

REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, FEBRUARY 14, 2008

1. 6:30 P.M. Commencement.

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

2. Posting of Agenda.

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

3. Minutes-January

Mayor Hunter asked for a motion.

Council Member Durst moved and Mayor Pro Tempore Cahill seconded, to approve the January 10th Minutes as amended. Motion carried unanimously.

4. Demands.

The demands were met.

5. Open Time for Public Expression.

Chris Martin, Shady Lane resident, expressed concerned for the pedestrian pathway on Shady Lane. He indicated he submitted a letter and did not receive a response. He desired community input. He then expressed concern for asphalt, landscaping design, ADA access, liability issues for property owners, and CEQA issues. He urged the Town to work with the community to develop a plan that can be used as an example. Town Manager Broad indicated that they had received Mr. Martin's letter and staff had a very extensive site visit that included a number of Town staff members and a follow-up meeting will occur to that staff meeting with Rick next week, and then staff will respond to Mr. Martin's letter.

Council Member Strauss noted that safe routes and pathways has been an issue for a long time and they are working with engineers to promote a safe path.

Town Manager Broad indicated that staff sent out a letter to both residents on either side of Shady Lane and staff received responses from three or four residents. Council Member Strauss noted for the record that he had a conversation with Mr. Martin's wife.

Anne Hickey, Ross resident, expressed concern for the juniper bush located on the parking lot south of the post office. It is overgrown and visibility is a concern. Council Member Strauss asked Director Jarjoura to investigate.

6. Report from Mayor Hunter.

Mayor Hunter reported that former Street Superintendent Walter Riboli passed away last week. Mr. Riboli was the Ross Street Superintendent for 37 years, until 1992, and is remembered fondly by many current Ross residents. Also, a very nice article appeared in the IJ about Rana Madanat of Marmalade and her efforts to build a library in her native Jordan. The effort is well on the way to success. For more information stop in at Marmalade or go to www.growingwithbooks.org.

Mayor Hunter discussed the June 3rd Town election. Three seats will be up for election and the Town needs qualified candidates. Anyone interested can contact Linda Lopez in the administration office. He then noted that the deadline for signing up is March 12th, 2008 if the incumbents don't run. Also, on Sunday, February 10, 2008 the members of the Ross Police Officer's Association voted unanimously to accept the tentatively agreed upon contract between the Town of Ross and the RPOA. After their regular meeting this evening, this Council will be having a closed session, which he hopes will result in the ratification of the police contract for a three-year term.

Mayor Hunter then announced that the American Lung Association gave Ross an "A" grade for their efforts to protect residents from the dangers of secondhand smoke. San Anselmo and the County received "B's" for their efforts while the rest of the County flunked.

7. Report from Committee Heads.

General Government - Council member Durst

- Street Tree Working Group

Council Member Durst started with an interesting piece of history that Street Tree Working Group (STWG) Chair Janell Hobart heard from Gary Scales of the Ross Historical Society recently. By 1870 most of the Ross Valley had been logged out of most its valuable lumber stock and was left relatively barren of tress. Beginning in 1870 the Dibblee Family of Ross started to replant their driveway with trees, that driveway is now called Fernhill Ave. STWG had identified Fernhill as the place to start last May. Last week they sent letters to Fernhill Avenue property owners advising them of their intentions to plant street trees in the right-of-way in the next few months. The trees will be planted up to Branson and they will stop there for now and work with Branson on trees for their section of Fernhill once their building project gets underway. They are in dialogue with the Ostlers on Lagunitas and their landscape architect about street trees for their project as well.

Council Member Durst announced that the STWG will be making a presentation to Council at either the April or May meeting regarding a "Centennial Tree Plan" which will outline a street tree plan for the whole Town. Chair Hobart has generously offered the services of her firm to develop a visual representation of what Ross could look like in 100 years for their its centennial celebration.

Finance Committee - Council member Cahill

- Mid-year budget report

Mayor Pro Tempore Cahill reported on the mid-year financial report, which ends June 30th. He indicated that they are very close to budget in almost all expense categories. The Town's operating budget for general government, public works and public safety is within .2%, or approximately \$5,000 of the \$2,142,898 budget. The six-month revenue is \$2,370,854, above budget levels by \$146,006. This surplus is almost completely due to a \$122,000 payment from the State in settlement of a long-standing dispute. Mid-year property tax revenue was within \$1,000 of the budgeted level of \$1,258,118. Building and planning revenue has been close to the budgeted levels. Projected revenue from these sources was reduced in this year's budget due to the weakening economy. Generally, these results are due to great management by staff and he commended Town Manager Broad for his great forecasting skills.

Community Protection- Council member Skall

- Transportation Authority of Marin

Council Member Skull reported that they continue to have more and more involved in “Get Ready Marin” programs. The next training program occurs tomorrow and currently 40 individuals are signed up. He appreciated those taking the course and encouraged those who have not to do so. He further stated that his two-day training was very beneficial because he received the necessary information to be ready and protect his family. In regard to TAM, there is a resolution on the agenda, so he had nothing further to report.

8. Introduction and swearing in of new Apprentice Firefighter Matthew White.
Town Manager Broad introduced Apprentice Firefighter Mathew White to the Council and Mayor Hunter administered the oath of office to swear in Firefighter White. The Mayor and Town staff welcomed Firefighter White to the Town of Ross.

9. Report from Ross Property Owners Association.
Anne Hickey, RPOA representative, expressed concern for garbage cans and green waste cans being left at the curb and thought there was an ordinance in that regard. Town Manager Broad responded that there is an ordinance that allows cans out on the day of collection, and if not, cans are not allowed to be out in public or any area visible to the public. Staff was encouraged to mention this fact in the next “Morning After.” Staff indicated it would put this information on the Town’s website.

Ms. Hickey asked the Town Council about their plans for the Fourth of July celebration.

Ms. Hickey then asked the Council if Ross Rec is going to come back and talk to Council. Council Member Durst explained that Ross Rec is having a hard time, so she asked them to engage in some strategic planning. They are under a lot of pressure at this time, but she will remind them to attend and make their quarterly report to the Council.

10. Flood Control Report.
Mayor Hunter noted that the flood control report would be addressed under Item 13.

11. Council Consent Agenda.
The following four items will be considered in a single motion, unless removed from the consent agenda:

Mayor Hunter pulled Item 11D from the Consent Agenda.

- a. **Town Council consideration of introduction of Resolution No. 1641 requesting the Board of Supervisors of the Marin County Flood Control and Water Conservation District implement the Ross Valley Flood Protection and Watershed Program.**

Town Manager Broad added language in the resolution that if the money raised by the flood tax ultimately needed to be refunded that the Board of Supervisor indicated through Supervisor Hal Brown that the County would make a loan to the flood control district to repay the money over a number of years. Staff noted that the following “Whereas” will be added, “*Public Works Director Farhad Mansourian indicated that if raised funds are returned, the Board of Supervisors would make a loan to the flood control district and repay through a long-term loan agreement with the district.*”

Mayor Hunter asked for a motion.

Council Member Strauss moved and Council Member Skall seconded, to approve Consent Calendar Item “a” as amended by staff. Motion carried unanimously.

b. Town Council consideration of introduction of Resolution No. 1642 opposing proposed legislation imposing a toll on Doyle Drive in San Francisco.
Mayor Hunter asked for a motion.

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

c. Town Council consideration of introduction of Resolution No. 1643 proclaiming April 2008 to be Fair Housing Month.
Mayor Hunter asked for a motion.

Council Member Strauss moved and Council Member Skall seconded, to approve Consent Calendar Item “c” as presented. Motion carried unanimously.

End of consent calendar agenda.

d. Town Council adoption of Ordinance No. 604 proposing text amendments to the Ross Municipal Code including deletion of Chapter 15.22 (Antennas) and various modifications to Title 18 (Zoning) to eliminate obsolete regulations, clarify existing policies and regulations, and to implement recommendations of the Housing Element.

Mayor Hunter opened the public hearing on this item.

