

REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, FEBRUARY 11, 2010

1. 6:30 P.M. Commencement.

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

2. Posting of Agenda.

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

3. Minutes – Special January 12th and Regular January 14th meetings.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, to approve the Special January 12 minutes as amended and the January 14, 2010 minutes as amended. Motion carried unanimously.

4. Demands.

The demands were met.

5. Open Time for Public Expression.

Carla Small, Duff Lane resident, hoped that the Council along with Chief of Protocol Roseanna Lourdeaux comes up with a great way to celebrate and recognize Don and Denise Ahrens' huge contribution to the Ross community as owners of the Ross Grocery. In follow up to her September request, she asked for more information regarding the process of voting for the Mayor and Mayor Pro Tempore and is interested in attending a government meeting in that regard. Council Member Cahill noted that the Council intends to cover the Mayor and Mayor Pro Tempore process before the July Town Council meeting.

6. Report from Mayor Strauss.

Mayor Strauss reported that Don and Denise Ahrens have sold their business at Ross Grocery to Woodlands Market owner and Ross resident Don Santa. The Town thanks the Ahrens family for their 36-year contribution to the community, and the Town looks forward to seeing the changes that are planned for the store. Also, the Mayor congratulated Town Manager Gary Broad and staff on obtaining a \$442,900 grant for work on the Sir Francis Drake Lagunitas Road intersection.

Mayor Strauss along with Mayor Pro Tempore Hunter met with Joe Nation to discuss energy efficiency programs available through PG&E. Mr. Nation may attend the March Council meeting to further discuss GHG reduction measures.

Mayor Strauss announced that Traffic Engineer David Parisi and SR2S representative is studying Shady Lane intersection improvements at Lagunitas Road, Ames Avenue and Locust Avenue and will be presenting recommendations by letter in the coming week.

7. Report from Committee Heads.

Public Works Update

- Council member Martin

Council Member Martin reported that commencing this May, Sir Francis Drake Boulevard and the Ross Common area will have almost continuous disruption and congestion for nearly a five-month period. A series of small and large construction projects are slated, including MMWD's main water line and lateral pipe replacement project, the resurfacing of Sir Francis Drake Boulevard, the Sir Francis Drake pedestrian pathway project, Lagunitas and Sylvan Lane curb and sidewalk modification, and parking and curb elements of the Downtown Plan. Also, potentially the breaking down of the school project and transitioning into the public auditorium and gym structure.

At its March meeting, the Public Works Committee will invite residents from the impacted areas to familiarize them with the timing and scope of the scheduled work. Ross's police, fire and emergency services also are developing contingencies to guarantee a prompt response time. It will be a difficult period, so they must adjust and be prepared for it.

8. Report from Ross Property Owners Association.

Frank Doodha, RPOA representative, thanked the Town for fixing the shingles on their bulletin board at the Post Office. They also thanked Police Chief Jim Reis for providing valuable information about the burglaries occurring in the Town. RPOA further thanked the Town for contributing to the Ross Ritter House and announced that an auction will occur in March in front of the Post Office.

9. Flood Control Report.

Council Member Martin reported on the most recent meetings relative to flood control. On January 21st, the Ross Valley Flood Mitigation League organized a well-attended meeting to review the status of the current projects and actions to reduce severity of flooding. During that meeting, Jack Curley, the County's Flood Control Engineer, provided an update on the first phase of the Stetson Engineering's "*Corte Madera Creek Watershed Flood Damage Reduction and Creek Manage Strategy*" study, which is due to be completed prior to the end of the year. This study will analyze flooding and flood damage reduction, maintenance of the natural channel, creek habitat degradation, and creek utilization for public enjoyment. It is clear that the study will recommend a series of stormwater retention areas to reduce severity of flooding during peak rains. This past Monday, San Anselmo convened its Flood Committee, for the first time in quite a while. The Committee is chaired by newly elected Council Member Tom McEnerney, Vice Mayor Ford Greene, and several residents. Given that Mr. McEnerney and Mr. Greene are attorneys representing opposing points of view in an active lawsuit waiting to be heard by the California Supreme Court relative to the execution of a parcel tax assessment to fund the Ross Valley flood control effort, unfortunately it was agreed that there would be no discussion on that particular issue. During that meeting, one of the Committee members, Dick Stutsman, a hydrologist, provided an analysis rainfall and creek level data relative to this season's recent major storms. As everyone recalls, Ross Valley was hit by a major storm on October 13th last year, with a long period of sustained rains. Fortunately, it was the first major storm of the season and the ground was not saturated with water and the creek was able to handle the runoff. According to the data, if a storm of that intensity hit the area after the January 18-19 storm, rather the modest storm that Ross Valley experienced on January 20th, the creek would not be able to handle the stormwater runoff and San Anselmo and Ross would have experienced flooding. Mr. Stutsman's analysis shows how vulnerable Ross Valley is. Given that it will likely be many years perhaps decades to accomplish significant flood water improvements, it is critical that each project the Town reviews, that stormwater management practices are required to infiltrate and detain

stormwater close to its source and relieve the reliance and pressure on the Ross Valley creek system, which is finite.

10. Report from the Ross School.

School Board Trustee Bob Dickinson discussed the status of their financing and timing of the multi-purpose room. The school building is ahead of schedule and under budget and will open in August. Financing and timing of the multi-purpose room remains an open question. The Office of Public School Construction owes them \$6.8 million and they continue to wait for those funds. He along with a Ross School staff member each spent one day in Sacramento on separate occasions knocking down doors at the Department of Finance and learned that appropriation is neither budgeted nor appropriated, so they cannot use those funds in grant anticipation notes. The State will not guarantee that payment, so they cannot use that as collateral. They are left waiting for the State and the State plans a series of bond sales mid March to April with a \$7 billion target. Last year the State sold \$12 billion and out of that \$500 million went to K-12th grade construction projects. They should receive around \$300 million out of the spring bond sales, but there is no guarantee. Cash would be disbursed 90-days after a sale and they should have cash by mid June to stay on schedule, but that remains an open question. They have done what they can to keep on track, but if the funds are not received, the School Board is recommending retaining the existing multi-purpose room for assemblies, athletics and lunch program until they receive the funds. They appreciated the feedback from the Town Leadership about the request for encroachment permit, which was extremely helpful. They are ready to meet again and to talk about how to proceed. They are sensitive to returning as much of Ross Common as possible to the Town, if they are not in need of the area.

11. Consent Agenda.

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

Items 11a and 11d were pulled from the consent agenda for further discussion.

- b. Town Council consideration of adoption of Resolution No. 1695 requesting the Marin County Board of Supervisors to consolidate with the Statewide Primary Election and Municipal Election conducted on June 8, 2010, and requesting Election Services of the County Clerk.**

Mayor Strauss asked for a motion.

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

- c. Town Council consideration of adoption of Resolution No. 1696 establishing increases in fees collected for animal control services codified in Chapter 8 of the Ross Municipal Code.**

Mayor Strauss asked for a motion.

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

Mayor Strauss announced that he would abstain from the next agenda item.

Item IIa

2 Chestnut Avenue, Variance No. 1770

Daniel & Iris Winey, 2 Chestnut Avenue, A.P. No. 73-301-04, R-1:B-10 (Single Family Residential), Medium Low Density (3-6 Units/Acre). Application for variances to allow 60 square feet of unfinished basement in the lower level to be converted into a laundry room within the side yard setback (15 feet required, 9 feet proposed) and rear yard setback (40 feet required, approximately 25 feet proposed). No exterior changes are proposed.

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|-----------------------|---------------|-----------------|
| Lot area | 4,560 sq. ft. | |
| Existing Floor Area | 48.5% | |
| Proposed Floor Area | 49.8% | (20% permitted) |
| Existing Lot Coverage | 25.6% | |
| Proposed Lot Coverage | 25.6% | (20% permitted) |

The existing structure is nonconforming in setbacks and parking.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Skall seconded, to approve Item IIa as submitted by staff. Motion carried 4-1. Strauss abstained.

Conditions 2 Chestnut

The project shall be subject to the following conditions:

1. This approval is for the creation of a laundry room on the lower level of the residence. No changes from the approved plans, before or after project final, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval prior to any change.
2. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
3. This project shall comply with all requirements of the Department of Public Safety, as outlined in their ongoing project review.
4. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice. As provided in Municipal Code Section 15.50.040 construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site.

- Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.
5. 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.
 6. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
 7. Failure to secure required building permits and/or begin construction by February 11, 2011 will cause the approval to lapse without further notice.
 8. 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.

Item IId

Town Council consideration of adoption of Ordinance No. 618 amending Section 10.28.070 of the Ross Municipal Code to prohibit parking on the north side of Fernhill Avenue from Norwood Avenue to Glenwood Avenue.

Woody Price, Branson School representative, desired this item to be delayed until issues of parking are resolved around the school. He added that eliminating parking on Fernhill will impact other areas and he wanted to address this matter in a comprehensive way.

Council Member Martin heard this item at the Public Works Committee meeting held in December and at that time Branson School was not in a position to make any suggestions to accommodate more parking. Clearly, the situation has changed and a letter was submitted on January 29th that outlines a number of possibilities that potentially have merit to alleviate some parking and traffic problems in that area. Rather than taking an action to eliminate five or six spaces on Fernhill, he believed it is appropriate to look at the bigger picture and suggested continuing this matter in order for the Council to consider Branson's suggestions.

