

## REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, JANUARY 14, 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.**

Mayor Strauss asked for a motion.

Mayor Strauss moved and Mayor Pro Tempore Hunter seconded, to approve the December 10, 2009 Town Council Minutes as amended. Motion carried unanimously.

**4. Demands.**

The demands were met.

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

**6. Report from Mayor Strauss.**

Mayor Strauss reported that a special meeting was held on Tuesday, January 12, 2010, and Council voted 3-2 to withdraw from MEA. While they all acknowledge the important and worthwhile goals of MCE, the majority of the Council felt the program was just too risky and the benefits too uncertain for the Town to proceed at this time. The other MEA members will be moving forward to execute a contract with an energy provider. While the Town wishes them luck, the Town has confidence that they have taken the more fiscally conservative and prudent path. As Mayor Pro Tempore Hunter noted on Tuesday night, there may be another opportunity to join MCE a few years from now when the risks are better understood and MEA has a proven financial track record. He then thanked all of the residents who provided such thoughtful written comments and public testimony during this long process. He has been extremely impressed by the effort Ross residents have put into researching and understanding this very complex subject. He also wanted to thank Council Member Martin for the many hours he has spent representing the Town on the MEA Board over the past year. Both Council Member Martin and Council Member Cahill spoke eloquently on the need for Ross to reduce GHG emissions, and while they did not all agree that MEA was the best way to accomplish this, they are all very much committed to this goal.

Mayor Strauss noted that the Town asked David Parisi, a traffic engineer and SR2S representative, to review and make a recommendation on installation of a ramp or stairs on Shady Lane across from its intersection with Ames Avenue. The analysis will include ADA access.

Also, the Flood Mitigation League of Ross Valley is hosting a public meeting on January 21 at 7:30 p.m. at San Anselm's School in San Anselmo. Jack Curley will be providing an update

on flood mitigation strategies the County is evaluating with Stetson Engineers, including water detention basins upstream and within Ross. The consultants are exploring Phoenix Lake as a detention basin, including pumping water up to the lake. This could require the lake to be raised and/or sediment removed. Residents are encouraged to be prepared as potentially heavy winter storms are forecast over the next ten days. Sand bags are available at the entrance to Natalie Coffin Greene Park.

Mayor Strauss announced that the next election to fill two four-year Council seats would be held on Tuesday, June 8, 2010. The terms of Council members Bill Cahill and Michael Skall will end at that time. This is an opportunity for anyone interested in local politics to throw their hat into the ring. Those interested in running for a Council seat must be a registered voter and a resident of Ross. The filing period for Council candidates begins on February 16 and extends through March 12. If either Council members Cahill or Skall choose not to file for re-election, the date will be extended to March 17.

7. **Report from Committee Heads – No report.**

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

Wendy McPhee, RPOA representative, reported that a key is needed to exit the tennis court. RPOA is very concerned about the liability of individuals being trapped inside the courts, so they believe only locks to enter the courts should be used. Also, the kiosk used for RPOA information outside the Post Office has been damaged and is in need of repair and asked that the downtown plan consider repairing the kiosk. She then reminded everyone that RPOA is having its annual meeting Monday, February 8<sup>th</sup> at 7:15 p.m. and the public is welcome to attend.

9. **Flood Control Report.**

Council Member Martin reported that on January 21<sup>st</sup>, at 7:30 p.m. the Ross Valley Flood Mitigation League will have a meeting and Jack Curly will provide an update and presentation on the current planning occurring with Stetson Engineering and the County. Stetson Engineering is continuing its study of the Corte Madera Creek, which includes an analysis of possible water detention basins upstream from Ross, as well as within Ross. Phoenix Lake is currently being considered as a potential basin able to retain a considerable amount of stormwater, which could be diverted or pumped from Corte Madera Creek.

Recently the USGS installed a device in Ross Town limits that can monitor and determine the amount of sediment and the source of that sediment. For example, if it is sourced from upstream or from the Bay. Another device has been installed near the mouth of the creek to San Francisco Bay. Stetson Engineering and the Army Corps are interested in that data.