Bill Cheek, Ross resident, explained that his understanding was that these changes would in effect clarify the historical method of measuring slope perpendicular to the contours. He checked with the former town engineer that slope had been in fact measured from the lowest to highest points. He also contacted several architects about this change and received several emails objecting to this change and they reiterated that measuring is lowest to highest point. Architect Greg Johnson and Architect Adam Gardner submitted emails to the Council for their review clarifying that the historical method has been lowest to highest point. The staff report did not believe that this would affect values and he did not believe there has been near enough notice to the Town and those affected because it dramatically affects values. Also, in conversations with staff and architects, it is apparent that with irregularly shaped lots no one definition clearly suits the situation of an irregularly shaped lot. There are a number of other methods that should be considered. The code section should be expanded to include all possibilities, not eliminate one that is historical without adequate notice to those with irregular lots. He believed additional input from owners should be provided to the Council in order to have fair consideration. He explained that the first calculation an architect makes is slope to determine FAR. There should be a preliminary assessment on irregular lots as to what the best method is on that lot. This change modifies one restrictive code to another without any possibilities. Now, they must use perpendicular to slope. He strongly urged the Council to remove this item from consideration tonight and

develop a taskforce to allow those affected to provide input and allow architects to provide input to then consider a change that clarifies and takes into account designing on an irregular slope.

Richard Hannum, architect, had two experiences that relate to slope calculations. They put forth the idea that this needs work when working on the General Plan. Staff has a hard time dealing with irregular lots and interpretation. He recognizes that the ordinance needs work, but this language change will impact several people and must be further studied. He added that greater consideration must be given to which parcels and how much of an area will be impacted. He further agreed with Mr. Cheek that developing a taskforce is a good idea.

Town Manager Broad noted that the Council looked at changing the definition 15 years ago with Roy Hoffman, the former Town Engineer. The Council decided that it was not necessary to change the definition because former Town Engineer Hoffman advised the Council that every engineer knows that they must measure slope perpendicular to the contours, so he advised the Council that it was not necessary because slope is always measured perpendicular or you get a meaningless number. He had meetings when they looked at different ways and there are many ways as imagined and a taskforce could study this matter for years. Former Council member John Scott stated that slope is a way to sort, and depending on what definition taken, there will be different answers for different parcels. Staff explained that this is a clean up to clarify the intent and slope is measured perpendicular to the contours. Staff did not believe a taskforce was necessary.

Council Member Strauss asked staff if an irregular site and contours follow the dogleg would they then follow along the slope for a greater distance. Town Manager Broad stated that there are different irregular lots. Every method has a bias to it. They add up contours. If on a ridgeline slope, it is not very high at all because much of it is flat. Council Member Strauss felt they must clarify this matter better. There is a conflict in the language. In certain cases it cannot be measured because they will be parallel. Senior Planner Semonian provided slope calculation examples for the Council's consideration.

Town Manager Broad suggested that if Council did not believe this is a clean up item to pull the item and staff will look at how it is done throughout the County and then come back with an assortment of ways to look at it. Staff will use the most logical approach.

Council Member Strauss wanted to be brought up to speed on this matter. Council Member Durst noted that slope is a guideline. Conditions on the site are the key determining factors of design review. Senior Planner Semonian recommended that the Council approve what is before them tonight and staff will further study slope definitions. Mayor Pro Tempore Cahill agreed. He asked staff to look and see how many lots in Town would be affected. He also asked staff to identify the sites that have unusual shape in regard to the vacant lots. He felt it is critical to change tonight so they have a guideline. Town Manager Broad stated that for this period of time this is the intent, so lock it in and then study further.

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

Mayor Hunter asked for a motion.

Mayor Pro Tempore Cahill moved and Council Member Durst seconded, to adopt Ordinance No. 604 proposing text amendments to the Ross Municipal Code including deletion of Chapter 15.22 (Antennas) and various modifications to Title 18 (Zoning) to eliminate obsolete regulations, clarify existing policies and regulations, and to implement recommendations of the Housing Element as presented. Motion carried 3-0-2. Skall and Strauss abstained.

12. Update from Chief of Protocol Molly Gamble, on September 2008 Town Centennial celebration.

Chief of Protocol Molly Gamble updated the Council on the September 20th Town Centennial celebration. She explained that the Common would be closed starting September 18th for setup. The Town dinner will occur on September 19th with entertainment, which is an “adults only” dinner. On Saturday, September 20th, a parade down Shady Lane will showcase music, period costume, collectible cars and a “Ross through the Decades” theme starting at 10 a.m. A picnic will follow on the Common with food, music, old-fashioned games, a Ross “museum,” a ferris wheel and a huge cake decorated with the Town map. Viewing stands will be provided in front of post office. Staff noted that banners were installed at the Common and thanked the RPOA for underwriting the cost of developing that logo. An honorary committee is also being formed to honor all residents who have lived in the Town for more than 50 years. On May 29th, a cocktail party at the Lagunitas Country Club will honor all former mayors and council members, the honorary committee, and the Town’s firefighters, police officers and Town staff to thank all who has shaped the Town. A centennial newsletter featuring old photographs and Ross lore will be sent to the Town’s email list. Centennial merchandise, including wine glasses, picnic blankets, tote bags and the Town’s own Ross Centennial wine, will be sold throughout the year. Also, they would love to provide a plaque to commemorate this celebration. In regard to the Fourth of July celebration, volunteers are needed.

Richard Torney from the Historical Society noted that they installed the plaque in front of Town Hall for Ross’ 50 year anniversary and wanted to do the same for the 100 year centennial and desired Town involvement in that regard. They can duplicate the design of the 50th plaque, but they are open to new and exciting ideas. Also, the official date the Town was incorporated was on August 21st and believed a ceremony should occur and would leave the planning to whatever the Town felt is appropriate. The Public Works Subcommittee agreed to handle the matter.

13. Town Council update on Lagunitas Road Bridge design and consideration of additional hydraulic modeling related to the bridge replacement.

Director Jarjoura updated the Council on the Lagunitas Road Bridge and noted that the consultant will discuss the schedule and the architect will provide the bridge configuration and design. Regarding the bridge and design, FEMA took back from the County the modeling design of the whole watershed. They invested \$100,000 on developing the model on the watershed. FEMA took over the project and they will finish that project by September and will do the whole watershed. The other concern is that the Army Corps approached the Council with one alternative, which was the “natural grade alternative.” It means taking the existing finish level of concrete channel and project 1% upslope. That would lower the creek bed by one-foot or two feet more or less. That activity must be modeled and Stetson is currently working on that matter. He asked Stetson the cost of that activity because it was not part of their involvement in the project and it is about \$25,000.

David Andersen, URS consultant, stated that the Army Corps would take that portion on, but at later date. Their target is 2011 and the Town's target for the bridge is 2009. Caltrans may accept to amend the money that was allocated to the project and add the \$25,000. The Town's interest is if they want to invest that \$25,000 it means that they lower the creek bed, meaning they could lower the bridge or the finished level of the bridge could remain at the same level and that would be good for the Town as long as the Army Corps would take that project and do that project looking at natural grade instead of different mitigation and not lowering the creek bed. The Army Corps visited the site and now they must take it to Jim Miller. They will discuss whether or not they agree with the concept, and then design the bridge with the natural flow, but if the Army Corps has a different scope then they have a problem. For the time, they do not have to agree or not agree on the \$25,000, but it is a good concept if the Army Corps agrees. Regardless of whether Caltrans pays for it or not, it is in the Town's best interest to submit or apply for the \$25,000. If they move forward it would be budgeted next fiscal year or they could use the money they have now and add it to next year's budget.

Council Member Durst asked staff if water is lowered to the natural depth, would that involve removal of the fish ladder. Director Jarjoura responded that 3 or 4 feet would be spread out, so the transition is a more natural grade down. Consultant Andersen noted that Stetson will investigate, but there is no schedule. They are reviewing in the preliminary sense. He is present to look at the sidewalk on the south side, narrowing the bridge and maintaining the look of bridge as well as safety standards.

Dominic Donald, architect, provided a few concepts for the Council to consider showing all the details and how they will pick up some of the aspects of the old bridge. They are proposing to use crash tested barriers called T-80. They provided sketches, which is the beginning of the process showing that there is a rhythm and void. He showed a rough sketch of a T-80 barrier showing rhythm and detail of the old bridge. It is scaled down to pick up a lot of the elements. There is a bike path, so they must have a bike rail at 4' 6". The existing bridge rail is about 3' 6". He then provided sections and the profile of the deck. The barrier is used on either side of the roadway that will narrow down the road. An open railing is provided on the pedestrian pathway side. There will be steel piping with a concrete barrier. They will maintain the existing feeling. They are introducing some details that involve arch forms that are repeated. He then provided a view looking down the creek with open railing with one pier in the middle. The depth will be as minimal as possible with less intrusion. Upstream and downstream sketches were shown to the Council as well. The handrail is transparent and the concrete barriers are seen at Vista Point viewing lot headed to San Francisco, which are great examples. There is a slight slope to hold the rail. There will be 3-foot lanes on either side and drive lanes are 11 feet with 3-foot sides. He further noted that the outside barrier is 3' 6".