Council Member Cahill recommended that Mr. Price attend the next Public Works Committee meeting, which is scheduled for either March 1st or 2nd to discuss in detail the suggestions that he believed are excellent.

Mayor Strauss opened the public hearing on this item.

Andy Sheehan, Fernhill resident, expressed concern for this matter being continued again since there has been a healthy discussion on this matter. The neighborhood is impacted and has been for quite some time and continuing to delay action on this matter is not appropriate. He desired action by the Council. He added that this issue has been under

discussion for over one year and felt the Council is perpetuating this by not taking action and did not understand what more is to be discussed.

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

Council Member Cahill appreciated the comments, but the ideas from Branson School were just seen this week, so given the fact that Branson School is a major property owner on the street, the Council should not take action tonight. The Council should continue the matter to consider the suggestions and further discuss at the next Town Council meeting.

Council Member Martin noted that parking extends to Bolinas Avenue as well, so he hopes to establish some remedies for parking to be self-contained within Branson School as well as carpooling and bicycle riding to help with congestion.

Mayor Strauss noted new information was received and agreed to a continuance in order to have an opportunity to review.

The Council agreed to delay adoption of an ordinance to prohibit parking on the residential north side of Fernhill Avenue from Norwood Avenue to Glenwood Avenue in order to review Branson School proposals to mitigate parking problems in the area. The Council agreed that elimination of parking spaces on Fernhill Avenue could lead to overflow problems on other areas, and that a comprehensive approach needed to be taken.

The Public Works Committee will discuss Branson's proposals at their March 2nd public meeting and the Council agreed to table discussion of the ordinance for no more than three months.

Mayor Strauss asked for a motion.

Council Member Martin moved and Council Member Cahill seconded, to continue Item 11d, Town Council consideration of adoption of Ordinance No. 618 amending Section 10.28.070 of the Ross Municipal Code to prohibit parking on the north side of Fernhill Avenue from Norwood Avenue to Glenwood Avenue to no longer than three months. Motion carried unanimously.

12. **Town Council consideration of Issuing an Encroachment Permit for the Marin Municipal Water District Pipeline Replacement Project on Sir Francis Drake Boulevard from Bolinas Avenue to Lagunitas Road**

Public Works Director Mel Jarjoura summarized the staff report and recommended that the Council consider issuing an encroachment permit for the MMWD pipeline replacement project on Sir Francis Drake Boulevard from Bolinas Avenue to Lagunitas Road.

Council Member Martin noticed on the encroachment permit protection that around the creek is crossed off and asked staff the reason. Kevin McDonald, MMWD representative, provided the stream protection plan and rather than formulate an independent plan, they are covering the detail without a submission of a formal plan. He is aware of the federally protected creek. One justification is that they do not want a chlorinated pipe failure into the

creek. He further noted that completion of the project and reliability of the pipeline is an enhancement measure since the existing, substandard piping was installed in 1910 and would not withstand the impacts of the Town's construction projects in the area. Pipeline replacement is scheduled to be completed before the start of the Lagunitas Bridge reconstruction project on June 15.

Council Member Martin discussed Item A in regard to a required flagman on the street, which the Public Works Committee discussed and asked if a formal plan will be submitted for Town review. Mr. McDonald responded in the affirmative.

Mayor Strauss wanted to discuss the schedule in terms of Saturday and wondered if all options were reviewed. Mr. McDonald responded that they need every minute of all days to get the work completed. The contractor may not choose to work on Saturday, but it is present in order to have flexibility.

Mayor Strauss opened the public hearing on this item.

Carla Small, Duff Lane resident, asked if there is a financial advantage to the contractors if they finish the project sooner than anticipated. She wanted to know if there is some sort of bonus. Mayor Strauss noted that the Public Works Director had already stated that there is a \$3,000 per day incentive if the project is completed before the due date, which is June 15th. For every day late, there is a penalty.

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

The Council agreed to approve an encroachment permit for the MMWD to replace 2,500 feet of mainline piping on Sir Francis Drake Boulevard between Lagunitas Road and Bolinas Avenue. Construction is proposed to take place between May 3rd and June 15th. Only one lane of traffic will be open between 9 a.m. and 3:30 p.m. and between 6 and 9 p.m. on weekdays. Work may also take place between 9 a.m. and 4:30 p.m. on two Saturdays. The construction will contain incentives to finish the project on-time, including \$3,000 per day bonus for early completion and penalties for missing the deadline.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Council Member Skall seconded, to approve the encroachment permit for the MMWD pipeline replacement project on Sir Francis Drake Boulevard from Bolinas Avenue to Lagunitas Road. Motion carried unanimously.

13. Town Council consideration and response to the Grand Jury report dated December 2, 2009 entitled "Marin Clean Energy: Pull the Plug."

Project Planner Christine O'Rourke summarized the staff report and recommended that the Council consider and respond to the Grand Jury report dated December 2, 2009 entitled "*Marin Clean Energy: Pull the Plug.*"

Council Member Martin submitted to the Council and staff alternate responses to six of the findings. In order to allow time for adequate review by the Council and staff, the Council

determined that a special meeting would need to be scheduled.

Mayor Pro Tempore Hunter asked why Council member Martin didn't get his response to staff in a more timely manner so it could have been discussed this evening. Council member Martin said he didn't have time.

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

The Council agreed to continue discussion of an official response to the Marin Civil Grand Jury Report entitled, "*Marin Clean Energy: Pull the Plug*:" as a response is due within 90-days of the report date, the Council will schedule a special public meeting on or before March 2nd.

Mayor Strauss asked for a motion.

Council Member Martin moved and Council Member Cahill seconded, to continue Item 13, Town Council consideration and response to the Grand Jury report dated December 2, 2009 entitled "*Marin Clean Energy: Pull the Plug*" to a Special Town Council Meeting to be held no later than March 2nd. Motion carried unanimously.

14. Town Council consideration of whether to oppose the "New Two-Thirds Requirement for Local Public Electricity Providers -- Initiative Constitutional Amendment" requiring local governments to obtain two-thirds voter approval before establishing or expanding electricity service through a community choice aggregation program if any public funds or bonds are involved.

Project Planner Christine O'Rourke summarized the staff report and recommended that the Council consider whether to oppose the "*New Two-Thirds Requirement for Local Public Electricity Providers – Initiative Constitutional Amendment*" requiring local government to obtain two-thirds voter approval before establishing or expanding electricity service through a CCA program if any public funds or bonds are involved.

Town Manager Broad noted that Council Member Martin called this to his attention and it made sense for the Council to consider and decide whether or not to take a position on this matter.

Mayor Strauss opened the public hearing on this item,

Karen Lang, Ross resident, appreciated all the time Council spends, but appreciated the right to vote and not have the Council vote for residents on this matter. Two-thirds is required for a bond and this requires equal treatment. She further believed citizens should be able to decide for themselves.

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

Mayor Pro Tempore Hunter explained that it is not right that this large utility fund this proposition. He favored taking a stand against this proposition. While he would favor an

election, two-thirds of the voters must approve and it is not a bond, and he favors a simple majority.

Council Member Martin noted that when PG&E raises their rates there is no right to vote. It is clear that the intent of this initiative is to protect PG&E's monopoly in Northern California. PG&E has historically since the 1930s prevented any public utility from starting. SMUD is the most highly related utility district in the State providing electrical energy at 20% less. This is about choice and it is an absurd initiative to protect PG&E shareholders.

The Council unanimously agreed to consider a resolution in March opposing the "New Two-Thirds Requirement for Local Public Electricity Providers" initiative that will appear on the June 8th, 2010 ballot. The constitutional amendment would require local governments to obtain two-thirds voter approval before expanding electricity service or establishing a CCA program, such as MCE, if any public funds or bond are involved. If passed, the amendment would impact Ross's ability to join the MEA in the future as such action is likely to require two-thirds approval of both the voters in the existing MEA territory and the voters of Ross. The Council's January 2010 decision to withdraw from MEA was partially based on an assumption the Town could consider rejoining the Authority at some point in the future.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, to direct staff to draft a resolution against this initiative. Motion carried unanimously.

15. **Town Council appointment of five members to the Advisory Design Review Group and consideration of adoption of Resolution No. 1694 establishing staggered terms for the ADR Group and a conflict of interest policy for ADR Group members.**

Senior Planner Elise Semonian summarized the staff report and recommended that the Council adopt Resolution No. 1694, establishing staggered terms for the ADR Group and a conflict of interest policy for ADR Group members.

Mayor Strauss discussed Item No. 15 in regard to the last paragraph and believed it becomes subjective and suggested deleting the paragraph starting with the word, "or" as follows: "*or any relationship that has a strong likelihood to lead the public to perceive that an ADR Group member has a conflict of interest that would undermine the credibility of the ADR process.*" He felt it is too general and broad. The Council agreed.

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

The Council agreed to reappoint five current members to serve on the ADR Group and establish staggered terms to avoid the complete turnover of members at one time. Jim Kemp and Mark Fritts will serve two years and Josefa Buckingham, Dan Winey, and Noreen Silvon, one year. The Council could consider reappointing up to four alternates members in the future, if additional residents express an interest in volunteering.