Lastly, there is a series of wet storms on the way to reach the area during the next 10 days. The US Weather Service has issued an alert with the County about possible flooding. The County has put its public works staff on notice and retained the Marin Conservation Corp to assist as necessary. Even though the Town's Public Works Director Robert Maccario is in route to sun struck Arizona, he has prepared Town staff and service crews to be on alert. Sand bags are available behind the firehouse.

10. **Employee Appreciation Program and presentation of awards to Town employees School Resource Officer Bob Besgrove, Building and Public Works Secretary Simone Jamotte and Public Works Director and Building Official Mel Jarjoura.**

The Council recognized three employees for their years of dedicated work to the Town. Receiving awards were: School Resource Officer Bob Besgrove for 15 years of service; Building and Public Works Secretary Simone Jamotte, 15 years; and Public Works Director and Building Official Mel Jarjoura, 10 years. Ross began its Employee Appreciation Program in 2007 to thank long-time employees and recognize those celebrating a 5-year employment anniversary with the Town. No employees have left Town employment since it began this recognition program.

11. **Consent Agenda.**

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

- a. **Town Council consideration of Resolution No. 1693 authorizing staff to execute right-of-way certifications for the Lagunitas Bridge Replacement project.**

Mayor Pro Tempore Hunter noted a correction to the Resolution in regard to the third paragraph, which should state, "*That the Director of Public Works is authorized to execute.*" The Council and staff agreed.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Council Member Skall seconded, to approve Consent Calendar Item "a" as submitted by staff including the minor modification to the Resolution. Motion carried unanimously.

- b. **Town Council consideration of adoption of Ordinance No. 617 adding Chapter 15.42 regulating outdoor wood-burning devices. The ordinance would prohibit burning in outdoor fireplaces on Spare the Air days, prohibit installation of outdoor fireplaces that are not gas or EPA certified, and ban burning garbage in outdoor fireplaces.**

Mayor Strauss asked for a motion.

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

- c. **Town Council consideration of Resolution No. 1691 approving the issuance of refunding bonds in connection with the Marin Emergency Radio System Project and approving the Restated Operating Agreement.**

Mayor Strauss asked for a motion.

Council Member Cahill moved and Council Member Skall seconded, to approve Consent Calendar Item "c" as submitted by staff. Motion carried unanimously.

**d. 7 North Road, Variance No. 1765**

Charles and Paige Meuse, 7 North Road, A.P. No. 73-171-53, R-1:B-10 (Single Family Residence, 10,000 sq. ft. minimum lot size), Medium Low Density (3-6 units per acre). Variances associated with an 81 square foot addition to the residence, within the roofline of the existing structure. A new deck and stairs are proposed within the front yard to provide access to the existing patio area (25 feet required, 20 feet proposed). The front yard patio area would be resurfaced with a stone finish and landscaped. The brick patio within the south side yard setback would be removed and replaced with a gravel walkway.

Lot area	14,960 sq. ft.	
Existing Floor Area	26.9%	
Proposed Floor Area	27.4%	(20% permitted)
Existing Lot Coverage	22.3%	
Proposed Lot Coverage	22.7%	(20% permitted)

Mayor Strauss asked for a motion.

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

**Conditions 7 North Road**

1. The plans submitted for the building permit shall reflect that all site drainage shall be dissipated on site.
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. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
4. This project shall comply with the following requirements of the Department of Public Safety: 1.) A street number must be posted {minimum four inches on contrasting background}; 2.) The property must be cleared of all dead or dying flammable materials; and 3.) A local alarm system is required.
5. Any portable toilets shall be placed off of the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
6. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice.
7. No changes from the approved plans shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
8. Failure to secure required building permits and/or begin construction by January 14, 2011, will cause the approval to lapse without further notice.

9. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
10. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
11. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

End of Consent agenda.