Mayor Hunter opened the public hearing on this item

Andy Frama, Kentfield resident, thanked Ross for moving forward on this bridge initiative. He is actively involved in flood mitigation with Hal Brown's office. He hoped this would occur in a very expeditious manner. Ross is targeting 2009 and believed the sooner this is completed the better. The strategic issue must be addressed and pointed out that downstream there is a significant amount of debris that must be removed and cleared from

the creek. He added that Supervisor Hal Brown will get the County involved, but behind the Ross Post Office they must remove the debris that is restricting significant flow in the creek.

The Council directed staff to investigate and believed that area of the creek is under the control of the Marin County Flood Control.

Richard Hannum, Ross resident, expressed concern for Town involvement of the design in regard to aesthetics. Council Member Strauss desired reaction from the Council on the design desired. Then formal proposal will be brought to the Town. He is pleased to see the width of the bridge decreased. He appreciated the design maintaining the more traditional character of the bridge and believed they are moving in the right direction. He agreed that the downstream view is very important with the handrail. The transition could be raised. In balance, they must work with the whole watershed.

Consultant Andersen discussed the flow rate and there must be some low floodwalls within the Town and farther upstream to maintain the 5,400 in the stream.

Council Member Strauss wanted the two ends to come in rather than one right in the middle in terms of aesthetics. Consultant Andersen noted that with more piers there is debris blockage. Council Member Strauss desired a single span. Consultant Andersen believed that would be difficult.

Council Member Strauss asked staff if it was originally proposed as a natural solution on natural grade. Public Works Director Jarjoura noted that it was not natural grade it was the fish ladder. Consultant Andersen stated that they have to model the affect on some of the slurry walls because they could be undermined. Council Member Strauss requested a copy of Stetson's original scope of work.

Dick Bon, Ross resident, asked about a cushion downstream. Consultant Andersen believed there was thought of raising the concrete channel downstream to carry more water.

John Martin, Bolinas Avenue resident, discussed the bypass and the 1983 flood required 7,200 cubic feet per second and did not understand the 5,400 cubic feet being proposed. Municipalities have not been working for 7,200 and it should be built to 7,200 cubic feet. He suggested designing for 7,200 and then some day hopefully receiving federal dollars to raise that channel. He further encouraged staff to go back to the drawing board and gear this toward 7,200 cubic feet.

Council Member Strauss noted that it is an accumulation of how water is managed. They must complete modeling upstream because it is only finished to San Anselmo. The amount of water will not tolerate the 100-year storm. Consultant Andersen noted that 5,400 is a 30-year storm. A meeting was initiated with flood control and Army Corps, and those two bodies were comfortable with the 5,400 cfs.

Mr. Martin thought the purpose was to stop this problem and some Town has to take a leadership role on this matter and hoped it is Ross to build 7,200 cubic feet. Council Member Strauss stated that it must be reviewed by all communities. If they can lower it and do the transitions that may be the best solution for the community at large.

Lori Fromm, Kentfield resident, has a concrete channel behind her house and it was not filled to capacity. Water travels down from San Anselmo, so the problem is the bottleneck because water is not getting down the channel. It is a very important issue and must be given careful consideration in order to do it right.

Tom Kapp, Redwood Drive resident, flooded in 1982, 1986, and 2005. He wondered what would happen with respect to that bridge as far as flooding is concerned if what is suggested occurred. If San Anselmo and Fairfax are not on board, he asked if this would be a waste of effort. Council Member Strauss noted that they have joined Flood Zone 9. Mayor Hunter added that since the December 2005 flood it has become a regional activity. FEMA will finish the modeling and then the design can be completed.

Mr. Kapp was told by County supervisors that the lawsuit filed objecting to the tax increase would delay this project. Mayor Hunter responded that tonight a resolution was passed where the County agreed to spend the first million dollars regardless of the lawsuit.

Frank Malin, Fernhill resident, applauded Ross for their leadership role. Supervisor Hal Brown and Jack Curley are involved greatly and they must stay in contact. It is difficult to develop a solid, for sure plan for the bridge until modeling occurs. He urged the Council to stay in contact with Supervisor Brown and Jack Curley in regard to the modeling and what they should achieve in terms of the 5,400 or 7,200 cubic feet per second. Also, another issue is runoff and tonight on the agenda the Council will be adding another 10,000 sq. ft. of impervious surface and hoped the Council will do what they can on this issue because property owners have some right to build, but not a right to cause adverse impacts to other citizens. He suggested retention basins or other mitigations to help the situation.

A Glenwood Avnue resident expressed concern for children safety and asked that openings on railings be made safe for children on the bridge. There are two other bridges in Town and asked that the Town consider consistency in design with the new bridge in order to maintain consistency throughout the Town of Ross.

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.

Mayor Hunter stated that they would continue to track and discuss this matter.

Council Member Strauss asked staff about the schedule. Consultant Andersen hoped for 2009. He stated that a schedule was presented to Council for review. The three alternatives must be decided upon soon. The environmental and historic survey is moving forward. Public Works Director Jarjoura and Council member Strauss agreed to discuss the scheduling.

Council member Strauss stated that they must work with the schedule and all must be accountable for what is occurring.

14. Follow-up discussion of the five Town Council goals for 2007-2008 and the implementation of these goals.

Mayor Pro Tempore Cahill discussed flood damage and that the Town experienced another flood event on January 25th that was worse than the January 4th event. Public safety sounded

the alarm at 6:18 p.m. and the creek came within inches of flooding. The Town was prepared to open the emergency operation center in Town and brought in extra staffing for police and fire. The flood did not occur, but the Town's response was excellent. He believed the system is working properly.

Council Member Strauss will bring the downtown plan for formal discussion to the next meeting to receive public input. He then provided comments from the designers meeting on the downtown to the Council to review.

Mayor Hunter reported that consolidation with Larkspur is moving forward. They had numerous meetings and will meet tomorrow morning to discuss aligning compensation packages. He is optimistic that discussion will conclude soon.

15. Town Council appointment of five members to the Advisory Design Review Group and selection of alternates and a chairperson.

Town Manager Broad summarized the staff report and recommended that the Council appointment five members to the Advisory Design Review (ADR) Group and select alternates, a chairperson and a vice chairperson.

Mayor Hunter 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 Durst recommended the following individuals:

- Dan Winey - Chair - Professional
- Josefa Buckingham - Vice Chair - Professional
- Mark Fritts - Professional
- James Kemp - Professional
- Noreen Silvon - Non-design background
- Christine Ramos-- Alternate - Non-design background
- Elaine Schultz - Alternate - Non-design background

Council Member Durst explained that the purpose was to develop a group to have great communication skills with a variety of individuals. She further added that easy back and forth with residents is desired.

Council Member Strauss wanted to make sure that Dan Winey is committed because he is very busy and suggested finding another Chair. Council Member Durst agreed. She further noted that a quorum is set at three and for the meeting to take place only two design professionals must be in attendance.

Council Member Strauss wanted to amend the resolution to have more alternates. Mayor Pro Tempore Cahill stated that this process was difficult and liked the suggestion to have more alternates and agreed to amend the resolution. Mayor Hunter pointed out that the author of the concept is not included in the list and felt enlarging the pool might be the best solution. Town Manager Broad stated they were extremely fortunate to have a very qualified group of six. As far as interest in having alternates, staff suggested bringing back the initial resolution next month in order to amend to allow for two professional alternates.

Council Member Durst suggested approving what is recommended tonight and then bringing back an amended resolution.

Mayor Pro Tempore Cahill stated that they wanted to avoid conflict of interest. Council Member Durst stated that individuals must recuse themselves. They could approve grouping as per the resolution with four recommended professionals and two alternates and appoint two alternates for the professional background as well to always have a quorum of three available.

Town Manager Broad stated that they cannot have a seven member committee to which only five attend due to the Brown Act. They must have alternates rather than have a larger pool.

Mayor Hunter asked for a motion.