Mayor Strauss asked for a motion.

Mayor Strauss moved and Mayor Pro Tempore Hunter seconded, to reappoint five current members to serve on the ADR Group and adopt Resolution No. 1694 with the modification to Item No. 15 deleting the last three lines beginning with the word, “or” as follows: *“or any relationship that has a strong likelihood to lead the public to perceive that an ADR Group member has a conflict of interest that would undermine the credibility of the ADR process.”* Motion carried unanimously.

16. Town Council consideration of adoption of Resolution No. 1697 placing a measure on the June 8, 2010 ballot to amend Chapter 5.04, Licenses, of the Town of Ross Municipal Code and update business license taxes. The measure question is proposed as follows: *“Shall Ross Municipal Code Title 5, Business Licenses and Regulations, be amended to update business license taxes in order to help maintain the Town’s ability to fund basic Town services?”*

Town Manager Gary Broad summarized the staff report and recommended that the Council consider adopting Resolution No. 1697, placing a measure on the June 8, 2010 ballot to amend Chapter 5.04.

Project Planner O’Rourke reported that the Town’s business license taxes have not been increased over the last 125 years while inflation has caused prices to almost double. The Town collected nearly \$33,000 in business license tax revenue in FY 2008-2009, with an average of \$80 per license. By contrast, Belvedere collects approximately \$70,000 per year and charges \$160 for nearly all business licenses. Staff proposed streamlining existing business classifications and approving a flat tax of \$125 for most business types, with fees for retailers and restaurants set at \$65. Staff also proposed indexing the tax to the Consumers Price Index, with rates resetting every five years beginning in 2016.

Mayor Pro Tempore Hunter asked staff how “home occupation” is defined. Project Planner O’Rourke noted that a home occupation has no employees. In Chapter 5.04, it is clear that all businesses and occupations are to be taxed, such as transaction businesses or businesses making a profit would be subject to a tax.

Mayor Pro Tempore Hunter noted that many in Ross list their residence as an office and wondered how it is policed. He believed it would be easier to tax a home business with one employee, but exempt those without an employee, so exempt home occupation, but tax home business.

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

Council Member Cahill liked the idea of eliminated gross receipt tax and the idea of adjusting the tax over inflation every five years. He has a problem in this current environment of raising taxes. This is not a big money maker and the timing is bad. He suggested considering lowering the taxes moderately. He further noted that under State law, any increase in general taxes must be approved by a simple majority of local voters.

Town Manager Broad pointed out that if the Council wanted to clean up and reduce categories in all cases that could be done without a vote and staff is willing to do. Staff further noted that it is embarrassing that the ordinance is so hard to apply.

Council Member Martin suggested considering this next year in the hopes the business environment improves. The Council agreed to revisit the issue once business conditions have improved.

17. Town Council discussion/appointment of Town representative to the Marin/Sonoma Mosquito & Vector Control District Board of Trustees.

Town Manager Gary Broad summarized the staff report and recommended that the Council appoint Iris Winey to serve a two-year term as the Ross representative on the Marin/Sonoma Mosquito & Vector Control Board of Trustees.

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

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Cahill seconded, to appoint Iris Winey as the Town's representative on the Marin/Sonoma Mosquito & Vector Control District Board of Trustees. Motion carried unanimously.

The Council noted their appreciation to Ms. Winey for serving.

18. 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

The Public Works Department met with Mayor Strauss and the Town Engineer John Moe, to review the grading and drainage and talked to Council Member Martin about whether the project should move forward before or after the bridge project. He wanted to proceed with construction documents to be ready to move forward right after the bridge. He then asked if the parking lot could be done before June 1st and Public Works agreed to review. Council Member Cahill is concerned about making this beautiful parking lot and then have construction vehicles travel through for the bridge work. It was agreed that with the school and bridge projects there would be too much disruption this spring and summer.

Mayor Strauss wanted the Town Engineer to prepare the drawings in order to go out to bid after the bridge is completed. Any coordination that must be done in conjunction with the bridge must be done prior to June. They must implement some grades and landscape around Town Hall.

Council Member Cahill agreed to discuss at the March 2nd Public Works Committee meeting. Council Member Martin noted that there are some issues in grade at Lagunitas in

front of Sylvan. The bump in the road will become an issue for residents, so there must be an easy transition.

b. Public facilities

Council Member Cahill noted that he along with Public Works Director Jarjoura, Town Manager Broad and volunteer Architect Kathy Strauss reviewed work on the Civic Center. Next step is to meet with police and fire and also with Mack 5 who is the Town's pro bono scheduler and cost estimator. With that information, they will prepare plans and bring back to the Council in the next couple of months.

c. Flood control

Council Member Martin noted that last December Council passed a Resolution urging the action on the Army Corps of Engineers Unit 4 Flood Control project that is being embraced by neighboring towns and organizations that oversee the creek. The Ross Valley Flood Mitigation League has approved the Resolution. The Friends of Corte Madera Creek have appropriately tweaked the wording, and have adopted the Resolution. The Town Council of Fairfax also has passed the Resolution. The Town Council of San Anselmo is expected to approve the Resolution later this month. Larkspur and Corte Madera hopefully will be next to adopt the Resolution.

This past Monday, Supervisor Hal Brown asked him to meet with the County's Public Works Director Farhad Mansourian who advised that the Unit 4 project has been identified by the County as its number one project for the Army Corps of Engineers. He explained that these projects are decade long projects and to be patient. Ross's project has been pending for a half century. He pledged to Mr. Mansourian that all the environmental organizations and municipalities are aligned on this issue as one united voice to work constructively and proactively for the realization of this project.

As suggested by council members, the proposed stormwater ordinance is being incorporated into Design Review a drainage section of the Town's zoning codes and should be ready for discussion and review at next month's meeting. Meanwhile, San Anselmo Council is actively reviewing the Town's draft ordinance and is interested in applying the same standards. There is interest in Fairfax as well. Since they all bathe in the same floodwater, he is very pleased with their interest and cooperation. He further noted that since the final solution with any effective flood control is decades away, they must establish some alternatives.

d. Hillside lot ordinance review

Council Member Skall announced that the next HLO review public meeting is scheduled for Tuesday, March 2nd at 7 to 9 p.m. at Town Hall. Staff will present draft ordinance revisions for meeting participants to review and refine.

e. Unfunded mandates/pensions

Council Member Hunter reported on the Town's unfunded liabilities and the Town currently has a retirement fund deficit of \$1.7 million and pays CalPERS 7.75% interest on this outstanding balance. Since the Town's reserves are currently earning a return between .6% and 3.0%, it may make sense to shift funds to the CalPERS account. He will consider upcoming projects that may need to be funded and return next month with a recommendation to deal with the unfunded liabilities.

19. Town Council mid-year budget review and consideration of amending Fiscal Year 2009-2010 Budget.

Council Member Martin indicated that he received this information yesterday and recommended deferring any action until a later date. Mayor Strauss stated that any action to expend funds would come back to the Town Council.

Town Manager Broad explained that there was a question about language in the agenda and the Town Attorney reviewed and indicated that there were no problems in the way the agenda was noticed. If the Council desired more time, this matter can be discussed at the Special March 2nd meeting or the March 11th Town Council meeting.

Council Member Martin expressed concerned for expanding their government as well as the public notice. The public only reviewed this information since this morning, so under the Brown Act the Town is obligated to provide adequate notice. He further expressed concern about transparency. Town Attorney Hadden Roth stated that the notice is adequate.

Mayor Pro Tempore Hunter reported to the Council that the financials are a bit harder to deal with this year due to the transition from one accountant to another. Stu Korn did the work through December 31, 2009 with the Town's new accountant taking over the responsibility on January 1, 2010. They had to use the draft December financials for this update, as they have not been finalized as yet. In terms of Revenue, total revenue is up \$33,000 over budgeted levels. Revenue has taken a hit particularly on building permits, which are \$65,000 below budget levels and associated planning construction review is \$13,000 below budget, but permit activity looks to be substantially higher in the next six months. Interest is \$32,000 below budgeted levels with interest rates of 0.6% on LAIF funds. Property taxes are off by about \$50,000 at mid-year, however, in the month of January this gap will be cut almost in half. Reimbursement for Town costs is saving the day, as it is \$150,000 over budgeted levels. This is due to grant money the Town received from the insurance carrier as reimbursement for expenses and reimbursement for salary the Town paid to employees on disability. Construction completion penalties are also \$49,000 over budgeted levels. In terms of expenses, under General Government, they are approximately \$43,000 over budget. This is primarily due to attorney fees almost \$52,000 over budget as a result of two lawsuits. One suit has settled and they are optimistic the other will settle. This is a very unusual situation for the Town to run over on this item, so he would view this as a one-time overage rather than an ongoing cost. Public Works expenditures are \$38,000 below budget as a result of a number of items coming in slightly below budget. Fire Department expenditures are approximately \$45,000 over budget. This is primarily the result of overtime at \$68,500 over budget because of workers comp, injuries and the need to fill vacant positions at overtime costs. Police Department expenditures are approximately \$77,000 under budget, mostly from police sergeant costs being \$42,000 below budget. Share Public Safety overhead is essentially on budget. Capital expenditures are \$6,000 over budget. In summary, General Government is \$43,000 over; Fire is \$45,000 over; Capital is over while Public Works is \$38,000 under; and Police is \$77,000 under. Total expenses are \$25,000 below budget. He further noted that the Town is \$58,000 in the black. This is not the best budget they have ever had at mid-year, but in these "*unprecedented times*," the Town is fortunate to have been able to cobble together six months of finances that leaves the Town in the black. The good news is that the second half looks like it will be stronger than the first half, with some stronger revenue sources and fewer unusual expenses.

