle showing that the project would result in a 4% reduction to site runoff. The Council was also provided a letter emailed by Nora Laherty from several neighbors that were in opposition to the project.

Michael Yandle, landscape architect, noted that his client agreed with the resolution and settlement agreement. He pointed out that the construction period will be 12 to 14 months, if not less. There is no house remodel component. In terms of stability of the road on Upper Road West to Woodhaven, it is no worse than any other road. There is a stress crack, so he recommended that their construction management and site superintendent mark the stress crack, monitor and post a daily report. In terms of runoff, they have existing and proposed runoff calculations. In conversations with Town Hydrologist Matt Smeltzer, he agreed with the methodology used for findings for runoff and conclusions that they have less runoff from the site. They have less impervious surfaces and better ways to control and disperse the water. They propose holding tanks and new systems of detention where it slows water during peak rain events, so creek zones are not hit all at once. It is a good system. In terms of Palm trees, they can strike from the application if that is a concern. The 25-foot cut in back is really only an 8-foot cut as noted by staff. The plan is conceptually similar to the previous plan with the same design criteria. Improvements relate better to the rooms, and provide safe guest parking. The footprint and heights of the proposed improvement changes dramatically. By pulling back the apex 16 ft. it gives a far better relationship to natural grade. They are 43 ft. from property line at the closest point where the condition required 25 ft. setback. This has stepped down the site better than the last application. The parking area has been reduced. Heights of walls and fill requirements were reduced as well. They are still using the back area as a borrowing area to generate fill. In terms of plantings, they plan on preserving the entire woodland and buffer as well as plant extensively with live oak, natives and using more accent plants closer to the house. Finishes will be consistent with the house. Possibly paint the downslope wall black green and the upper walls that relate to house to maintain the Mediterranean character, but the downslope could be done in a darker color. Construction management plan is very thorough and can accommodate truck parking and turnaround onsite. Also, they will locate temporary entry gates, which will allow any dump trucks or deliver trucks to pull completely out of Upper Road West as indicated in the

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construction report. They will utilize the storm drain as well as below grade retention system to effectively and efficiently control the site.

Council Member Martin visited the site and without story poles it is difficult to understand what is being proposed. The impressive oaks are in the vicinity of the new roadway and asked how many will remain. Landscape Architect Yandle noted they would be removed. The saved trees are in the lower section at the entry drive. Council Member Martin discussed load on Upper Road West and the Town requested a survey of the existing room and asked if that is a private road. Landscape Architect Yandle noted that Public Works is worried about Upper Road West and Woodhaven. Senior Planner Semonian was concerned that trucks may not be able to make the steep turn in the road, as it was difficult for her to make the turn in a regular pickup truck. Landscape Architect Yandle added that they have made the turn in the past and they will make the turn now. Council Member Martin indicated that there is a lot of construction occurring in that area. Landscape Architect Yandle pointed out that the construction team can interface with the Town on a daily basis in terms of what is closed and open.

Council Member Martin asked for an explanation on the hydrology in terms of the culvert that runs under Upper Road West and stormwater treatment. Sash Williams, hydrologist, explained that they will use a detention system. It stores the water with a controlled outlet. They store the water until the system fills up. The expected runoff is less. They decided to use the detention system to further reduce peak flow. In terms of treating, water is being stored. It was designed out of a company in Occidental, so it is a local system. This is designed for 500 gallons, more capacity than needed for a normal size project. The approach is to design for the 100-year storm. They are using a disbursement line so the peak flow will not occur. They are trying to keep peak events from hitting waterways all at once.

Council Member Martin asked about the parking area. Hydrologist Williams stated that they are using a pipe to an existing culvert, so there will be no change on that side. They get into a situation where there is a slight increase in peak, but due to the point of discharge it would not require much detention. Also, they are using a true permeable system. Currently it is asphalt.

Council Member Martin asked if the size of the pool changed. Landscape Architect Yandle noted that it is 2 ft. less in width and length.

Acting Mayor Cahill opened the public hearing on this item.

Rupert Russell, Shady Lane resident, appreciated that runoff is being analyzed. In terms of the stormwater ordinance, he asked the Council if this site would have met the \$250,000 threshold. Acting Mayor Cahill responded in the affirmative.