Council Member Durst moved and Mayor Pro Tempore Cahill seconded, to appointment the five members to the ADR Group and defer the selection of Chair and two alternates will occur at a later date. Motion carried unanimously.

16. Town Council consideration of parking barriers on Laurel Grove at Canyon Road and of introduction of Ordinance No. 606 to amend Municipal Code Chapter 10.28, Stopping, Standing, Loading and Parking.

Town Manager Broad summarized the staff report and recommended that the Council consider parking barriers on Laurel Grove at Canyon Road and introduce Ordinance No. 606, amending Municipal Code Chapter 10.28, stopping, standing, loading and parking.

Town Manager Broad noted that this ordinance would apply everywhere that is not zoned residential, such as the downtown and the Civic Center, where the Town Hall is located, which are not residential.

Mayor Hunter opened the public hearing on this item.

Richard Hannum, Ross resident, asked the Council to consider the idea that as part of the construction program and as part of the permit an opportunity to allow equipment for a short time. Mayor Pro Tempore Cahill felt that would be on a case-by-case basis. He further noted that special circumstance could come before the Council.

Council Member Strauss would rather see vehicles at corporation yards and not in residential areas.

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

Mayor Hunter asked for a motion.

Council Member Durst moved and Council Member Skall seconded, to waive the reading and introduce Ordinance No. 606, amending Municipal Code Chapter 10.28, stopping, standing, loading and parking. Motion carried unanimously.

17. Town Council discussion only of Municipal Code Section 12.20.040, Liability for Injuries Where Report or Repair Not Made, which allows recourse against persons failing to repair or report a defective sidewalk.

Town Manager Broad summarized the staff report and recommended that the Council discuss Municipal Code Section 12.20.040, liability for injuries where report or repair not made, which allows recourse against persons failing to repair or report a defective sidewalk. On balance, it is a benefit to the Town to continue to uphold existing language that creates a shared condition with respect to liability between the Town and property owner.

Mayor Pro Tempore Cahill asked staff if there were a claim and the Town had sole responsibility how would that affect premiums? Town Manger Broad noted if liable, it would increase. The Town is responsible for the first \$25,000 on any claim and that comes out of the general fund. The insurance premium would increase according to the claim.

Mayor Hunter opened the public hearing on this item

Diane Rudden, Ross resident, asked staff if Lagunitas is included. Town Attorney Hadden Roth responded that sidewalk is a very broad definition.

Chris Martin, Shady Lane resident, believed asphalt pathways covering permeable surfaces creates an attractive nuisance. It is a bikeway, not only used by pedestrians. He believed greater liability problems would occur. He asked the Town to carefully review what is being accomplished. He had no issues with ADA accessible pathway for pedestrians, but not bicycles, and is not sure if the Town has enforceable mechanism to avoid bicycles on the pathway. Town Attorney Hadden Roth indicated that the Town does not plan to build a bikeway; it is a pedestrian pathway only.

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.

Town Manager Broad pointed out that they are talking about liability of defective sidewalks.

Council Member Strauss supported staff's recommendation. The Council concurred.

Mayor Hunter read into the record the benefits of the ordinance as follows:

- Clarified responsibilities of property owner;
- Places risk of failure to maintain where it belongs – on person responsible;
- Provides incentive for owner to report or repair hazards; and
- Preserve city budget and staff for more critical needs.

Mayor Hunter announced that no action is required since this was a discussion item only.

18. Town Council consideration of traffic calming measures on Bolinas Avenue, including additional centerline striping at its intersections with Shady Lane, Richmond and Kensington roadways.

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Town Manager Broad summarized the staff report and recommended that the Council consider traffic calming measures on Bolinas Avenue, including additional centerline striping at its intersections with Shady Lane, Richmond and Kensington roadways.

Mayor Hunter opened the public hearing on this item.

John Martin, Bolinas resident, thanked staff for their support on this matter. He along with Chris Baker's wife Jill completed a survey in order to have a community voice and have a document to take to the Council. Over a 5-month period, they received 68 responses. 87% of residents participated in the survey. In general, the majority confirms and two-third vote is overwhelming that residents want action. The survey supported a pedestrian crosswalk. 93% of residents favored a crosswalk. The following methods were supported: stop signs; lines dividing the roadway; radar trailer; 25mph speed limit signs; and parking restrictions. The opposition from San Anselmo is disappointing. He asked that Council consider striping and taking additional measures as they move forward. Stop signs are effective to create safe passages for crosswalks. Bolinas is one of the few streets with traffic parked on each side of the roadway. Robust safe walkways and signage is needed. He desired a joint session with Ross Town Council and San Anselmo to discuss this matter further.

Chris Baker, Bolinas Avenue resident, appreciated staff's efforts and wanted to avoid auto pedestrian accidents. There is an urgency to calm the excessive speeds travel. He hoped Ross and San Anselmo could come together on this matter.

Rich Petovello, Bolinas Avenue resident, favored stop signs. Parking on Bolinas and Shady Lane must be reviewed. SUV's park and it is creating a problem because visibility is a concern. Vehicles park in the wrong direction, which creates hazards and traffic problems. Also, left turns on Shady Lane during the morning are not permitted, but occur, so they must start enforcing the current rules. More laws are not needed. If they start writing citations people will start obeying the rules.

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 Durst has been working on this area since October of 2005. There is a difference between Ross and San Anselmo and their Council does not deal with traffic safety, just staff. San Anselmo and Ross collected data, increased enforcement and they did get a commitment for a stop sign back in October. Then she received a letter from San Anselmo that a stop sign cannot be installed because the warrant is not present. A stop sign cannot be used to control speed. She supported staff's recommendation. The traffic trailer data collected the average speed was 20 to 31mph. Increased enforcement has occurred and still the traffic speed stayed, so traffic calming is needed. They did not talk about parking, only a stop sign to slow down traffic for safer pedestrian travel. She further noted that neither community could come up with warrants.

Mayor Hunter suggested going after the grant in order to hire a consultant to conduct another traffic speed study. Council Member Durst agreed. She noted that San Anselmo received a grant for traffic calming between Wade Thomas and San Anselmo School. The school does cross at the intersection at Shady Lane. She tried to extend those funds, but it did not work out. They have an opportunity because Safe Routes likes communities to come

together on matters. They should re-engage San Anselmo to conduct a study and believed there is reason to proceed in that direction.

Mayor Hunter agreed to contact San Anselmo's Mayor.

Mayor Pro Tempore Cahill asked about speed bumps on Bolinas. Council Member Durst stated that speed bumps have downsides such as noise, but any new element in the lane of traffic must be studied and at that time it was not warranted.

Council Member Strauss suggested one white line as opposed to two yellow lines to avoid looking like a thoroughfare. Also, crosswalks could be raised one or two inches as seen in Europe to make drivers more alert of pedestrians. Mayor Pro Tempore Cahill suggested possibly a sign in the middle of the road. Director Jarjoura pointed out that tickets cannot be issued with only a white line; it must be a double yellow.

Council Member Skull stated that stop signs are used to negotiate safer areas regardless of speed. Council Member Durst noted that an effective use for a stop sign was not found.

Town Manager Broad agreed they must hire a consultant to prepare a traffic-calming program.

Mayor Hunter asked for a motion.

Council Member Durst moved and Council Member Skull seconded, to approve staff's recommendation for Bolinas Avenue, authorizing striping as suggested by staff; and direct Ross staff to work with San Anselmo for a joint application for TAM's Safe Routes to School grant proposal. Motion carried unanimously.

19. **Town Council consideration of introduction of Ordinance No. 607 regarding imposing penalties for parties or gatherings in which underage individuals possess, consume or are served alcohol.**

Town Manager Broad summarized the staff report and recommended that the Council introduce Ordinance No. 607 regarding imposing penalties for parties or gatherings in which underage individuals possess, consume or are served alcohol.

Town Attorney Hadden Roth suggested changing the title of the ordinance to state, "*Underage Drinking*" removing "*On private property.*" The Council agreed.

Mayor Hunter opened the public hearing on this item.

Michael Rosenbaum, Ross resident, noted for the record that he is against underage drinking despite being misquoted in the IJ, but he is vehemently opposed to passing ordinances that are not enforceable. He apologized for his misquote causing an embarrassment to the Town of Ross. Hopefully the IJ is able to do a better job reporting tonight. He then noted the following reasons why the Council should not pass this ordinance:

- Faulty argument that a patchwork of communities that condone underage drinking will result in increase of social gathering in Ross.
- San Anselmo 1993 – no citations for past three years.