Council Member Cahill asked if that trend of being ahead of budget would continue through the end of the year. Mayor Pro Tempore Hunter responded that it is headed in a more positive direction. Homes are selling, so property tax income should continue to increase.

Town Manager Broad then summarized the staff report and pointed out that the Council did receive the report later than intended, so staff has no objection to continuing this matter in order to provide the necessary time to review. Staff then reported on the 2009-2010 budget amendments for the Council's consideration.

Council Member Martin asked staff to break down the projects John Moe was involved in to better understand how that money was spent. Town Manager Broad indicated that John Moe was paid around \$170,000 as an outside consultant for engineering services and a full-time engineer would cost less. Council Member Martin wanted to compare work with the previous year when all these projects were not occurring. This has been a very unusual year. Also, John Moe has relationships with the County and Caltrans, so they must weigh all the issues. He desired an objective analysis. There may also be a third choice to consider. Town Manager Broad agreed to provide such information to Council Member Martin for review. Staff further noted that with an in-house Town Engineer available 40 hours per week, projects would move faster and more efficiently than currently.

Public Works Director Jarjoura announced that he will be retiring April of 2012 and the Town cannot hire a Public Works Director on the spot, an individual must come in and be groomed into the position in order to have the knowledge of running business. The Public Works Director is the Building Official as well. There are projects that have built-in engineering costs paid by Federal, State, County or local money as construction management or resident engineer as for the bridge. They have the day-to-day activity and smaller projects where an in-house Town Engineer would be useful. John Moe has done a great job, given a few hours per week vs. a full-time Town Engineer on payroll, more items can get completed with a full-time employee.

Mayor Strauss agreed an overlap is beneficial. Council Member Martin has an open mind, but just wanted the objective analysis. He then asked staff how much time is needed to train an individual. Public Works Director Jarjoura noted that it depends on the individual. Mayor Strauss believed a "*Town Manual*" is needed in regard to maintenance, valves, and pipes. It would be a great asset to the community to provide a future document.

Mayor Strauss opened the public hearing on this item.

Carla Small, Duff Lane resident, was very surprised to view an ad on Craig's list for a Town Engineer and believed residents should have an opportunity to provide input on this matter in regard to hiring a full-time Town Engineer. She added that advertising for a position where the Council and public have not yet discussed is not appropriate. There is a lot of discussion that must occur before placing an ad on Craig's list. It makes the community feel they do not have a voice in their government and that perception is not, in her opinion, in the Town's best interest.

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

The Council agreed to continue discussion of recommended budget amendments, including a proposal to hire a full-time Town Engineer, to the March Council meeting.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Martin seconded, to continue the budget amendment discussion, including a proposal to hire a full-time Town Engineer, to the March Town Council meeting. Motion carried unanimously.

Town Attorney Hadden Roth recused himself from the Town Council meeting at 8:36 p.m.

20. **186 Prospect, Variance, Design Review and Demolition Permit No. 1763**
James T. Proctor, 186 Prospect Avenue, A.P. No. 72-152-01, R-1:B-10 (Single Family Residence, 10,000 sq. ft. min. lot size), Medium Low Density (3-6 units per acre). Application for variances, design review and demolition permit for a significant remodel and addition to the existing residence. The project involves modifications to each elevation of the residence and demolition of the existing garage and greenhouse. A new, 2-car, garage would be located in the rear yard area (10-foot setback required for garage in rear yards, 11.3-foot setback proposed). A driveway would extend the full length of the south property line. New decks are proposed at the west and north sides of the upper level. A rear setback variance is requested to allow a corner of the addition to extend one foot into the rear setback area (40 feet required, 39.6 feet proposed). A front yard setback variance is requested in order to expand the residence towards the street (25 feet required, approximately 17 feet proposed). 94 cubic yards of cut and 47 cubic yards of fill are proposed.

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| Lot area | 13,596 sq. ft. | |
| Existing Floor Area | 17.7% | |
| Proposed Floor Area | 21.4% | (20% permitted) |
| Existing Lot Coverage | 12.0% | |
| Proposed Lot Coverage | 14.3% | (20% permitted) |

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the project subject to findings and conditions outlined in the staff report, which limits the site to the 20% maximum permitted floor area.

The project architect indicated that he had revised the plans to reflect some concerns addressed at the last meeting. They attended an Advisory Design Review (ADR) meeting with their new proposal and made changes to mitigate neighbor concerns by reducing the amount of rock and making the decks shorter. They reduced the trim around the residence and reduced the bulk of the building to accommodate setback requirements. Since then, he further reduced the floor area to meet the criteria set forth by the Town of Ross.

Mayor Pro Tempore Hunter clarified that the square-footage is 2,909 sq. ft. The project architect noted that with the revised reduction in the FAR they are at 2,817 sq. ft. and less 100 sq. ft. for the garage the FAR percent would be 19.99%.

Mayor Strauss opened the public hearing on this item.

Pamela Plumer, Wellington Avenue resident, appreciated that the Proctor's want to improve the property, but she submitted an email outlining her concerns to Council. She understands that drainage will be addressed, which is appreciated because she has spent an enormous amount of time and money over the year on drainage. She hopes their improvements will not affect their drainage. Privacy is another concern, visual and auditory privacy. She appreciated their view, but it looks directly into their outdoor living space and bedroom. They have been open to listening to concerns in regard to landscape screening. Unfortunately, they have a live oak that must be topped and an arborist indicated that the oaks have live oak disease, so they are exploring alternatives. It would be great if that could be resolved before construction started. Time is of the essence. In terms of the second story balcony, it has been shortened and depth lessened, which is great, but expressed concern for the property changing ownership, so she requested that the deck be shortened to avoid anyone installing a door on that blank wall accessing the balcony.

Margret Edie, Real Estate Agent representing the sellers, stated that the Plumer's requested that the permits be sent back to ADR and the Margoliash's attended, but the Plumer's who asked for the delay did not attend. Now, they are present at this point reiterating something that could have been discussed. These gentlemen are quite open to mitigations to accommodate the neighbors concerns. These matters could have been discussed and addressed at the ADR meeting.

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

Council Member Martin agreed with staff's recommendation in regard to reducing the size of the garage to a one-car garage providing a hydrologist reviewed the drainage plan as specified in the conditions.

Council Member Cahill felt it is a mistake to only build a one-car garage. In terms of the two-car garage placement, it blocks the view from the neighbor to the deck and provides privacy. A one-car garage creates more problems for the neighbor. The garage roof blocks visually the view of the deck up to their second story. It is important to keep the two-car garage for that purpose. In terms of the door being installed, he understands the concern, but it is not an approved part of the project and is not allowed under this approval. He commended the architect for altering the plan to reduce the FAR down to what Council recommended. He also is in favor of approving the project as altered most recently by reducing the FAR. Mayor Strauss, Mayor Pro Tempore Hunter and Council Member Skall concurred.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, to approve the project at 186 Prospect Avenue as modified to reduce the floor area by approximately 90 sq. ft. with the findings and conditions contained in the staff report, deleting the condition that the floor area be reduced to 20%. Motion carried 4-1. Martin opposed.

Conditions 186 Prospect

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

1. Except as otherwise provided in these conditions, the project shall comply with the plans approved by the Town Council on February 11, 2010.
2. The approved floor area is 2,817 square feet.
3. The proposed stone veneer siding material shall be real stone veneer vs. cultured stone veneer. The windows shall appear high quality and shall resemble wood windows in quality, such as high quality aluminum clad windows.
4. The landscaping, including new screening landscaping along the driveway and proposed fencing, shall be installed in accordance with the approved landscape plan prior to project final.
5. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
6. No changes from the approved plans, before or after project final, shall be permitted without prior Town approval, including expansion of the second floor decks. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval prior to any change.
7. The garage doors shall be automatic. The garage shall be available for vehicle parking. The planning department may limit lighting, electrical and other improvements on the building permit plans for the garage to ensure it will only be used for garage purposes.
8. This project shall comply with the following requirements to the satisfaction of the Department of Public Safety (contact Public Safety for details):
 - a. A street number must be posted {minimum 4 inches on contrasting background}
 - b. All dead or dying flammable material must be removed as per RMC Chapter 12.12
 - c. Sprinklers are required.
 - d. The applicant shall clear all brush impinging on the access roadway.
 - e. An alarm system is required.
9. Prior to any demolition or issuance of a building permit for the approved construction, an asbestos and lead-based paint survey shall be provided to the Town building department. If asbestos-containing materials are determined to be present, the materials should be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District. If lead-based paint is identified, then federal and state construction worker health and safety regulations should be followed during renovation or demolition activities. If loose or peeling lead-based paint is identified, it should be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations.
10. A drainage plan shall be submitted with the building permit application for review and approval by staff and the Town Hydrologist. Downhill neighbors will be provided with notice of receipt of the plan and an opportunity to review and comment on the plan. The plan shall be designed, at a minimum, to produce a net decrease in peak runoff from the site compared to pre-project conditions. Applicants are encouraged to submit a drainage plan designed to produce peak runoff from the site that is the same or less than estimated natural, predevelopment conditions which existed at the site prior to installation of impermeable surfaces and other landscape