12. **Town Council discussion of a potential traffic reconfiguration at the intersection of Shady Lane and Locust Avenue. The Council will consider two options: a) installation of one stop sign at Locust Avenue; and b) in addition to item a, installation of two stop signs on Shady Lane at the Locust intersection.**

Public Safety Director Mel Jarjoura summarized the staff report and recommended that the Council discuss a potential traffic reconfiguration at the intersection of Shady Lane and Locust Avenue. The Council will consider two options: a) installation of one stop sign at Locust Avenue; and b) in addition to item a, installation of two stop signs on Shady Lane at the Locust intersection.

Police Chief Jim Reis noted that Locust Street Bridge offers terrible visibility. Some residents desired stop signs to assist slowing down the traffic along Shady Lane. There may be a certain amount of public concern as far as the noise related to stopping and accelerating away from the stop signs. Locust Avenue would have a small impact as far as noise, but would improve safety to the few residents that live on Locust Avenue. The other two additional stop signs might be more problematic, if the concern relates to noise. It is valid to have the Council consider both options either the Locust stop sign or the additional two stop signs in conjunction with the Locust stop sign.

Public Works Director Mel Jarjoura noted that all residents of Shady Lane received a notice in regard to this matter. In terms of ADA aspects, Police Chief Reis noted that it could be considered, but the bridge is substandard since it is a very narrow crossing. Staff further noted that there would be improvements on both ends. Public Works Director Jarjoura stated that it is an existing hardship to the bridge and a burden on the Town to provide a State acceptable pathway. Staff further noted that the ramp would be ADA compliant on both sides of the bridge.

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Mayor Strauss believed a stop sign implies a crossing across Shady Lane and asked the Town Attorney to study the issue.

Mayor Pro Tempore Hunter asked staff if accidents occur often in this area. Police Chief Reis responded that statistically not many accidents occur in this area or in close proximity other than the one that occurred last year. Most of the time with accidents someone is violating the law. Mayor Pro Tempore Hunter often sees people going out of lane to pass bicyclist. Police Chief Reis noted that people tend to drive on the wrong side of the road to pass bicyclist. As far as the crosswalk, in the interest of public safety, everyone should be discouraged to cross in an area unsafe to pedestrians and encouraged all to stay on the path.

Mayor Strauss opened the public hearing on this item.

Ash Wood, Shady Lane resident, noted that his wife was hit head on last year by a vehicle that crossed over the yellow line traveling at excessive speeds. He encouraged the Council to install stop signs. He is concerned for his family and others safety while traveling down Shady Lane. He also appreciated Police Chief Reis and Town Manager Broad for all their efforts.

Edgar Angelone, Shady Lane resident, supported a stop sign as well. He has three children and it is very difficult to leave his home. Shady Lane is being used as a bypass to Sir Francis Drake. He appreciated the Police Department controlling the traffic along Shady Lane. He then invited the Council to visit the area during peak periods to understand the dangerous condition along that road. He further noted his support for the stop sign.

Juliette Wood, Shady Lane resident, noted that she was in the terrible accident last year and encouraged the Council to consider installing stop signs. She has been spit at, yelled at and had cups thrown at her from bicyclist. All this has occurred in the last 18 months and desired a stop sign on Shady Lane. She preferred speed bumps, but will settle for stop signs in order to slow traffic down.

There being further public testimony on this item, the Mayor closed the public portion and brought the matter back to the Council for discussion.

Council Member Martin noted that part of the discussion was ADA treatment and when the ramp is extended it is very close to Shady Lane as approaching the bridge. It is about two or three feet away from vehicles traveling at excessive speeds. Several residents have expressed concern. Part of these improvements include a curb that will go along the approach. It will be a built up curb to create definition between the roadway and Shady lane. Traffic must be slowed down around that bend or people will be exposed to unsafe conditions. He was present the day Mrs. Wood was hit and noticed how carefully she pulled out of her driveway when a vehicle came out of nowhere, sideswiped Mrs. Wood and all four wheels blew out and skidded toward him and his dog. Also, there was a motorcycle accident in that area as well. He agreed that accidents are not constant, but it is a vulnerable area. It is very difficult to navigate that bridge. He further noted that it is not designed for two lanes of traffic.