- Novato 1992 – did not use ordinance until 2005.
- Tiburon 1992 – has never issued a citation.
- San Rafael 2007 – IJ on 11/4 cities that the law was used, but no citations were issued.
- County of Marin November 2006 – but has only found on average less than one party per month for the past 15 months in the entire unincorporated area of Marin where underage drinking is occurring. Either teenager's are not drinking as much as the IJ has reported or would like us all to believe or the ordinance is not being enforced.
- Is Sheriff Doyle doing the job the taxpayers are paying his department? As it seems relatively easy to find social gatherings, why didn't the IJ investigate?
- Why has the District Attorney Berberian's office not attempted a prosecution of the current CA statues? This should be an above the fold headline of the IJ.

Mr. Rosenbaum asked the Council not to pass this Social Host Ordinance, but rather request Senator Migden and Assembly Huffman to submit a bill to the legislature to change one word to "any" from "all" to the business and conduct code Section 2568.2. Problem solved statement (*\$1,000 fine or jail time, plus misdemeanor*). This is a more appropriate use of the IJ editorial power rather than target local council's on its current PC campaign. If the Social Host Ordinance is adopted tonight it must be in force for upcoming ski week, which is February 15th – 24th. He then asked the following questions:

- Is Ross planning on adding more officers starting tomorrow night?
- Is the Sheriff's Department planning to step up enforcement during this time period?
- Where is the IJ's stance on stepped up enforcement as a little press may have a chilling effect on social gatherings this week? Just like publishing the locations of the sobriety check points, which only helps avoid detection in the first place.

Mr. Rosenbaum desired a sunset provision in this ordinance. Fines are not a proven method to correct behavior and asked the Council to consider the following:

- Public work detail for both parent and child versus fines. Public embarrassment is a great deterrent then fines.
- Following the horses after the Town's Fourth of July parade.
- Orange jump suits.
- In-lieu of community service insist that 100% of the fine collected should go to promote healthy teen alternatives not to Town coffers
- Dances (*defer cost of venue and entertainment*)
- Movies (*rent out an entire theatre for a showing of a current movie*)

Mr. Rosenbaum believed if examples are made that text messages will fly in regard to a 17 year old having driving privileges suspended for violating curfew or towing vehicles from social gatherings. He further asked the Council to take "No Action" tonight and place this ordinance on the November ballot.

Stephanie Stein, Ross resident, believed citations are deterrents and appreciated the fact that the Town will not tolerate underage drinking.

Citizen Advisory Board representative supported this ordinance. San Anselmo is revising their ordinance because it could not be enforced. This will serve as an educational tool and for the first offense the parents and child must attend educational workshop. She further hoped the Ross Town Council adopts this ordinance.

Diane Rudden, Ross resident, as adults it is their job too, as much as possible, and have a united front and they must discourage teenage drinking.

Scott Spenser, Counselor, key point is about raising public awareness and it will not be enforced until a public complaint. They must protect public health and safety. This will start dialogue between parents and youth. He encouraged the Town of Ross to move forward with this ordinance.

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

Mayor Hunter asked for a motion.

Mayor Pro Tempore Cahill moved and Council Member Strauss seconded, to waive the reading and introduce Ordinance No. 607 regarding imposing penalties for parties or gatherings in which underage individuals possess, consume or are served alcohol; eliminating “*private property*” from the title; and schedule adoption at the March Town Council meeting. Motion carried unanimously.

The Council took a short recess at 9:48 pm. Town Attorney Hadden Roth excused himself from the Town Council meeting.

20. Town Council consideration of introduction of Ordinance No. 608 to delete outdated Municipal Code Chapters 8.08 livestock on highways; Chapter 8.12 dogs running deer; Nuisance Sections 9.04.020, 9.04.040, 9.04.060, 9.04.180, 9.04.190, 9.04.200 and 9.04.220; Chapter 10.44, bicycles and Sections 6.16.010 and 14.08.050, tainting air by burning.

Project Planner Christine O'Rourke summarized the staff report and recommended that the Council introduce Ordinance No. 608, deleting outdated Municipal Code Chapters 8.08 livestock on highways; Chapter 8.12 dogs running deer; Nuisance Sections 9.04.020, 9.04.040, 9.04.060, 9.04.180, 9.04.190, 9.04.200 and 9.04.220; Chapter 10.44, bicycles and Sections 6.16.010 and 14.08.050, tainting air by burning.

Mayor Hunter 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 Hunter asked for a motion.

Council Member Durst moved and Council Member Skall seconded, to waive the reading and introduce Ordinance No. 608, deleting outdated Municipal Code Chapters 8.08 livestock on highways; Chapter 8.12 dogs running deer; Nuisance Sections

9.04.020, 9.04.040, 9.04.060, 9.04.180, 9.04.190, 9.04.200 and 9.04.220; Chapter 10.44, bicycles and Sections 6.16.010 and 14.08.050, tainting air by burning; and schedule adoption at the March Town Council meeting. Motion carried unanimously.

21. Town Council consideration of introduction of Ordinance No. 609 amending Chapter 8.04, Animal Control Law.

Project Planner O'Rourke summarized the staff report and recommended that the Council introduce Ordinance No. 609, amending Chapter 8.04, animal control law.

Mayor Hunter 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 Hunter asked for a motion.

Mayor Pro Tempore Cahill moved and Council Member Skall seconded, to waive the reading and introduce Ordinance No. 609, amending Chapter 8.04, animal control law; and schedule adoption at the March Town Council meeting. Motion carried unanimously.

22. 27 Ross Common, Variance and Commercial Use Permit No. 1677

Vito and Sonia Badalamenti, 27 Ross Common, A.P. Nos. 73-273-09, C-L (Local Service Commercial). Use permit to allow the enclosure of an existing 3rd story deck (2 stories and a mezzanine permitted). The proposal would increase the floor area of an existing office space by approximately 100 square feet (there is no maximum floor area in the C-L district). Variance to allow the roof ridge over the newly-enclosed space to be 36.6 feet above grade (1.5 feet lower than the existing roof ridge) where 30 feet is permitted.

Senior Planner Semonian summarized the staff report and recommended that the Council approve the application subject to the findings and conditions. Staff recommended modification to Condition No. 5 in the staff report to clarify that the neighbor's consent was required for tree trimming and that any trimming by the applicant be performed by a certified arborist.

Sonia Badalamenti, owner/applicant, agreed with the staff report in regard to fence repair, but in regard to trimming of the branch that still must be worked out. One particular branch goes across the parking lot just a few inches from her front window, so that branch must be trimmed because it is an encroachment on her property. She further agreed to get together with the neighbor and their arborist to discuss the matter, but felt the neighbor is financially responsible for the cost of trimming the tree.

Mayor Hunter 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 concurred with the staff report. Senior Planner Semonian did not believe it is a problem in regard to the financial responsibility because the neighbor wanted the tree trimmed properly and might do the work herself.

Mayor Hunter asked for a motion.

Council Member Durst moved and Council Member Skall seconded, to approve the application subject to the findings and conditions as outlined by staff with the amendment to Condition No. 5 as proposed by staff. Motion carried unanimously.

Badalamenti 27 Ross Common Conditions of Approval

1. This project shall comply fully with the approved project description and plans.
2. Any signage associated with this site is subject to the review and approval of the Planning Department prior to its installation.
3. The building trim shall be repainted. If the applicants wish to change the trim color, samples shall be provided for the review and approval by staff.
4. The front fence shall be repaired and repainted and the applicant shall submit a plan for rejuvenating the front landscaping for review and approval. All painting and landscaping improvements shall be completed prior to project final.
5. The tree near the addition shall not be trimmed without consent of the adjacent property owner and any tree trimming requested by the applicant and approved by the adjacent property owner shall be performed under the supervision of a certified arborist selected by both parties.
6. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner shall be subject to automatic penalties with no further notice. The construction shall not be deemed complete until final sign off is received from representatives of the building/public works, planning and public safety departments.
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. Failure to secure required building permits and/or begin construction by February 14, 2008 will cause the approval to lapse without further notice.
10. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense, however, nothing contained in this 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. **1 Woodside Way, Variance, Design Review and Demolition Permit No. 1674**
Joe and Monica Kwait, 1 Woodside Way, A.P. No. 73-232-05, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). *The applicants have modified the application since the hearing on January 10, 2008.*

Demolition permit, variance and design review for a remodel and addition to the 3,905 square foot residence that includes: 1.) replacement of most windows with new wood windows; 2.) replacement of stucco with smooth-troweled, integral color, stucco; 3.) three new roof dormers within the 30-foot height limit; 4.) conversion of 200 square feet of the front porch to create a new dining room; 5.) replacement of the existing garage with a new, 482 square foot, two-car, garage within the rear yard setback (40 feet required, 3 feet proposed), 6.) an outdoor fireplace within the rear yard setback (40 feet required, 36 feet proposed); 7.) a new 225 square foot patio within the east side setback (15 feet required, 3 feet proposed); 8.) over 100 linear feet of landscape retaining walls up to 3 feet in height; and 9.) over 50 cubic yards of grading associated with expansion of the basement area and landscaping.