- changes (natural predevelopment rate standard). The plan shall be designed to reduce runoff to the 19 Wellington Avenue site, while not creating new runoff issues for other neighbors. If runoff is re-directed to any culvert, the applicant shall provide sufficient evidence to demonstrate that the downstream capacity of any culvert or watercourse between the site and Corte Madera Creek are sized to receive any increase in flow.
- a. To meet the minimum no net increase standard, hydrologic/hydraulic analyses shall be prepared and submitted demonstrating that the post-development stormwater runoff rates meet the following standard: Total post-project peak flow leaving the site shall be not more than 50 percent of the pre-project construction peak runoff for the two year one hour duration storm, 75 percent for the 10 year one hour duration storm, and 80 percent for the 100 year one hour duration storm.
 - b. To meet the natural predevelopment rate standard, hydrologic/hydraulic analyses shall be prepared and submitted demonstrating that the post-development stormwater runoff rates meet the following standard: Total post-project peak flow leaving the site shall be not more than the estimate peak flow leaving the site under natural, predevelopment conditions (i.e., no impermeable surfaces present).
 - c. The hydrologic and hydraulic analyses shall generally conform to methods developed by the Marin County Department of Flood Control and Public Works.
 - d. The hydrologic analyses shall assume that existing natural areas have a coefficient of runoff, C, of not less than 0.7 and impermeable surfaces have a coefficient of runoff of not less than 1.0. It shall be assumed that the entire site had a runoff coefficient of 0.6 under natural predevelopment conditions.
 - e. For infiltration facilities to be accepted as part of the plan to meet the no net increase goals of this ordinance they must either be located on portions of the Corte Madera Creek floodplain where the USDA has mapped soils of an appropriate Hydrologic Soil unit, or they must be designed to infiltrate stormwater into an engineered fill, or both.
11. Prior to issuance of the building permit, the applicants shall submit written evidence that an arborist has reviewed the construction level drawings (including foundation plans, any proposed trenching for utilities, drainage, landscape plan, etc.) to prepare a tree protection plan for all trees to be preserved on site and within 25 feet of the site. The applicants shall comply with the recommendations of the project arborist. Prior to issuance of the building permit, the applicant shall provide staff with a letter or report from the arborist that confirms all recommended tree protection measures are in place. The applicants shall retain an arborist to periodically inspect the site during construction to ensure that all tree protection measures remain in place.
 12. All costs for town consultant review of the project shall be paid prior to building permit issuance. Any additional costs incurred to inspect or review the project shall be paid as incurred and prior to project final.
 13. Any work within the public right-of-way requires prior approval of a revocable encroachment permit by the Department of Public Works.
 14. No brightly colored temporary fencing is permitted where it may be seen by neighbors or the public.
 15. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded. No up lighting is approved.

16. The applicants shall comply with all requirements of the Marin Municipal Water District and Ross Valley Sanitary District.
17. The applicants shall pay required Town fees of \$3 for every cubic yard of off-haul resulting from this project. Final off-haul amounts shall be calculated by the project civil engineer with calculations submitted to the Director of Public Works prior to the issuance of a building permit.
18. 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.
19. 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.
20. 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.
21. **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.**
22. Failure to secure required building permits and/or begin construction by February 11, 2011 will cause the approval to lapse without further notice.
23. 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.

The Council took a short recess at 8:53 p.m.

21. 36 Glenwood Avenue, Amendment to Variance and Design Review No. 1662 (Semonian)

John and Lisa Pritzker, 36 Glenwood Avenue, A.P. No. 73-131-25 and 73-131-26, R-1:B-A (Single Family Residence, 1 Acre Minimum Lot Size), Very Low Density (.1-1 units per acre). Amendment to plans approved by the Town Council on March 13, 2008, and amended at later hearings, for redevelopment of the site with a new residence and accessory structures, including a detached second unit. The applicants request approval of a setback variance and design review to change the design of the detached second unit. The approved two-story second unit would not be constructed. Instead, the applicants propose to redevelop the existing 534 square foot garage structure within 16 feet of the top bank of Ross Creek (25-foot setback recommended) and within the east side yard setback (25 feet required, 5 feet existing and proposed), and to add 545 square feet to the west of the structure. A variance from the second unit regulations is necessary because the single-story unit would exceed the maximum second unit size (900 square feet permitted, 1,120 square feet approved, 1,080 square feet proposed). The exterior of the unit is proposed to be finished with plaster.

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| Lot area | 221,194 square feet |
| Approved Floor Area Ratio | 11.2% |
| Proposed Floor Area Ratio | 11.2% (15% permitted) |
| Approved Lot Coverage | 9.0% |
| Proposed Lot Coverage | 9.1% (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 with an added condition that the rear of the proposed second unit be finished in a darker color.

Glen Sherman, project manager, provided a revised architectural drawing for the Council's consideration in the hopes to address some of the Council's questions. He explained that there is a green wall on the west elevation. In terms of the neighbors at 2 Glenwood, if they have issues with the stucco color, they are willing to accommodate. They share the same landscape architect, so they can address landscaping issues easily. The green wall is a hedge, so it can be purchased at a specific height, primarily 8 ft. He further noted that they are trying to conserve an existing structure for less impact.

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

Council Member Cahill had no objection with retaining this building and adding-on and replacing the square-footage from the approved house to this existing house. He believed this is a better solution. His concern was the design, so the solution is a hedge in front of the structure in order to screen from view.

Mayor Strauss suggested making it more of a garden. Project Manager Sherman noted that figs and vines would grow up and around the building, so the intent is to completely screen the building.

Mayor Pro Tempore Hunter liked the idea of saving the building and not disturbing the creek. Council Member Skall concurred.

Council Member Martin believed the restoration on the creek is outstanding. He then pointed out that the County of Marin wants to use this project as an example of what creek restoration is at its best and what those living on creeks can do to properly maintain and preserve the creek.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Martin seconded, to approve the variance for the Pritzker project at 36 Glenwood Avenue for the second unit subject to the findings and conditions in the staff report. Motion carried unanimously.

Conditions of Approval 36 Glenwood Avenue

The project shall be subject to the following conditions of approval:

1. This approval is only for modification to the plans approved by the Town Council on March 13, 2008, to delete the approved 1,200 sq. ft. two-story accessory structure and to permit renovation and an addition to the existing garage structure as shown on the project plans.
2. The approved second unit project shall be subject to all conditions of the Demolition Permit, Variance, Design Review and Tree Removal No. 1662, approved by the Town Council on March 13, 2008.
3. Revised plans shall be submitted for review and approval by the Town building department.
4. The applicants shall comply with all requirements of the Marin Municipal Water District, Sanitary District, PG&E and Ross Public Safety Department, for the addition of the new second unit.
5. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. No extension of the construction time is granted by this approval and the proposed modifications shall fall under the existing building permit for the project.
6. Roof runoff shall be dissipated on site and not directly into the creek.
7. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
8. 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.
9. 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.

22. **6 Hill Road, Variance and Design Review No. 1769**

Matt and Courtney Seashols, 6 Hill Road, A.P. No. 73-172-05, R-1:B-10 (Single Family Residence, 10,000 sq. ft. min. lot size), Medium Low Density (3-6 units per acre). Application for variance, design review and demolition permit for a significant remodel and small addition to an existing residence. The project involves modifications to each elevation of the residence and a change to the roofline, which would increase the maximum ridge height by 5 feet. A covered entry is proposed within the front yard setback (25 feet required, 6 feet proposed). The project also includes modifications to the roof of the garage, located within required setbacks (25 feet required, 0 feet existing and proposed), which would increase the maximum ridge height by 3 feet. The applicants propose a 217 square foot addition to the north side of the residence and new second floor decks on the south elevation. The landscape plan includes approximately 185 linear feet of new, terraced, retaining walls, ranging from 1 to 5.5 feet in height. The applicants propose to create a new lawn area within the south side yard and modify existing terraces within the southeast corner of the site, within required setbacks. The site grading includes 76 cubic yards of cut and 123 cubic yards of fill.

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| Lot area | 12,731 sq. ft. | |
| Existing Floor Area | 23.5% | |
| Proposed Floor Area | 25.3% | (20% permitted) |
| Existing Lot Coverage | 19.6% | |
| Proposed Lot Coverage | 21.8% | (20% permitted) |

The existing residence, garage and patios are nonconforming in setbacks.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the project subject to the findings and conditions in the staff report including modifying Condition No. 10 as follows: *“The landscaping shall be installed in accordance with the approved landscape plan prior to project final, including the screening planting proposed on the Imprints landscape plan dated 2/10/10.”*

Jared Polsky, architect, believed the ADR meeting was incredibly productive and a number of modifications were made. They reduced the deck and lowered some windows as well as added details to some of the columns, so he commended the ADR process. The neighbors below expressed concern for privacy, so they propose to expand the yard and add the stepped retaining walls to reduce the ability to see between sites as well as adding a row of nine magnolia little gems. It is an evergreen tree that can be pruned to create a privacy wall, which will be planted as 36-inch box trees. He further hopes this revised landscape plan meets all the concerns of the neighbors.