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

Council Member Skall is comfortable with the application and believed significant changes have been made to this project and the applicant should be commended.

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Council Member Martin is willing to move forward but has some ambivalence. One issue is the amount of trucks generated from this project and the distress on the road. He wanted to make sure that they have a proper procedure of handling the truck traffic along with the traffic that they will have in Town due to construction projects including the school that are underway.

Acting Mayor Cahill stated that Landscape Architect Yandle has made a great effort to address his original concern with the projects relationship to the natural grade.

The Council unanimously supported the site improvements at 2 Upper Road and agreed to execute a settlement agreement in which property owner Alan Grujic will dismiss his existing court action against the Town. The new plan relocates the pool and driveway closer to the residence, lower the elevation of the pool area, and reduces the length and height of the retaining walls so that none are over 5 ft. tall. Staff advised the Council that Upper Road between Upper Road West and Woodhaven Road might not be able to support large construction vehicles. The Council agreed to include a condition of approval that prohibits trucks on this stretch of the road unless an engineer certifies the road for such use. The project contains a stormwater detention system that will collect and detain stormwater until a storm passes and rainwater can safely be discharged without exacerbating peak flows into the creeks. Permeable pavers will also help to reduce runoff from the driveway.

Acting Mayor Cahill asked for a motion.

Acting Mayor Cahill moved and Council Member Skall seconded, to approve the project subject to the findings and conditions in attached to the staff report, as amended as proposed by staff as noted before; approve the settlement agreement; and approve Resolution No. 1703 with the following changes made by Town Attorney Hadden Roth:

- Page 2 of the third “*Whereas*” should state, “*Whereas, the Town and Grujic have approved a Settlement Agreement in which Grujic agrees to dismiss the Grujic Action if the Town Council approves the Alternative Design*”
- After the words, “*as follows*” state, “*Now Therefore, Be it Resolved, by the Town Council of the Town of Ross as follows, when the Settlement Agreement is signed by Grujic and delivered to the Town Attorney:*”
- Item No. 1 - Remove the word, “*hereby*”
- Item No. 2 – After the phrase, “*The Alternative Design for the project,*” strike the word “*hereby*” and insert “*shall be*”
- Remove “*hereby*” from the second line

Motion carried unanimously. Strauss/Hunter absent.

Town Attorney Hadden Roth excused himself from the Town Council meeting at 8:18 p.m.

17. 5 Madera Avenue, Design Review and After-the-Fact Encroachment Permit No. 1775
Jeremy and Wendy Coon, 5 Madera Avenue, A.P. No. 72-072-25, 26, 29 and 30, R-1:B-20 (Single Family Residential, 20,000 sq. ft. lot size), Low Density (1-3 Unit/Acre).

Application for design review for 995 linear feet of stone-faced landscape retaining walls up to 5 feet in height. After-the-fact request for an encroachment permit and watercourse design review to construct a curb and replace a wall partially within the Madera Avenue right of way and within 25 feet of a watercourse. The project also involves construction of a new deck and spa area above the existing residence, new landscaping, drainage improvements, facing the base of the residence with stone, 85 cubic yards of cut, and merger of the 5 Madera Avenue lot with the 54 Baywood Avenue lot.

Lot area	38,400 sq. ft.	
Existing Floor Area	9.1%	
Proposed Floor Area	9.2%	(15% permitted)
Existing Lot Coverage	7.5%	
Proposed Lot Coverage	8.3%	(15% permitted)

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the project subject to the findings and conditions outlined in the staff report. The Council should consider the ADR's recommendations that the materials and colors for the new railings be modified so that the overall development is more subdued and blends better with the hillside setting and that the material for the proposed paths be pervious.

Acting Mayor Cahill noted that ADR had several recommendations for the walkway railing and asked staff if that is called out in the conditions of approval. Senior Planner Semonian responded that it is not called out in conditions of approval, but it could be added. Acting Mayor Cahill stated upon merger, the earlier house approval would be rescinded for the Parmenter house, so it must be added to the conditions as well. Senior Planner Semonian responded in the affirmative.

Council Member Martin asked staff if Town Hydrologist Matt Smeltzer reviewed the applicant's recommendations from their hydrologist. Senior Planner Semonian responded in the affirmative.