The Council agreed to have a traffic engineer study the situation and determine whether the Shady Lane stop signs are warranted.

13. Town Council consideration of introduction 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.

Police Chief Jim Reis summarized the staff report and recommended that the Council consider introduction 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. Police Chief Reis believed the prohibition would ensure safe passage of automobiles by limiting parking to one side of the street.

Council Member Martin asked staff if there is adequate area on the south side to accommodate parking. Police Chief Reis responded that there is not much area. The hedge must be cut back to accommodate parking and allow more room for students to walk along the road safely.

Mayor Strauss opened the public hearing on this item.

Woody Price, Head of Branson School, explained that big school events were primarily responsible for the overflow parking and offered to work with the Town to find solutions to accommodate the school's parking needs. He also submitted a letter with ten options about what could be done to address this situation from easy and inexpensive to elaborate plans. They further hoped to resolve the problem.

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 noted his support. Council Member Cahill noted that the Public Works Committee discussed this matter and they are in favor as well.

Mayor Strauss asked for a motion.

Council Member Martin moved and Council Member Cahill seconded, to waive the first reading and introduce 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. Motion carried unanimously.

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

Town Manager Gary Broad announced that the Council is also seeking a Town representative to serve on the Marin/Sonoma Mosquito & Vector Control District Board of Trustees. The District maintains a small, highly trained staff responsible for the control of mosquitoes and other carriers of infectious diseases. The agency is governed by a board of trustees comprised of one representative from each of the twenty cities located within the District's service area, and four selected by the County Board of Supervisors. Those interested should contact the Town Manager at: [gbroad@townofross.org](mailto:gbroad@townofross.org).

15. Town Council consideration of Resolution No. 1692 granting Marin Sanitary Service a 3.18% rate increase for 2010, effective January 1, 2010.

Town Manager Gary Broad summarized the staff report and recommended that the Council consider Resolution No. 1692, granting Marin Sanitary Service a 3.18% rate increase for 2010, effective January 1, 2010.

Council Member Cahill noted that in the report the application was for a 2.91% increase that was increased to 3.18%, which is not a big difference, but desired an explanation in regard to a consultant increasing the rate. Town Manager Broad believed they go through an economic analysis assuming a 2.91% increase, and next years assessment would be offset in their numbers. They are providing the number based on their independent methodology. This was a big adjustment for the gasoline and that has been an item in the last few years in regard to making assumptions on the gas prices. Staff further agreed it is an unusual circumstance.

Patty Garbarino, President Marin Sanitary Service, explained that although Marin Sanitary's operating costs have declined, the franchisors' consultant recommended the rate increase to offset declining revenues due to customer downsizing and closure of accounts. She added that volume was down 25% because of the poor economy. They take a conservative approach. The dialogue was over speculation on where diesel fuel cost would be and those have been somewhat volatile. In terms of the rate application in September, they take a six-month projection, and it is difficult to determine where that would be in terms of fuel. They discussed the idea of a progressive rate. She suggested that Marin Sanitary come back to the Council in the summer to provide a presentation on how the trial went. They will start with the unincorporated area of Marin County and see how that works. In an area with low participation and low recycling, progressive rate may be a good idea, but high recycling rates may not see much effect and that is the need for a trail and report. 45% of the service area is at the 64-gallon rate and 101 are at the 96-gallon rate out of 850 customers. Several customers would not be happy if 3.18% was applied across the board. They are starting a residential food waste compost program starting in Upper Ross Valley on March 1<sup>st</sup>; San Anselmo on April 1<sup>st</sup>; and San Venetia on May 1<sup>st</sup>. They will educate their customer base to include food waste in their green waste.