Lot area	13,712 square feet
Existing Floor Area Ratio	28.5%
Proposed Floor Area Ratio	29.9% (20% permitted)
Existing Lot Coverage	20.5%
Proposed Lot Coverage	25.0% (20% permitted)

Senior Planner Semonian summarized the staff report and recommended that the Council approve the application subject to the findings and conditions in the staff report. She clarified that the staff report had been prepared based on a different set of plans and recommended approval of the front and east side dormer and that attic access be a pull down ladder or another option that is not full size stair access.

The architect provided a model for the Council's review and explained the modifications to the project. The Lagunitas dormer shines into the central bath area. They are walling off the attic, so they must have a reasonable stair to get to their storage area. It is a way to have light at the end of the hall and it will be a steep code stair walled off with a door and the applicants wished not to have a pull down stair.

Mayor Pro Tempore Cahill asked the architect what is currently present in regard to access to the storage area. The architect indicated that there is a regular stair in a closet.

Council Member Strauss asked what type of fireplace is proposed. The architect indicated that a wood-burning fireplace is proposed.

Senior Planner Semonian explained that the existing stair access is very small, so retaining the existing stairway would be acceptable to staff and is another option.

Michael Yandle, landscape architect, stated that landscaping is the same as the last meeting. Staff visited the site and he clarified where all the small retaining walls will be located, which are all hidden. The goal is to bolster this already considerable buffer and strengthen the buffer near the house that looms over their yard. It is the same plan, just better understood.

Council Member Durst pointed out that the tree shown on the northeast side of the street did not exist. Landscape Architect Yandle agreed to plant a street tree in that location and suggested a red oak. Council Member Durst recommended considering a tree that is more upright like an English oak. Landscape Architect Yandle felt a wider canopy is better. He agreed to remove the concrete stairs from the sidewalk to the asphalt roadway.

Monica Kwait, applicant/owner, addressed the dormers and the stairs, and the concern was making areas safer for their two small boys. They modified the stairs to the basement and up to the attic. It must be modified because the stairs came out of the infant's room and it is not safe to have stairs coming out of any child's room and that was the reason for the modification. For example, Christmas presents are stored in the attic and a drop down stairs is just not feasible. They have a normal stair path now and they would like the same stair access, but just moved out of the infant's room to a normal area. In regard to addressing the dormer that faces Woodside Way, it is not allowing light into the attic, but it will bring light down into the second floor landing. It is an area of their home where the boys play and they wanted to enhance the area by adding more light. Lastly, she is very disappointed to see plywood in the back dormer as opposed to a glass window.

Mayor Hunter opened the public hearing on this item.

John Wilcox, Woodside Way resident, did not object to the majority of the work proposed, but the two major concerns are the garage and attic dormers. The south side attic dormer looks out onto their property and it would view directly into their bedroom and impact privacy as well as negatively impact the enjoyment of their home. Also, the attic should only be used as unfinished living area. In regard to the garage, height of the roofline is a concern. The proposed height is unnecessarily high and asked for alternatives with the lowest possible roofline. They are concerned about the increased depth of the garage as well. The larger structure will affect their light, view and enjoyment of their home. This additional depth is unnecessary and requested that it not be allowed. Lastly, they are concerned about usage of the garage, since it is only 3 feet from their property line and they desired a similar condition applied to the garage as the attic and only that parking vehicles and storage is permitted.

Lisa Wilcox, daughter of John Wilcox, asked if the distance between the property line and Woodside Way and the front of the garage is the same as the current structure because it appears that the garage is deeper, not just longer, but deeper. She wanted to know how high the highest point is on the garage and how much higher is that from the current height. Also, she asked if the garage is going to begin at the base of the current level or will there be sloping up. She opposed a deeper and taller structure for the garage. In regard to the dormers, if just used for storage purposes, then dormers with windows are not necessary. She further believed having a dormer that looks right into her parent's home would greatly impact their quality of life.

The architect explained that the garage is the same depth as always, just pushed toward the house, so there will be less mass. Landscape Architect Yandle noted that plantings would mitigate a lot of the viewing concerns.

Ms. Kwait clarified that the three proposed dormers all serve different purposes, not just light.

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 Skall objected to a pull down ladder and felt a glazed window would solve the problem. He stated that no one would want to live in that attic space and did not see it as an issue, so he had no objections to the proposal.

Council Member Strauss felt the additional basement area should be held to 6.5 feet in height. He further supported the staff report in regard to the dormers, but opposed the fireplace.

Mayor Pro Tempore Cahill favored the dormers because they add a great deal to the house, particularly the two that send light down to the second floor hallways. He is in favor of both dormers. He agreed with Council Member Skall that the stairway is appropriate, not a pull down because the attic already exists with a stairway. In regard to the existing dormer, obscured glass seemed appropriate, which will still allow light. With respect to the basement, he favored the laundry room being located down in the basement, whether 6.5 feet or taller it will have no impact on the Town, just be a less desirable space. He further noted that he favored the project.

Council Member Durst supported the findings and conditions in the staff report. Obscured or chipped glass could be used as opposed to clear glass, which would still allow light in regard to the dormer. Modification to the existing south dormer with obscured or chipped glass could be used to maintain the character of the house as well. She found the site plan acceptable with the addition of the one street tree.

Mayor Hunter clarified that the Woodside Way dormer will provide light to the second floor and the Lagunitas dormer will reflect light down into a bathroom and the one facing the neighbor goes into the main stairwell. He suggested shutters because it did not add any livability and desired a compromise worked out with shutters, not obscured glass. He appreciated the garage and had no objection to the landscape plan. Council Member Durst agreed that the Wilcox's enjoy their privacy and it is more in keeping having a shutter like structure.

Council Member Strauss favored the project, but as a policy, there are certain items that must be discussed further.

Mayor Pro Tempore Cahill and Council Member Skall felt obscured glass would be best. They recommended that the Council allow the architect to develop a solution and present to staff as long as no viewing is possible. The owners desired obscured glass. Mayor Hunter stated that as long as it is thick, dense glass not able to be seen through, he would find acceptable.

The Kwait's agreed to allow the Wilcox's the ability to view the window treatment once installed.

Mayor Hunter asked for a motion.

Mayor Pro Tempore Cahill moved and Council Member Skall seconded, to approve the application subject to the findings in the staff report and the following conditions. Motion carried unanimously.

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 approved plans. Plans submitted for the building permit shall reflect modifications required by these conditions.
2. No changes from the approved plans, before or after project final, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval prior to any change.
3. The dormer on the Lagunitas Avenue elevation, which will provide light to the bathroom and is not accessible from the attic, is approved. The shed dormers proposed for the east and west sides of the roof, which provide light to the stair areas and are not accessible from the attic, are also approved. The existing south (rear) dormer shall not be modified except to replace the windows and slat opening with a treatment, selected by the architect, such as obscure glass or louvers, that do not allow anyone to see in or out of the area, subject to staff review and approval.
4. Other than a modification to the attic access and changes associated with the approved dormers, no changes to the attic area are approved. The attic may only be used as unfinished storage area. No additional lighting, heating, plumbing, sheetrock, finishes or other electrical work is permitted in the attic area except upgrades of existing electrical fixtures to bring them up to current code, plywood flooring and insulation. This condition shall be reproduced on all building plan pages for work in the attic area.
5. The basement shall remain unfinished. The basement area shall not be partitioned into rooms. A separate mechanical room is permitted with dedicated electrical outlets, one-hour separation from living space, and a single light fixture. Electrical work in the area is limited to two ceiling fixtures and two electrical outlets. No plumbing, heating, electrical or lighting work is permitted, except as allowed in this condition of approval. The ceiling height of the basement shall not exceed the existing 6' 8.5" height, measured from the existing floor joists to the floor. The door to the exterior may be replaced in kind and windows may be replaced as proposed. No interior trim is permitted. This condition shall be reproduced on all building plan pages for work in the basement area.
6. Applicants shall deconstruct and recycle as much demolition debris as feasible, including the windows, trim and fixtures.
7. The applicants shall submit any appropriate air quality permits to the building department prior to demolition. The demolition shall be consistent with the plans approved by the Town Council. It is expected that most of the interior and exterior finishes will be removed. However, the basic structure of the residence shall be retained, including the framing and roofing. If the demolition plan changes, an amendment to the Council-approved demolition permit may be required.