Kurt Zeigler, project manager, stated that the Building Department required engineered walls, so as a result, there was a great deal of excavating and it made the project appear larger than it is. They have a landscaping project on a hillside. This project requires paths to access the hillside. It cannot be maintained without a path, which adds to overall enjoyment. First issue, the project is currently red tagged from an encroachment of a short wall along the curbside in the Town right-of-way. That wall mirrors a wall existing in the Town right-of-way already approximately 21-in. tall to be cobblestone faced. A benefit of that wall is to strengthen the edge of the roadway. The wall will slow the travel of water and filter down into drainage more slowly. At the end of that wall is an existing wooden retaining wall that has failed and the parking area is starting to migrate toward the Coon's property and there is a drainage ditch that must be replaced. They are asking to have the red tag removed to continue work. Design review discussed how this wall is covered, which is a cobblestone that mirrors the original walls. This wall is very short and will be unnoticeable at 21-in. tall. It will connect the north edge element of the cul-de-sac and appear as a border. They were issued permits to remove diseased trees, so six large oak trees were removed. One of the trees that bordered the lower neighbor was diseased and is recommended for removal. Neighbors

were not notified of this and many were upset, which they will correct through landscape. They lost another tree that was engineered out and the valley oak had to be removed, which will be replaced. In design review, more native landscaping was discussed. The landscape plan is fairly extensive. The upper lot was cleared of scotch broom and understory will be planted with natives, redwoods and toyons. The steep area has a mixture of California natives. A primary issue is the vantage point being opened due to the removal of the tree. Now there is a large house that looks down into the neighborhood, so they developed a plan to correct. They created a greenbelt with redwoods and taller hedges and propose a lower boardwalk and railing. They developed a plan to put in California native hedges. Photographs were provided showing five years of projected growth. They are adding another oak that is evergreen along with a hedge to grow quickly and block out the structure below. They propose a mixture of 36 and 24-in. box trees. They will create a natural grove effect. 24 and 36-in box trees will run between 12 to 18 ft. when planted. The scaffolding should be removed early next week. He then discussed the hardscape plan showing the pathways around the backyard to the spa area. All of this construction by the time this project is finished will not be visible from any vantage point. The only public space is down at the cul-de-sac. The spa deck will be invisible from down below or up above due to the thick greenbelt. In terms of drainage, originally the plan dealt with capturing 500 gallons of water. The new numbers are 1400 gallons, capturing that water is not a problem. The trick is how to disperse that water to not impact the neighbor. It is an interesting problem. They must figure out where to place this water in a very tight and steep lot. Irv Schwartz is on board working on the drainage plan and several engineers are working on the situation. The original plan dissipation lines dissipated above Alice Reeve's property, so they are still working on a design. The railing design is very simply 1 x 8 to mimic the existing decks. As far as the finish of the railing, it is not appropriate to paint white at this time to match the existing railings since there is no visual screen. Adding more white at this time would be more disturbing to the neighbors. He proposed a cedar or redwood railing, leave natural until such time the screening fills in and blocks the views from the neighbors in order to blend into the building. He further noted that the elevated boardwalk with railing would be blocked out by a hedge.

Council Member Martin asked the project manager about the bamboo. Project Manager Ziegler noted that they are willing to work with the neighbors. He added that the bamboo was installed as a quick screen.

Council Member Martin asked how many years out is the full maturity of growth. Project Manager Ziegler imagined three years with 15-gallon plants.

Acting Mayor Cahill opened the public hearing on this item.

Cindy Downing, 12 Baywood resident, stated that the situation has improved, but wanted the drainage plan completed before the work begins as well as an opportunity to provide input.

Linda Brown, 7 Baywood resident, thanked the Coon's for buying this property. She appreciated the offer of merging the lots. She has watched the ditch in 1982 where the street was covered and hoped the drainage plan addresses the 100-year flood that occurs every 10 years.

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Jacqueline Ryan, 50 Baywood resident, approved the plans as submitted.

Alice Reeve, 14 Baywood resident, noted that the architect explained the plans earlier this afternoon and she is confident that she will be safe in her home with the plans as submitted.

Vincent Conrad, 7 Madera resident, believed they did a fabulous job on the wall and landscaping. It would behoove everyone to move forward. The wall is an exact match. He is very happy with what the Coon's are doing and the Council should focus on the facts. He further noted support for the application.