Mayor Strauss opened the public hearing on this item.

Jeff Kuhn, East Road resident, submitted concerns in an email, one being the visual impact.

The house looms over their property that has been remediated by the planting plan. The second issue is noise. He also has some concern about the second story deck and entertainment that might occur. He is not sure how much noise screening will occur as a result of the new trees. Drainage is also a concern because that hill is full of seasonal springs. In normal winters, they all erupt. He spent a tremendous amount of time and money designing a very elaborate drainage system to capture water. He is not sure how all the fill and reorientation of the site will affect the water flow. Also, he is not sure how the Seashols will capture water and once captures what will they do with it. This has been a significant issue in the past. Mayor Strauss noted that Condition No. 5 addressed drainage as follows: *“A drainage plan shall be submitted with the building permit application for review and approval by staff and the Town Hydrologist. The plan shall be designed, at a minimum, to produce no net increase in peak runoff from the site compared to pre-project conditions. As far as practically feasible, the plan shall be designed to produce a net decrease in peak runoff from the site compared to pre-project conditions. Applicants are encouraged to submit a drainage plan designed to produce peak runoff from the site that is the same or less than estimated natural, predevelopment conditions which existed at the site prior to installation of the impermeable surfaces and other landscape changes.”*

Matt Seashols, applicant, discussed drainage and explained that they have made a point to be very responsive and sensitive to all neighbors. They understand the drainage may change based on the landscape plan or even based on the year. Hopefully that sensitivity and commitment to working with neighbors will show and they will carry that through to be flexibility. They will address any issues that may arise. They are also committed to making the necessary changes so the drainage does not affect the neighbors negatively. There were concerns from staff about the size of their yard and they made adjustments. ADR had concerns for the deck size, so they made adjustments. In terms of screening for noise concerns from neighbors, they made adjustments for that as well. They desired more exposure to the south yard. They expanded the size of lawn for their young family with minimal impact as possible

Mr. Kuhn commended the Mr. Seashols for being responsive and communicating with the neighbors.

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

Council Member Skall agreed with the staff report. He believed the Seashols did a great job interacting with their neighbors. The Seashols are being sincere and there are conditions in place in regard to drainage and landscaping.

Mayor Pro Tempore Hunter felt with the screening plan and the willingness and cooperation on the part of the Seashols, he also supported the project. He then requested that when drainage plans are submitted that neighbors are notified in order to have an opportunity to review. Council Member Cahill concurred.

Council Member Martin believed with drainage there will be big improvement in terms of water percolating. With noise, no one ever knows. Overall, it is a great project and it will be an asset to the community. The Council agreed.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Cahill seconded, to approve the Seashols project at 6 Hill Road for the demolition permit, design review and variance subject to the findings and condition in the staff report; amending Condition No. 5 to include that the affected neighbors will be notified when the drainage plan is submitted to staff; and the modification staff made to Condition No. 10. Motion carried unanimously.

Conditions of Approval 6 Hill Road

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

1. Except as otherwise provided in these conditions, the project shall comply with the plans approved by the Town Council on February 11, 2010, including the scope of the demolition proposed.
2. A construction management plan shall be submitted prior to issuance of a building permit showing the work schedule, storage, travel routes, washout areas, parking and any other relevant information required by Town staff.
3. Grading is prohibited between October 15 and April 15.
4. This project shall comply with the following requirements to the satisfaction of the Department of Public Safety:
 - a. A street number must be posted {minimum 4 inches on contrasting background}
 - b. All dead or dying flammable material must be removed as per RMC Chapter 12.12
 - c. Sprinklers are required.
 - d. An alarm system is required (contact public safety for details).
5. A drainage plan shall be submitted with the building permit application for review and approval by staff and the Town Hydrologist. Downhill neighbors will be provided with notice of receipt of the plan and an opportunity to review and comment on the plan. The plan shall be designed, at a minimum, to produce a net decrease in peak runoff from the site compared to pre-project conditions. The plan shall be designed, at a minimum, to produce no net increase in peak runoff from the site compared to pre-project conditions (no net increase standard). As far as practically feasible, the plan shall be designed to produce a net decrease in peak runoff from the site compared to pre-project conditions. Applicants are encouraged to submit a drainage plan designed to produce peak runoff from the site that is the same or less than estimated natural, predevelopment conditions which existed at the site prior to installation of impermeable surfaces and other landscape changes (natural predevelopment rate standard).
 - a. To meet the minimum no net increase standard, hydrologic/hydraulic analyses shall be prepared and submitted demonstrating that the post-development stormwater runoff rates meet the following standard: Total post-project peak flow leaving the site shall be not more than 50 percent of

- the pre-project construction peak runoff for the two year one hour duration storm, 75 percent for the 10 year one hour duration storm, and 80 percent for the 100 year one hour duration storm.
- b. To meet the natural predevelopment rate standard, hydrologic/hydraulic analyses shall be prepared and submitted demonstrating that the post-development stormwater runoff rates meet the following standard: Total post-project peak flow leaving the site shall be not more than the estimate peak flow leaving the site under natural, predevelopment conditions (i.e., no impermeable surfaces present).
 - c. The hydrologic and hydraulic analyses shall generally conform to methods developed by the Marin County Department of Flood Control and Public Works.
 - d. The hydrologic analyses shall assume that existing natural areas have a coefficient of runoff, C, of not less than 0.7 and impermeable surfaces have a coefficient of runoff of not less than 1.0. It shall be assumed that the entire site had a runoff coefficient of 0.6 under natural predevelopment conditions.
 - e. For infiltration facilities to be accepted as part of the plan to meet the no net increase goals of this ordinance they must either be located on portions of the Corte Madera Creek floodplain where the USDA has mapped soils of an appropriate Hydrologic Soil unit, or they must be designed to infiltrate stormwater into an engineered fill, or both.
6. All costs for town consultant review of the project shall be paid prior to building permit issuance. Any additional costs incurred to inspect or review the project shall be paid as incurred and prior to project final.
 7. Any work within the public right-of-way requires prior approval of a revocable encroachment permit by the Department of Public Works.
 8. The applicants shall submit a detailed arborist report that details the health of all tree proposed for retention near the proposed improvements as well as any other tree protected by Ross regulations (such as trees on adjacent sites that may be impacted by construction). The report shall identify measures that must be taken before, during and after construction to protect and preserve the trees, which shall be incorporated into the project plans. The applicant shall provide staff with a letter or report from the arborist that confirms that the arborist review the construction level drawings (including foundation plans, any proposed trenching for utilities, landscape plan, etc.) to prepare the tree protection plan.
 9. No brightly colored temporary fencing is permitted where it may be seen by neighbors or the public.
 10. The landscaping shall be installed in accordance with the approve landscape plan prior to project final, including the screening planting proposed on the Imprints landscape plan dated 2/10/10.
 11. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded (no bare bulb light fixtures or down lights that may be visible from downslope sites). No up lighting is approved.
 12. The applicants shall comply with all requirements of the Marin Municipal Water District for water service and the sanitary district.

13. 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.
14. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice. As provided in Municipal Code Section 15.50.040 construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.
15. 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.
16. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
17. 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.
18. Failure to secure required building permits and/or begin construction by February 11, 2011 will cause the approval to lapse without further notice.
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.

23. **57 Laurel Grove Avenue, Design Review, Hillside Lot/Hazard Zone and Demolition Permit No. 1758**
Jennifer Maxwell, 57 Laurel Grove Avenue, A.P. No. 72-181-08, R-1:B-A (Single Family Residence, 1-acre minimum lot size), Very Low Density (.1 - 1 units per acre). Applications for design review, hillside lot/hazard zone and demolition permit for redevelopment of the site. The project includes demolition of the existing 5,746

square foot residence and construction of a new residence consisting of 3,978 square feet of living area on two stories over a 1,800 square foot basement/storage level and an attached, 593 square foot, two-car garage. Total development of 6,371 square feet of floor area is proposed. Design review of approximately 120 linear feet of retaining wall, up to 8 feet tall, to retain the slope on the uphill side of the roadway below the residence. A tree removal permit is requested to permit removal of one multi-trunk oak tree west of the existing residence.

| | | |
|-----------------------|----------------|-----------------|
| Gross lot area | 52,609 sq. ft. | |
| Effective lot area | 44,721 sq. ft. | |
| Existing Floor Area | 12.9% | |
| Proposed Floor Area | 14.3% | (15% permitted) |
| Existing Lot Coverage | 7.5% | |
| Proposed Lot Coverage | 7.2% | (15% permitted) |

* The slope of the site is 38%, the hillside lot design standards would recommend a guideline floor area of 3,592 square feet.

Senior Planner Elise Semonian believed the project, on a whole, is in substantial compliance with the design review guidelines, the hillside design guidelines, and complies with the policies and programs in the Ross General Plan. If the Council is supportive of this application, staff recommends approval subject to the findings and conditions in the staff report. If alternately the Council does not support this application, it should be continued to a future meeting and advise the applicants of the changes desired.