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8. The garage doors shall be automatic. The garage shall be available for vehicle parking and shall not be used for other purposes. The town planner may limit lighting, electrical and other improvements on the building permit plans for the garage to ensure it will only be used for garage purposes.
9. Except as otherwise noted in these conditions, landscaping shall be installed in conformance with the approved landscape plan prior to project final. Prior to project final, the applicants shall submit written evidence to planning department staff that confirms the landscaping complies with Marin Municipal Water District Ordinance 385, or is exempt from their requirements.
10. All drainage shall be dissipated on site.
11. Plans submitted for the building permit shall provide elevations for the garage roof ridge and floor level. A licensed land surveyor shall string the location of the garage foundation three feet from the rear property line. The applicants shall provide written evidence, prepared by a licensed land surveyor, confirming the elevation of the roof ridge complies with the approved plans after roof framing unless sufficient data points are available for staff to confirm the elevation of the structure.
12. Grading is prohibited between October 15 and April 15. Staff is authorized to make an exception to this condition if the applicants can demonstrate to staff's satisfaction that best management practices will be implemented, an erosion control plan is submitted, and independent monitoring will be conducted to prevent sediment runoff and erosion at the site. All exposed areas resulting from excavation and grading shall be seeded or planted with appropriate vegetation and maintained until established to prevent erosion.
13. Applicants shall comply with all requirements of the Marin Municipal Water District.
14. Any exterior lighting shall be shielded and directed downward. Exterior lighting of landscaping by any means shall not be permitted if it creates glare or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public right-of-ways is prohibited.
15. 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.
16. 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 may be required; b) an alarm system is required; c) the street number must be posted (minimum 4 inches on contrasting background).
17. Any portable toilets shall be placed off the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
18. 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 (including all landscaping work), the

- owner shall be subject to automatic penalties with no further notice. The construction shall not be deemed complete until final sign off is received from representatives of the building/public works, planning and public safety departments.
19. 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.
 20. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
 21. Failure to secure required building permits and/or begin construction by February 14, 2009 will cause the approval to lapse without further notice.
 22. 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. The applicant shall plant an additional street tree at the northeast corner of the site.
 24. **36 Glenwood, Variance, Design Review, Tree Removal and Demolition Permit No. 1662**
John and Lisa Pritzker, 36 Glenwood Road, A.P. Nos. 73-131-25 and 73-131-26, R-1:B-A (Single Family Residence, 1 acre minimum lot size). Demolition permit to allow the demolition of a residence, guesthouse, garage and shed totaling 16,048 square feet of floor area. Variance and design review to allow the following: 1.) Construction of an 18,598 square foot, three-story residence (two stories allowed; top story has a reduced footprint) with a maximum ridge height of 30 feet (30 feet permitted). The main residence consists of 15,661 square feet of living area, a 1,092 square foot garage and 1,846 square feet of mechanical area. The basement is considered a "story" because 38% of the perimeter would be exposed relative to existing grade. 78% of the basement perimeter, consisting of 8,358 square feet of floor area, would be below finished grade. 2.) A 3,535 square foot, 2-story, guest house with a maximum ridge height of 24.8 feet and a 1,120 square foot, 2-story, exercise room/office with a maximum ridge height of 22.4 feet. 3.) Landscape improvements including new patios, terraces, a sports court and 60 foot by 24 foot swimming pool. 4.) Two new 6-foot tall, solid wood, vehicular gates, between stone pillars up to 6.5 feet tall (6 feet permitted). 5.) Site grading for 1,264 cubic yards of cut and 1,915 cubic yards of fill. 6.) Over 100 linear feet of new retaining walls with a maximum height of 9 feet. 7.) Watercourse design review to allow the pool house and other improvements within 25 feet of a drainage channel contained in a culvert (25 feet recommended, 3 feet proposed). 8.) Watercourse design review to allow a landscape bench near Ross Creek (25 feet recommended, 24 feet proposed). 9.) A tree removal application to

permit removal of 42 trees from 6 to 70 inches in diameter, detailed in the application materials. 23,689 square feet of total development is proposed. A voluntary lot merger has been filed to combine the two developable lots into a single building site.

Lot area	221,194 square feet
Existing Floor Area Ratio	7.3%
Proposed Floor Area Ratio	10.7% (15% permitted)
Existing Lot Coverage	4.9%
Proposed Lot Coverage	9.3% (15% permitted)

Senior Planner Semonian summarized the staff report and recommended that the Council consider the project, provide feedback to staff and applicant and then continue the project.

Project Manager Glen Sherman explained that it is a substantial construction project. The challenge of meeting traffic control and neighbor issues is normal and they will address it. They have traffic control specific to just scheduling and deliveries. The construction management plan discusses traffic patterns to later in the morning. They worked with Ross Valley Sanitary Sewer District to stabilize the sewer pipe and provide a permanent solution. They met with neighbors and developed the start of a plan to ensure that all needs are handled. They worked diligently, started in 2005 and brought the concept to the Town and asked for input. They looked at guidelines and developed the project to meet the guidelines. They looked at impacts to the footprint of the existing house and developed inside of that. The off haul will be less and they will balance the cut and fill to the best of their ability. They established a height in the basement and considered a two-story structure with a basement and they did not have a height issue because they interpreted as a group from finished grade as stated in the staff report. They are present to do what is right. This property can handle the project and they designed a project that fits very nicely on the property. They think they have done a great job understanding the site. They will be successful and wanted to address the issues to expedite the process.

Mayor Pro Tempore Cahill asked about a schedule and if the construction time could be reduced. Project Manager Glen believed it is a 30-month project, but a lot of this work is built up front, like a kit. Depending on the schedule of permit documents, they could build the project in 24 months with proper planning and agreed to provide the Council with the schedule.

The landscape architect felt the most sustainable method was keeping the building at the existing location to preserve the trees. This is like a park and they wanted to preserve that feeling and preserve all screening around the property and street. There is a need to remove some trees; those in bad health will be removed. They would like, with permission, to plant large trees to take their place. Also, addressing neighbors concerns on Glenwood, he reassured the neighbors that screening would be maintained. There is a Street Tree Committee and they wanted to work with them to plant other street trees. He provided views of the gates showing before and after to the Council for their consideration. He pointed out that there is an existing wooden gate close to the street and they propose pushing it back 25 feet. There is a stake fence that will be continued along with plantings in front as well. In order to maintain privacy, they wanted to maintain a wooden gate with the stone columns. On the garage entrance there is a popular tree that has been topped with ivy and they propose removing and adding an evergreen tree to help screen out the view of the

house at that angle, which will provide additional construction staging area. He then addressed concerns of views for neighbors in regard to the sport court, and they propose removing the hedge and plant a redwood screen. In various sizes between 24 and 36-inch box trees. He provided photographs of 72-inch box redwood trees for the Council's consideration as well. They picked the location of the sport court to not disturb any of the oak trees and they wanted to stay out of the creek setback. They are berming up and nesting the house along with plantings, so that will cut the view off from the house. Also, they are planting a series of sustainable approaches to the site. They are planting more trees. They are building in an area that already has a building existing. Solar panels are proposed. A cistern is proposed to capture all the rainwater; it will capture water that flows into the lawn and recycle that water. A drip irrigation system is proposed as well. There is a riparian corridor with native plants. He then provided views of the proposed garden; of the entry with low growing shrubs; from the back of the terrace looking at a low fountain; and views showing main house looking at pool and garden and sport court. He further provided the Council with the proposed plant materials.