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

Council Member Martin is glad to see that the concerns of the neighbors have been addressed. In terms of drainage, toward the lower part of the property before it goes into Alice Reeve's property is a challenge. There are some retaining walls and planting areas that might be an opportunity to add a retention area to slow down the water flow before entering Ms. Reeve's property. Getting rid of the bamboo and keeping the rail natural is a good measure. Overall, he commended the applicant on coming up with a way to solve the dilemma. This may be a win/win. He recommended looking at alternative plantings instead of the bamboo. He further added that the Town Hydrologist must review the drainage plans. Senior Planner Semonian indicated that it is a condition of approval.

Council Member Skull agreed that the drainage calculations must be resolved. He recommended keeping it natural in terms of the railing. He agreed that the bamboo in the Town right-of-way should be removed. He further appreciated the communication that the architect had with the neighbors.

Acting Mayor Cahill commended the Coon's and the architect in terms of approaching these issues correctly, particularly with the drainage plan. In a way this can be a model in terms of stormwater detention. He also agreed the bamboo must be removed since it is in the Town right-of-way, and that bamboo is not native. He recommended, as a condition, to use alternative native plants for screening. He further believed the wall is an improvement to the cul-de-sac and matches the existing wall.

Acting Mayor Cahill asked for a motion.

Acting Mayor Cahill moved and Council Member Martin seconded, to approve the application of the Coon's at 5 Madera Avenue with the findings and conditions outlined in the staff report; that the bamboo in the right of way be removed and replaced with native plants; that the approval of the house for the Parmenter's project is rescinded as part of the merger; and that the rail remain a natural finish and not painted white until screening blocks the view from any effected downhill neighbors. Motion carried unanimously. Strauss/Hunter absent.

5 Madera Avenue Conditions:

The following conditions shall be reproduced on the first page(s) of the plans submitted for a building permit:

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1. The approval of the house for the 54 Baywood site, the former Parmenter site, is rescinded since the lots shall be merged.
2. The new railings shall have a natural finish and shall not be painted white until landscape screening has grown to block views from any effected downhill neighbors.
3. The applicant shall record a revocable encroachment permit in a form similar to the form attached to the staff report, prior to issuance of a building permit for the work within the right of way. No bamboo shall be permitted in the right of way and native plants more appropriate to the natural hillside setting should be installed.
4. Proof of merger of the parcels shall be submitted prior to project final.
5. Except as otherwise provided in these conditions, the project shall comply with the approved plans. Plans submitted for the building permit shall reflect any modifications required by the Town Council and these conditions.
6. All costs for town consultant, such as the town hydrologist, review of the project shall be paid prior to building permit issuance. Any additional costs incurred by the Town, including costs to inspect or review the project, shall be paid as incurred and prior to project final.
7. The landscape plan shall be modified to eliminate bamboo in the right of way. The plan should incorporate new evergreen screening plants that are more appropriate for the character of the natural hillside setting. Exotic plants may be incorporated near the house and new retaining walls, but the upper slope of the site and perimeter landscaping should be left more natural. The landscape plan shall be revised and submitted for review and approval of the planning department and installed prior to project final.
8. The Town Council reserves the right to require additional landscape screening for up to five (5) years from project final.
9. A copy of the building permit shall be posted and emergency contact information shall be up to date at all times.
10. Working Hours shall adhere to Ross Municipal Code sections 9.20.035 and 9.20.060.
11. The applicant shall submit building permit plans for the project to the Town for review and approval, including peer review as necessary, to verify that the plans conform to the most recent adopted Uniform Building Code.
12. This project must comply with all engineering reports prepared by the applicants engineering professionals and all peer review recommendations. Any conflict in the recommendations shall be resolved by staff, the town engineer or the town hydrologist.
13. Grading is prohibited between October 15 and April 15. No winter grading is authorized for this site and a construction management plan shall be submitted that outlines the scheduling of the site development. This should clearly show completion of all site grading activities prior to the winter storm season and include implementation of an erosion control plan.
14. Preparation of a single geotechnical engineering report, containing all recommended geotechnical design criteria for the project, shall be submitted with the building