Council Member Cahill desired to know the amount of cut and fill. Jeff Kroot, architect, estimated there would be approximately 600 cubic yards of cut.

Mayor Pro Tempore Hunter noted that the Abrams project used the cut on site for balanced cut and fill by installing the gabion walls and wondered if that could be a possibility. Senior Planner Semonian noted that they propose to cut for the garage and basement, but are not otherwise modifying the topography by using it as fill. She could not imagine an area where the fill would be appropriate. The truck trips to remove the soil would be a temporary impact for construction of the residence, which could be attributed to the basement area proposed. Architect Kroot noted that it is a classic basement to create a large family room underneath the house. It is not a decorative retaining wall.

Council Member Martin discussed the HLO and asked staff how much over the recommended level is this project. Senior Planner Semonian noted that the HLO guideline floor area maximum is 3,592 sq. ft. It is critical to consider that the existing house is well over the HLO number. Council Member Martin asked staff if this would set a precedent. Senior Planner Semonian noted that it is reviewed on a case-by-case basis.

Architect Kroot explained that they are replacing the old house with a new house. They worked closely with staff and the neighbors and took into consideration all concerns. There is a low rock wall built by the neighbor's father that is being saved since it is very sentimental to the neighbor. They are unable to save the oak tree due to disease, so it will not survive and will be removed. In terms of moving the gate, they are happy to do that, but there is another oak tree next to the garage so they have limited space. They would be happy to

work with the neighbor to fine tune the fence. They agreed to address the sloughing of the hillside on the driveway. They will be consistent with the Wildland Urban Interface in a reasonable manner. The ADR meeting was very successful and a useful experience. They were extremely supported and supported the variance. The house is not a large house. The family has six children and desired a basement for a playroom. This is an unusually shaped site with a flat area that drops to the road and then further down to a swale. There is no house to view. They are on a slope, so with or without a basement the bulk and mass of the house would be the same. The lack of impact is a special circumstance and it is not visible. FAR is whether it reduces the bulk and mass, and this house has a smaller lot coverage and will not appear bulky. It is a compact design with unusual topography and not visible. They are maintaining the scale of the neighborhood. This house is in actual scale with the other homes in the area. He further noted that the immediate neighbors have no objection to the project.

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

Council Member Skall found the design of the house acceptable, but it comes down to FAR. This project benefited from the ADR process. Nothing has been approved in the HLO meetings being conducted, and this is an interesting point of how to review developed lots versus undeveloped lots. They have dense smaller lots and larger not so dense lots. Also, working on the site that is the flattest area of the particular property, and with those components this is how to differentiate, so this is not precedent setting in his view. Not all houses are the same, so he is comfortable with the additional FAR for this project.

Mayor Pro Tempore Hunter agreed with Council Member Skall's comments. He then clarified with staff when the retaining wall will be completed. Senior Planner Semonian noted that it must be built prior to project final, so 18 months to submit design review plans for review and complete the project.

Mayor Pro Tempore Hunter clarified that the entrance did not need to be determined until later down the road. Architect Kroot agreed to work out in the next two months and the gate and fence will be built last.

Mayor Pro Tempore Hunter also clarified with staff that a condition is included that notifies the neighbors when the drainage plan is submitted. Senior Planner Semonian responded in the affirmative.

Mayor Strauss expressed concern for the FAR. He is more comfortable cutting it back to comply with the existing house on the site. They are building on the steepest portion of the site, and that far over the HLO guidelines is going to an extreme in his view.

Council Member Cahill agreed with Council Members Hunter and Skall. The architect made an eloquent argument going over the FAR. The purpose of the guidelines and FAR limits are designed to control bulk and mass of a house. If this house is cut back by 625 sq. ft and back to the existing FAR, the house will end up looking the same. He is in favor of allowing the extra basement space. Council Member Martin concurred and noted that this is an unusual site.

Mayor Strauss asked for a motion.

Council Member Martin moved and Mayor Pro Tempore Hunter seconded, to approve the Maxwell project at 57 Laurel Grove Avenue subject to the findings and conditions outlined in the staff report. Motion carried 4-1. Strauss opposed.

Conditions of Project Approval 57 Laurel Grove

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

1. The project shall be built in substantial conformance to the plans approved by the Town Council on February 11, 2010.
2. Below-ground basement areas, which are included in the floor area, shall not be traded off in the future for above-ground living space without prior Town Council approval.
3. All costs for town consultant, such as the town hydrologist and engineer, 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.
4. At least three 24" box native trees shall be planted on site to replace the oak tree removed.
5. A preconstruction meeting with the property owner, project contractor, project architect, representatives of the Town Planning, Building, Public Works and Fire Departments and the Town building inspector shall be required prior to issuance of the building permit to review conditions of approval for the project and the construction management plan.
6. The fence and gate design shown on Sheet 7 is not approved as proposed. The low stone wall that runs east of the existing front yard gate shall be retained. New plans showing the stone wall, fence and gate design and location, as well as specifics on the landscaping in front of the wall and fence, shall be resubmitted for review and approval of the Town Planning Department, who will consult with the adjacent neighbor prior to any design approval.
7. The design for the road retaining wall shown on Sheet 9 is not approved as proposed. The applicant shall stabilize this uphill side of the shared roadway prior to project final. The specific plans for the stabilization shall be designed by an engineer and shall be submitted for review by the Advisory Design Review Group and Town Council. The applicant shall seek to minimize the appearance of the wall with the project design and/or materials. The wall work shall be an upgrade to the building permit for the residence and shall be completed within the timeline provided for construction of the residence.
8. The applicant shall review the project with PG&E prior to submitting for a building permit. The project shall include specifics on the electric meter and the applicant shall coordinate with PG&E to secure a connection prior to project final.
9. The construction and traffic management plan and schedule, construction routes, and rules shall be attached to the project plans and submitted to the building

- department for review and approval prior to the issuance of a building permit. The plan shall include the work schedule, storage, travel routes, washout areas, parking and any other relevant information required by Town staff. All construction materials, debris and equipment shall be stored on site. Road closures and delays are not permitted. The applicants shall provide sufficient area on site for all construction related vehicles and shall keep the circle drive area (which provides access to the adjacent residence and is located around a protected oak tree) clear of vehicles and construction materials. Staff shall provide neighbors with the opportunity to review and comment on the construction management plan and construction routes prior to issuance of the building permit.
10. The applicant shall repair any damage to the Town streets or the private roadway prior to project final. A videotape log, DVD format, clearly showing the existing condition of Laurel Grove from Sir Francis Drake to the project site shall be presented to the Department of Public Works prior to the start of construction. Applicant is advised that, absent clear video evidence to the contrary, road damage must be repaired to the satisfaction of the Town prior to project final. Damage assessment will be at the sole discretion of the Town, and neighborhood input will be considered in making that assessment.
 11. 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.
 12. Prior to any demolition or issuance of a building permit for the new structure, which was constructed prior to 1985, an asbestos and lead-based paint survey shall be provided to the Town building department. If asbestos-containing materials are determined to be present, the materials should be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District. If lead-based paint is identified, then federal and state construction worker health and safety regulations should be followed during renovation or demolition activities. If loose or peeling lead-based paint is identified, it should be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations.
 13. A drainage plan shall be submitted with the building permit application for review and approval by staff and the Town Hydrologist. The plan shall be designed, at a minimum, to produce no net increase in peak runoff from the site compared to pre-project conditions (no net increase standard). As far as practically feasible, the plan shall be designed to produce a net decrease in peak runoff from the site compared to pre-project conditions. Applicants are encouraged to submit a drainage plan designed to produce peak runoff from the site that is the same or less than estimated natural, predevelopment conditions which existed at the site prior to installation of impermeable surfaces and other landscape changes (natural predevelopment rate standard).
 - a. To meet the minimum no net increase standard, hydrologic/hydraulic analyses shall be prepared and submitted demonstrating that the post-development stormwater runoff rates meet the following standard: Total post-project peak flow leaving the site shall be not more than 50 percent of

- the pre-project construction peak runoff for the two year one hour duration storm, 75 percent for the 10 year one hour duration storm, and 80 percent for the 100 year one hour duration storm.
- b. To meet the natural predevelopment rate standard, hydrologic/hydraulic analyses shall be prepared and submitted demonstrating that the post-development stormwater runoff rates meet the following standard: Total post-project peak flow leaving the site shall be not more than the estimate peak flow leaving the site under natural, predevelopment conditions (i.e., no impermeable surfaces present).
 - c. The hydrologic and hydraulic analyses shall generally conform to methods developed by the Marin County Department of Flood Control and Public Works.
 - d. The hydrologic analyses shall assume that existing natural areas have a coefficient of runoff, C, of not less than 0.7 and impermeable surfaces have a coefficient of runoff of not less than 1.0. It shall be assumed that the entire site had a runoff coefficient of 0.6 under natural predevelopment conditions.
 - e. For infiltration facilities to be accepted as part of the plan to meet the no net increase goals of this ordinance they must either be located on portions of the Corte Madera Creek floodplain where the USDA has mapped soils of an appropriate Hydrologic Soil unit, or they must be designed to infiltrate stormwater into an engineered fill, or both.
14. A copy of the building permit shall be posted and emergency contact information shall be up to date at all times.
 15. Working Hours shall adhere to Ross Municipal Code sections 9.20.035 and 9.20.060.
 16. This project must comply with all engineering reports prepared by the applicants' engineering professionals.
 17. Project development shall comply with the requirements of the Ross Valley Sanitary District, Marin Municipal Water District and PG&E.
 18. An arborist shall review the health of all trees that have the potential to fall and block roadways on the site. The owner shall be required to apply for a tree removal permit and remove any trees the arborist recommends for removal (and the Town arborist approves for removal) prior to project final.
 19. The applicants shall submit written evidence that the project arborist has reviewed the final construction-level drawings, including grading, drainage and utility plans (they should note the dates of the plans reviewed). All tree protection conditions recommended by the project arborist shall be included on those plans to ensure compliance with the conditions.
 20. A certified arborist shall be on site during all trenching and excavation work near protected trees.
 21. Tree protection fencing should be installed prior to permit issuance to minimize damage to root systems of preserved trees.
 22. 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.