Ugo Sap, project architect, agreed several months ago to completely bury the basement and that the grade working off of 30 feet was existing grade two feet higher than now, so they are two feet lower than where the house is at and 30 feet above grade. The house is very similar to the house that existed before. They are trying to design a house that has simple volumes with natural materials. They tried to stick to the client's program with a three-bedroom home and full basement. Very unassuming and wanted it completely screened from the street. Tall trees will be planted as soon as possible. He is surprised that height is an issue. They considered grade to be where the existing house is located. He further noted that the master bedroom has a planting area to help screen the volume of the house as well.

Mayor Hunter asked how far would the second story have to be cut back. The architect responded that they have 10-foot high ceilings and it would be very difficult to create a master bedroom with 7-foot high ceilings. The east side of the house is the issue and it would not impact the back or front. They presented photographs of the existing house for the Council's consideration. Because the hill drops off so steeply that is the issue, but with the landscaping it will make it less visible.

John Pritzker, owner, tried to be very sensitive to their surroundings and they wanted to do what is right for the neighborhood and felt the site is pretty self-contained for construction.

Mayor Hunter opened the public hearing on this item.

Diane Rudden, Ross resident, asked if this was the site of the Buck house. The Council responded in the affirmative. Mr. Rudden asked the size of the existing development and Senior Planner Semonian indicated 16,000 sq. ft.

Frank Doodha, Glenwood Avenue resident, is very confident that the owner will do justice to this wonderful property and take into account the value of the community as well as the rules and regulations. Staff presented a thorough report and he did not object to the third story variance as long as there is ample screening provided to the view from the west. The major concern for the Town Council is about the third story if it will set a precedent. He is concerned about the height of the structure. Seven feet of fill will be added to the natural slope of the south side, so the story poles will start after 7 feet of dirt. He is not concerned

about height per say, but concerned that if the Town allows this type of measurement that other people will take advantage of that same approach in the future. This project will occur in tandem with the re-building of Ross School, the addition to the Branson's and the scope in terms of time, cost and traffic will equal greater than the other two projects combined. The truck traffic will impact the whole Town of Ross. The bridge construction must be considered as well. He appreciated the hiring of a topnotch construction company by Mr. Pritzker. He further noted that they reached an agreement and a copy of that agreement was submitted to the Council for consideration.

Robert Dickenson, Glenwood Avnue resident, submitted a letter to the Council for their review and felt it is important for the Council to hear specific points. They have a job site management plan that must be done in context with all other matters in Town. He appreciates the amount of time Ross staff and the construction company spent with the neighbors. They are consistent on their issues and agreed on all issues in writing. He reiterated concerns about traffic safety, noise, access to private property and privacy. Glenwood Avenue must be safe. He is delighted that stipulations of traffic requirements are incorporated. It is important to have two exits. Having a traffic management coordinator is appreciated and having construction traffic off road that will promote safety. In regard to noise, he appreciated the enforced regulations that arrival to the job site and work hours are Monday through Friday and no work of any kind can occur Saturday and Sunday or holidays. 9:00 a.m.- 3:30 p.m. for large truck traffic and no idling of vehicles is allowed. In light of the points outlined in his letter, he asked Ross to adopt a temporary ordinance outlining employees on-site and off-site hours. He stated that the north driveway must be used as an entrance and exit with only two-thirds of traffic using the south driveway. Heavy construction vehicles must enter from the north, and the management plan indicated that trucks come in from both directions. In terms of privacy, no issue with height because he has assurance that privacy screening will be maintained. The building is significant and very visible from his property. He takes exception to the notion that it is not visible because he is able to view the property with the privacy screen present today. It is important for the Council to carefully consider the height. Precedence is important for Council's consideration as well.

Project Manager Glen Sherman explained that they came to staff for assistance regarding the height measurement and now there are discrepancies. He noted that Senior Planner Semonian has done a great job. He stated that this is a large property. The grade drops significantly when it is moved one foot to the left. To make a determination on height is a tough call. He further reiterated that they appreciated staff's help.

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 Durst stated this is not a historic structure, and agreed the house should be demolished. She liked the new house site plan. In regard to the third story variance as setting precedent for other variances, she was not concerned because there is no similar lot in Ross, it is a very unique situation. The proposed site plan has the structure setback on the existing knoll. Since most of the lower floor is below grade and not visible with much to be used as mechanical space serves as a tradeoff to reduce lot coverage, bulk and mass. The house is large, but below the permitted 15% floor area ratio. The choice of material and glass mitigate and break up the structure. She believed it is an excellent designed site plan. As long as

adequate screening is maintained it will compliment Glenwood. Also, the site plan shows two yoga studios and wanted one studio called out as workforce housing instead of a yoga studio. In regard to the Street Tree Committee, it includes the use of street trees on the 25-foot setback and the Project Manager is willing to work with the Street Tree Committee. She had no objection to the solid gate because with street trees the gate will not be noticed.

Mayor Pro Tempore Cahill felt the design is stunning, absolutely beautiful. The design takes advantage of the unique site. He liked it, but is struggling with the height limit. He agreed there is no property like this in Ross. It is a special site. They have a rule in Town that they require all to follow and where the grade should be measured is correct as discussed by staff. They may want to look at how the design could be modified to alleviate the height issue. He agreed with the solid gate since it is setback 25 feet and the existing gate is solid. Location of the sport court seems acceptable on a balance. Given the trees and the fact that this is actually 80 feet away from the neighbor's house, the sport court location is acceptable. Construction timeline is an issue. The problem is that they have an ordinance that limits construction to 18 months and is uncomfortable violating that ordinance. They must reduce the amount of disturbance to neighbors and asked that the applicant reduce the timeframe down to 18 months. He believed they did a fabulous job and applauded how carefully they worked with the neighbors, which is a great model to follow for future projects.

Council Member Strauss liked the location for the house and felt utilizing the existing pad is great. Overall, the design is very appealing. Massing is a concern in regard to height. He hoped they could classify the basement as a basement, not a story to play with the interpretation. He is not in favor of a height variance or a solid gate. He wanted a letter on the historic aspect in regard to the Buck's residence, just to confirm that there is no historic aspect. In regard to bulk and mass, he liked the simple low house. He finds this addition to look just like an addition and wanted them to look at bulk and mass and simplify because it seems over complex from the street elevation. The addition appears tacked on in his view. He liked the general direction. He is concerned about the 100% over the guideline. The existing house is 16,000 sq ft. and if the basement issue can be worked out that would be great. He is concerned about construction timeframe as well.

Council Member Skall liked the design and landscape plan. He had no objection with the size or height of the house. This is a unique situation. He liked the solid gate. As long as all issues are worked out in regard to the construction management scheduled and traffic, he finds the project acceptable.

Mayor Hunter appreciated Project Manager Glen Sherman working very closely with staff, the Council and neighbors. He liked the design. There is no way that they can justify findings on a variance for height. As a Town Council, they cannot come up with findings to approve a height variance on a property that is so far over the suggested maximum height for the Town. In terms of the gate, they spent several years trying to get gates in Town to be 50% transparent and would not vote in favor of a solid gate. He agreed that the construction timeframe should be reduced to 18-months. He believed this is an extremely talented team and it is a very unique property and due to the last minute change they can only advise tonight.

The architect explained that if they moved the third story it would be within 30-feet. It is only due to the topography that it is over the height limit. Mayor Hunter pointed out that findings cannot be made for a height variance on a property of this size.

Mayor Hunter asked for a motion.

Mayor Pro Tempore Cahill moved and Council Member Skall seconded, to continue the application to a date to be determined. Motion carried unanimously.

25. Correspondence - None
26. Other Business- None
27. Open time for matters pertaining to the closed session in agenda item 28.
28. Council will adjourn to closed session for the following: Labor Relations — Government Code Section 54957.6 related to negotiations between the Town of Ross (Gary Broad, Town Manager as Town Representatives) and the Ross Police Officers Association (RPOA).
29. OPEN SESSION. Council will return to open session and announce action taken, if any.

Mayor Hunter announced that the Town Council had unanimously voted to approve the tentative Memorandum of Understanding (MOU) terms between the Town and the Ross Police Officers Association for a new 3-year MOU beginning July 1, 2008. He congratulated Town Manager Broad for his excellent work in reaching a speedy resolution with the association.

30. Adjournment.

By order of Mayor Hunter, the meeting adjourned at 12:04 a.m.

R. Scot Hunter, Mayor

ATTEST:

Gary Broad, Town Manager