- permit plans. This report shall be submitted to the Town for peer review and acceptance by the Town Engineer. All geotechnical aspects of the proposed project, and preliminary development of plans shall continue to be evaluated by the project geotechnical consultant. A letter from the project geotechnical consultant shall be prepared that approves all geotechnical aspects of the proposed site development layout, verifies project geotechnical feasibility, and verifies conformance with the geotechnical consultant's design recommendations.
15. A revised stormwater drainage plan shall be submitted for review and approval by the Town Hydrologist with the building permit plans. The drainage plan shall result in no net increase in site runoff and shall be designed so that no runoff is directed where it will impact the downslope and downstream sites.
 16. Construction of the drainage system shall be supervised, inspected and accepted by a professional engineer and certified as-built drawings of the constructed facilities and a letter of certification shall be provided to the Town prior to project final.
 17. The project shall incorporate a back up method to distribute run off in the unlikely event that the level spreader fails. A "failure analysis" shall be completed both to (1) predict the specific modes of failure and the resulting locations of potential concentrated runoff if the drainage system performance is reduced due to failed maintenance, and, by extension, (2) promote revisions to the drainage system design to reduce the potential negative consequences of failure, through specific inspection and maintenance requirements and/or revising the design to include more system redundancy.
 18. The surface and subsurface drainage facilities and catchment areas shall be inspected frequently and maintained throughout the project life. The applicant shall enter into a maintenance agreement for the facilities with terms substantially similar to the City of San Rafael's Stormwater Management Facilities Agreement and the Marin County Department of Public Works Stormwater Treatment Measures Maintenance Agreement, copies of which are in the project file. The Town Attorney shall review the agreement, at the applicant's expense. This agreement shall be recorded prior to issuance of the building permit for the project. The Town may request the applicant to provide a performance bond, security or other appropriate financial assurance providing for the maintenance of the drainage system.
 19. Exterior lighting fixtures shall be selected to enable maximum "cut-off" appropriate for the light source so as to strictly control the direction and pattern of light and eliminate spill light to neighboring properties or a glowing nighttime character. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners.
 20. Applicants shall comply with all requirements of the Marin Municipal Water District. Water shall be available at the site prior to the start of any construction. Evidence that the Water District has reviewed and approved the landscape plan shall be submitted prior to project final.
 21. Project development shall comply with the requirements of the Ross Valley Sanitary District.
 22. The project arborist shall review final construction-level drawings for the deck and spa plan, including utility plans, and written evidence of the project arborist review

- and approval shall be provided to the Town. All tree protection conditions recommended by the project arborist shall be included on those plans to ensure compliance with the conditions. A certified arborist shall be on site during all trenching and excavation work near protected trees.
23. 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.
 24. 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.
 25. NO CHANGES FROM THE APPROVED PLANS, BEFORE OR AFTER PROJECT FINAL, INCLUDING CHANGES TO THE MATERIALS AND MATERIAL COLORS, 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. THE APPLICANT IS ADVISED THAT CHANGES MADE TO THE DESIGN DURING CONSTRUCTION MAY DELAY THE COMPLETION OF THE PROJECT AND WILL NOT EXTEND THE PERMITTED CONSTRUCTION PERIOD.
 26. Failure to secure required building permits and/or begin construction by April 8, 2011 will cause the approval to lapse without further notice.
 27. FAILURE TO COMPLY IN ANY RESPECT WITH THE CONDITIONS OR APPROVED PLANS CONSTITUTES GROUNDS FOR THE TOWN TO IMMEDIATELY STOP WORK RELATED TO THE NONCOMPLIANCE UNTIL THE MATTER IS RESOLVED. (RMC §18.39.100). THE VIOLATIONS MAY BE SUBJECT TO ADDITIONAL PENALTIES AS PROVIDED IN THE ROSS MUNICIPAL CODE AND STATE LAW.
 28. 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.
 29. 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. **2 Glenwood Avenue, Variance, Design Review and Demolition Permit No. 1771**
Ed and Betsy McDermott, 2 Glenwood Avenue, A.P. No. 73-131-29, R-1:B-A (Single Family Residential, 1-acre min. lot size), Very Low Density (.1-1 Unit/Acre). Design review, demolition permit and variances associated with a significant remodel of and addition to the existing 13,803 square foot residence, built in 1906 for Henry Bothin. The project includes removal of the 3-story wing to the north of the residence, excavation of a new garage below the residence, and addition to the east of the residence partially within the side yard setback (25 feet required, 18.3' proposed). A new 70 by 18 foot pool and 996 square foot detached pool house are proposed. Watercourse design review is requested for a new driveway and garage approach, grading, landscape retaining walls, and first floor addition within 25 feet of Ross Creek. The project includes 1,000 linear feet of retaining walls up to 13 feet in height. The applicants request approval of a tree permit to remove seven significant trees, including five California bay laurel, ranging from 12 to 30 inches in diameter. 3,000 cubic yards of cut and 3,000 cubic yards of fill are proposed. The total floor area of the project would be 17,625 square feet.