23. A licensed land surveyor shall string the location of the foundations. Evidence confirming that the improvement comply with the plan shall be provided to the Planning Department.
24. 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.
25. The applicants shall provide written evidence to the town planner, prepared by a licensed land surveyor, confirming the floor elevations of the structures comply with approved plans and that the roof ridge elevations comply with the approved plans. No portion of the residence shall exceed 30 feet in height from natural grade.
26. 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 applicants are advised that changes made to the design during construction may delay the completion of the project and will not extend the permitted construction period.
27. Certified as-built drawings of the constructed drainage facilities and a letter of certification shall be provided to the Town prior to project final.
28. Landscaping shall be installed in substantial conformance with the approved landscape plan prior to project final.
29. This project shall comply with all requirements of the Department of Public Safety, as outlined in their ongoing project review, including the following:
 - a. sprinklers are required (a 13R system is required);
 - b. a 24-hour monitored alarm system is required with smoke/water flow;
 - c. all dead or dying flammable material shall be cleared and removed per Ross Municipal Code Chapter 12.12 from the subject property;
 - d. the street number must be posted (minimum 4 inches on contrasting background);
 - e. the roadway must have a vertical clearance of 14 feet;
 - f. all brush impinging on the access roadway must be cleared as determined necessary by Public Safety.
 - g. a reliable fire flow water supply shall be established as determined by the Fire Marshal.
 - h. Clearance of brush or vegetative growth from structures and driveways shall be in accordance with the California Fire Code and approved by the fire official. Defensible spaces around each building and structure shall be created in accordance with the vegetation clearance requirements prescribed in California Public Resource Code 4291 and California Government Code 51182.
 - i. Development shall adhere to the wildland urban interface building standards in Chapter 7A of the California Building Code. The applicants shall provide a vegetative management plan to be complied with annually.
30. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property

owners.

31. 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.
 32. 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.
 33. 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.
 34. 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.
- 24. 29 Upper Road, Design Review, Demolition Permit and Hillside Lot/Hazard Zone 3 Use Permit No. 1767**
- Stuart and Sara Ryan, 29 Upper Road, A.P. No. 73-111-07, R-1:B-5A (Single Family Residence, 1 acre minimum lot size), Very Low Density (.1 - 1 units per acre). Design review, demolition permit and hillside lot/hazard zone 3 use permit to allow the demolition of the existing 5,071 square foot residence and construction of a new 6,617 square foot residence, 624 square foot, attached, two-car, garage and 432 square foot detached office. A total of 7,673 square feet of development is proposed. Variance to permit the expansion of a parking and turnaround area and exterior stairs within the side yard setback (25 feet required, 0 feet proposed). The project also includes redevelopment of the landscape and new patio and deck areas and removal of one 15" protected oak tree. 272 linear feet of retaining walls would be constructed, up to 10 feet tall. 90 cubic yards of cut and 90 cubic yards of fill are proposed.

| | |
|---------------------------|------------------------|
| Gross Lot Area | 91,642 square feet |
| Effective Lot Area | 76,404 square feet |
| Existing Floor Area Ratio | 6.6% |
| Proposed Floor Area Ratio | 10.0%* (15% permitted) |
| Existing Lot Coverage | 8.1% |
| Proposed Lot Coverage | 8.8% (15% permitted) |

*The slope of the lot is 35%. The Town Hillside Lot Ordinance guidelines recommend a maximum floor area of 6,805 square feet.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council continue the matter to allow proper noticing of a required setback variance. Staff did not call out the setback variance necessary for the proposed parking and turnaround area improvements, along the side property line where a 25-foot side setback is required, in the public notice. The applicants have not submitted findings for the setback variance, and no acknowledgment has been received from the adjacent vacant lot owner. Staff recommends that the Council consider the project, receive any public comment, advise the applicants of any changes necessary, and continue the application to the March 11th, 2010, Town Council meeting as long as the applicant submits all required material. Staff further noted that the ADR Group reviewed and were pleased with the design.

Steve Ryan, applicant, addressed the issues of exceeding the FAR and indicated that they were very thoughtful about that issue. Going back to HLO itself, two findings must be made. Development and intensity must be appropriate and consistent with the hillside regulations. They believe there is minimal disturbance to the site. The new house is sited directly over the existing house. There is minimal grading with only two trees being removed. The site is heavily wooded. The new house is consistent with the topography. They is a minimal amount of cut. ADR and neighbors agree that it is an attractive new house. The new house will be lower than the existing structure and below the requirements of 30 ft. The side views do not change and in any case the house is lower. The new house is less visible than the existing. They propose darker materials that blend well with the natural landscape. The new house is lower than the existing and no height variance is required. The proposed terraces are flat roofs above living space that do not add to the bulk and mass. He added that it is a fire safe design and that they are meeting the Wildland Urban Interface requirements. They propose a darker green color with stone and slate materials. The drainage system will be significantly better than it is today. He further noted that when balanced against a number of attributes, this is an improvement over the existing situation.

Jared Polsky, architect, noted that this is a developed site. They are meeting all the purpose of the HLO, which is not disturbing the natural environment. They hoped the Council takes that into consideration. He further noted that they are building on an existing site and making it much better.

Mayor Strauss opened the public hearing on this item.

Bob Dickinson, Glenwood Avenue resident, appreciated the applicant being open about their project. He approached the Council previously in January of 2006 in regard to the three-lot land subdivision and again in 2007 with the remodel of 37 Upper Road all having to do with drainage. There is a creek that flows from several properties that travels into a 30-

inch pipe and then into a 24-inch culvert onto Glenwood Avenue. Any additional water that will flow downhill from additional impervious building area or drainage is a concern. The Ryan's have been fabulous. Most of their drainage goes the other direction; the only flow comes from the driveway. If they can capture and divert the water that comes down their driveway that would help tremendously. He further wished them success with their constructions project.

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

Mayor Strauss did not feel going over the FAR is keeping within the guideline. He further believed some of the window proportions and scale must be reviewed.

Mayor Pro Tempore Hunter stated that it is bad timing that they have two remote homes giving serious consideration to allowing additional square-footage over guidelines or over the existing structure. However, he felt this, like the Maxwell house just approved, merits serious consideration to the additional square-footage. The design is a tremendous improvement over what was there. The Town does not get anything in terms of taking back that additional 860 sq. ft., so he is in favor of the project. Council Member Skall concurred.

Council Member Cahill felt this lot is different than the prior in the sense the prior lot was a flat area that the house was situated on. He is torn on this project. This is a disturbed site and it is not impacting the hillside in any significant way other than what has already been disturbed. The design is a huge improvement over what was proposed before. He agreed that this clawing back the 820 sq. ft. would only interfere with the owners home, so on balance, he would be in favor of the larger design.

Council Member Martin liked the design and liked the drainage system. His concern is that they are on a sensitive hillside that tends to have drainage problems. Therefore, respecting the HLO is appropriate. It is a large house, so there may be room to reduce the house somewhat. He would be in favor of a slight reduction in the total coverage or size of the building.

Mayor Pro Tempore Hunter would add to the conditions that all affected downhill neighbors be notified when the drainage plan is submitted.

Mayor Strauss asked for a motion.

Council Member Martin moved and Council Member Cahill seconded, to continue the Ryan's project at 29 Upper Road to a later date. Motion carried unanimously.

25. Correspondence – Letter regarding Ahrens

The Council suggested a plaque for Don and Denise Ahrens. Council Member Martin noted that Chief of Protocol Roseanna Lourdeaux suggested a Town friendly and family friendly reception to celebrate the Ahrens, possibly at the Marin Art & Garden Center as well as a send off trip to Hawaii that could be funded by a plate dinner. The Council loved the idea of a send off trip.

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Council Member Cahill suggested a cocktail reception at Marin Art & Garden Center along with dinner at one of the Town's restaurants.

Mayor Pro Tempore Hunter hoped for a plaque on the corner of the building in regard to the oldest business.

The Council agreed to forward this matter to Chief of Protocol Lourdeaux as well as discuss at the Special Town Council meeting on March 2nd, 2010.

26. **Other Business - None**

27. **Adjournment.**

By order of Mayor Strauss, the meeting adjourned at 10:19 p.m.

Richard Strauss, Mayor

ATTEST:

Gary Broad, Town Manager