Lot area	118,135 sq. ft.	
Existing Floor Area	11.7%	
Proposed Floor Area	14.9%	(15% permitted)
Existing Lot Coverage	5.2%	
Proposed Lot Coverage	7.9%	(15% permitted)

The existing residence is nonconforming in covered parking, setbacks, number of stories and height.

This item has been continued at the request of the applicant.

19. **88 Laurel Grove Avenue, Variance and Design Review No. 1773**
Courtney and Nicole Haslett, 88 Laurel Grove Avenue, A.P. No. 72-201-02, R-1:B-A (Single Family Residential, 1-acre min. lot size), Very Low Density (.1-1 Unit/Acre). Design review and variance associated with a remodel and 542 square foot addition to the existing residence. The project would include enclosure of deck areas and removal of one deck. Total floor area of 5,678 square feet is proposed, which is 253 square feet over the maximum permitted floor area for the site.

Lot area	36,127 sq. ft.	
Existing Floor Area	14.2%	
Proposed Floor Area	15.7%	(15% permitted)
Existing Lot Coverage	8.4%	
Proposed Lot Coverage	8.5%	(15% permitted)

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

Min Day, architect, explained that they are asking for a FAR variance and propose minor changes and alterations to the house. The house is very awkward and the biggest piece is the enclosure over the roof terrace added in 2002. Any kind of solution to incorporate into the house would result in a trellis or canopy still requiring a variance. Since there are roof drains over the roof space, her clients have had to maintain and keep constant eye on the condition of that roof deck. It has developed cracks and it seems to make sense to incorporate as living area. All main living space and exterior play areas are adjacent to this roof terrace. She further noted that the other minor deck is very small and not visible to any neighbors.

Council Member Martin asked what sort of treatment is proposed on the roof over the roof terrace. Architect Day noted that it would be an extension of the hip roof already present. Council Member Martin suggested putting a solar system on top of that roof since the exposure is so good. Architect Day agreed to consider.

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

Council Member Skall visited the site and believed ADR reviewed sensibly. They are not adding any exterior to the house. It is all built within the footprint. Based on usability, it is reasonable to allow the variance. Council Member Martin concurred. It does not increase the mass of the house. It is an appropriate renovation and it will make it much more usable. He believed it is a justified upgrade. Acting Mayor Cahill agreed and believed it is a great design.

Acting Mayor Cahill asked for a motion.

Council Member Martin moved and Council Member Skall seconded, to approve the project at 88 Laurel Grove subject to the conditions and findings outlined in the staff report. Motion carried unanimously. Strauss/Hunter absent.

88 Laurel Grove Conditions:

1. A building permit is required prior to construction.
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. No down spouts shall be connected directly to the Town storm drain system or enter directly into any water course or creek without first going through a treatment area (such as flowing over a landscaped area, lawn or French drain, or other area that cleans, filters, slows the speed and amount of water leaving a property), or to an approved alternate location based on approved geotechnical and engineering designs.
4. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
5. This project shall comply with the requirements of the Department of Public Safety including: 1.) A street number must be posted {minimum four inches on contrasting

- background}; 2.) The property must be cleared of all dead or dying flammable materials; and 3.) Local alarm system required.
6. 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.
 7. 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.
 8. **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.**
 9. **FAILURE TO SECURE REQUIRED BUILDING PERMITS BY APRIL 8, 2010 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**
 10. 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.
 11. The Town Council reserves the right to require additional landscape screening for up to two (2) years from project final.
 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.
20. **50 Wellington Avenue, Variance No. 1776**
Courtney and Gregory Smith, 50 Wellington Avenue, A.P. No. 72-154-09, R-1:B-10 (Single Family Residential, 10,000 sq. ft. min. lot size), Medium Low Density (6-10 Units/Acre). Variances to allow the replacement of the flat garage roof with a pitched roof within the side setback (15 feet required, 0 feet proposed) and rear setback (40 feet required, 17 feet proposed). A maximum ridge height of 13 feet is proposed. The garage is located along the property line shared with 44 Wellington and the roof overhang would extend 1.5' on to the 44 Wellington Ave. site.

Lot area	7,200 square feet
Existing Lot Coverage	42.8%
Proposed Lot Coverage	44.4% (20% permitted)

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the application with written acknowledgement from the neighbor in terms of the building permit and replace the garage doors and make it so the garage is not used for covered parking. Also, the Planning Department should review the revised design that eliminates the overhang onto the neighbor site.

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Acting Mayor Cahill believed the garage encroaches on the neighbor's site. Senior Planner Semonian indicated that it is a known fact that it has been built over the neighbor's property. As long as the neighbor consents to the building permit application, staff finds it acceptable.

Council Member Martin asked staff if the recommendations are specified in the findings. Senior Planner Semonian did not require the garage doors to be replaced, so that should be added to the conditions. Staff noted that final design should be added to the conditions as well as elimination of the roof overhang and that the design be reviewed by staff prior to issuance of the building permit. Staff further noted that the garage doors must be compatible with the design and in keeping with the style of the residence.

Rob Wally, contractor, explained that in order to erect story poles, due to the existing flat roof, all debris had to be removed. There is one large oak tree that covers the garage. There was tons of debris on the roof and when working on the roof the ceiling joist completely flexed, so it is not safe. The propose a 4 x 12 pitch hip roof that mimics the existing house with composition shingles to match the house. He spoke to the neighbor who left a message for staff and who wanted the overhang shortened, but now they want it eliminated. Along the edge of the property they will eliminate the overhang, but keep the rest of the building with the overhang. It is not an issue. Along the fence line, the existing fence has a 12-in. jog and according to fence line it is 1-foot into the property. The fence that separates the neighbors is about 60 ft. long and is 5 ft. tall, so the fence with a trellis arbor over the top would cover the entire corner. With no overhang that fence would mask that transition between no overhang and overhang, and the neighbor found that acceptable. In terms of the garage doors, the existing house has maybe 10 or 15 windows and whoever put in the garage doors took the time to add a lot of detail to mimic the house. He further opposed removing the garage doors and questioned what it has to do with the roof.

Council Member Martin discussed the oak tree. Contractor Wally noted that it is very healthy. The oak tree is about 15 ft. away surrounded by synthetic lawn. They propose to reuse the existing doors rather than replace. He further noted that the garage doors have great detail that mimics the original detail to the house.

Acting Mayor Cahill opened the public hearing on this item.

Phil Cecchetti, 58 Wellington resident, stated that the flat roof is not the problem. Maintenance is the issue. East side of the house slopes quite a bit and there are compacted leaves currently and historically and unclean gutters. Also, he believes there is a connection between the proposed slope roof and doors. The doors are abominable. He is not impressed with craftsmanship and believed the garage doors are out of character with the neighborhood. He desired a much more creative design solution. He also asked the contractor not to park in front of his house so often.

Joyce Cecchetti, 58 Wellington resident, stated that the placement of the garage is directly across the street. It is a solid mass of house. The garage has more mass than the house itself, which is concealed by planting. It is massive and has more importance than a garage deserves. It is out of keeping with the tone of the neighborhood with French looking garage

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doors. She objected to the addition of adding mass to the roof and recommended a simpler garage.

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

Council Member Martin stated that one benefit of being councilman is reading the historical record. This project goes back to 1957. There is some fine-tuning needed on this design and is unclear how to proceed. He is comfortable to leave it to staff's discretion to work with the applicant to tweak the design that addresses some comments heard from the community. The overhang must be pulled back and rain gutters must be addressed as well. He further noted that more detail must be developed.

Council Member Skall wanted to know how the water would be moved around in terms of the overhang. He did not see a problem with the roof since it did match what already exists. To make a complete change to that garage will be a major issue, so he must review other examples to make such a drastic change.

Acting Mayor Cahill felt the design matched the house. It is not appropriate to change the doors when just changing the roofline. Drainage is a concern that staff can work out as well as address the roofline with the neighbor. Public Safety Director Jarjoura noted that the Building Official is not able to approve any structure or part of a structure that extends outside of the property line.

Acting Mayor Cahill suggested continuing the matter to allow the applicant an opportunity to workout some legal issues. Senior Planner Semonian noted that, since a large oak tree exists on the other side of the garage, there is no other alternative unless they take the structure down completely. Town Manager Broad stated that the Council could approve. Staff explained that there are two different issues and staff is not clear if it is impossible to issue a building permit, if the Council approved it. The applicant must comply with building permit regulations to receive a permit. If approved, and a permit cannot be issued, then the applicant will not receive a permit.

Acting Mayor Cahill noted that the Council could approve the project and the applicant must figure out how to resolve this issue. Contractor Wally believed it is two separate issues, but felt it could be worked out.

Acting Mayor Cahill asked for a motion.

Council Member Skall moved and Council Member Martin seconded, to approve the project at 50 Wellington Avenue subject to the findings and condition outlined in the staff report including cutting back the overhang hanging over the property line; and work with staff to workout any conditions regarding drainage and runoff. Motion carried unanimously. Strauss/Hunter absent.

50 Wellington Conditions:

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

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1. A building permit is required for the work. Since the project involves work on and over the property line, the applicant shall submit written evidence that the adjacent neighbor has consented to the building permit application with the building permit application.
 2. Roof runoff shall be dissipated on site and not directly to the culvert.
 3. The applicant shall comply with any requirements of the Department of Public Works related to maintenance and access to the culvert prior to project final.
 4. 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.
 5. 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.
 6. This project shall comply with all requirements of the Department of Public Safety, as outlined in their ongoing project review.
 7. 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.
 8. 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.
 9. Failure to secure required building permits and/or begin construction by April 8, 2011 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.
21. **5 Fernhill Avenue, Amendment to Design Review No. 1777**

Tahlia Van, 5 Fernhill Avenue, A.P. No. 73-091-04, R-1:B-20 (Single Family Residential, 20,000 acre min. lot size), Low Density (1-3 Units/Acre). Request to amend an April 17, 2006, Town Council design review approval, which permitted construction of a new 3,869 square foot two story residence, attached 414 square foot two-car garage, and accessory structures. The applicant requests the Council to rescind a condition of approval that requires the entry drive to be surfaced with decomposed granite to allow the owner to pave the driveway with asphalt. The driveway would be sloped to drain to existing landscaped areas and to the drainage swale on the southeast corner of the site.

Lot area	25,958 square feet	
Approved Floor Area Ratio	14.9%	
Proposed Floor Area Ratio	14.9%	(15% permitted)
Approved Lot Coverage	14.2%	
Proposed Lot Coverage	14.2%	(15% permitted)

This item has been continued at the request of the applicant.

22. 90 Laurel Grove Avenue, Variance and Design Review No. 1778
(This item will be continued to the May 13, 2010, Town Council meeting)
Steve and Kirsten Polsky, 90 Laurel Grove Avenue, A.P. No. 72-201-12, R-1:B-A (Single Family Residential, 1-acre min. lot size), Very Low Density (.1-1 Unit/Acre). Design review and variances associated with converting the existing basement area to a family room, which would add 635 square feet of floor area to the residence. The project would involve 56 cubic yards of cut to lower the floor of the basement area. Total floor area of 4,026 square feet is proposed.

Lot area	36,127 sq. ft.	
Existing Floor Area	14.2%	
Proposed Floor Area	15.7%	(15% permitted)
Existing Lot Coverage	8.4%	
Proposed Lot Coverage	8.5%	(15% permitted)

The existing residence is nonconforming in setbacks (34 foot rear setback existing and proposed, 40 feet required) and covered parking (one covered space existing and proposed, two required).

23. Correspondence – Fourth of July Parade
The Council supported the Fourth of July parade.

24. Other Business - None

25. Adjournment.

By order of Acting Mayor Cahill, the meeting adjourned at 9:31 p.m.

William Cahill, Acting Mayor

ATTEST:

Gary Broad, Town Manager