Mayor Pro Tempore Hunter inquired about weekly green can pick up. Ms. Garbarino suggested rental of a second green can for a small additional monthly fee as a more environmentally sensitive approach. She also noted the refuse collector is planning to introduce food waste recycling in Ross by the end of the year.

Council Member Martin asked how many customers in Ross uses the senior rate. Ms. Garbarino responded that there are currently three. Seniors 65-years old and over are encouraged to take advantage of senior rates for the 32-gallon can. She further noted that the discount is currently 22%.

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 Town Council agreed to grant Marin Sanitary Service a rate increase of 3.18% effective January 1, 2010. Rates will increase \$0.75 per month for a 32-gallon can and \$1.50 for a 64-gallon can.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, to approve Resolution No. 1692, granting Marin Sanitary Service a 3.18% rate increase for 2010, effective January 1, 2010. Motion carried unanimously.

16. Town Council announcement of Advisory Design Review Group openings and consideration of Resolution No. 1694 establishing staggered terms for the ADR Group. A Fair Political Practices Commission determination that ADR Group members are not subject to the disclosure and disqualification requirements of the Political Reform Act will be discussed.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council consider Resolution No. 1694, establishing staggered terms for the ADR Group. Staff reported that the Fair Political Practices Commission determined that ADR Group members are not subject to the disclosure and disqualification requirements of the Political Reform Act. Staff further noted that there are openings for five members and four alternate positions that are set to expire in February 2010. Two applications from current members have been received.

Council Member Martin discussed Form 700 and asked staff who in Town fills those out other than Council Members. Town Manager Broad noted that department heads complete the form and he agreed to provide the Council a list in that regard.

Council Member Martin discussed disclosures that did not require Form 700, which is revealing, and he did not think that the Town should impose the form on the ADR Group. There are other policies that delineate conflict of interest versus disclosure to set reasonable standards for disclosure. He desired good government and transparency and encouraged reviewing standards of disclosures for the ADR Group. He then submitted a few examples for staff to review. He further believed it would be clear if the Council developed standards. Senior Planner Semonian agreed to make modifications and come back next month for the Council to approve the Resolution.

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 Martin provided information about disclosure versus conflict of interest to the Town Attorney that is fairly straightforward, rather than filling out Form 700 for review. Town Attorney Hadden Roth agreed to review the information.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Cahill seconded, to continue this matter to the February Town Council meeting. Motion carried unanimously.

17. 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**

Mayor Strauss unveiled for Council a preliminary downtown design plan. The plan shows a narrowed roadway that accommodates new street trees in front of the Post Office parking lot and downtown shops, as well as redesigned parking spaces and sidewalks. A bio-swale will be incorporated into the design to improve drainage.

Mayor Pro Tempore Hunter believed the arch of Ross Common having trees all the way down along with a wider sidewalk would make a major difference. He further noted that streetlights will be installed as well, so he felt it is a great plan.

Town Manager Broad stated that it is not feasible to pick up the floodwaters upstream and completely divert downtown. Council Member Martin wanted to see justification to spend the funds without improving flooding. Water currently travels down Poplar Avenue. If that can be diverted back toward the creek this would be a win/win situation. Mayor Strauss believed a certain amount could be diverted. They are trying to create less runoff and filtering the water before it enters the creek. Town Manager Broad pointed out that the limitation is the amount of water that travels through the area. The change that must occur in grade would be enormous to divert large amounts of water. Council Member Martin suggested that since Stetson Engineering is looking at creative approaches, they are interested in this bio-swale along the creek near Allen Park. That area can work as a significant detention pond if they began diverting water from this street into that corridor. Mayor Strauss wanted to allow John Moe an opportunity to review and then forward to Stetson Engineering for comment.

Council Member Cahill asked staff how this affects the Farmer's Market. Town Manager Broad indicated that the Farmer's Market would be relocated to the Marin Art & Garden Center. Staff is working through the logistics. Staff further noted that they have \$300,000 total in the budget and staff agreed to ask John Moe for an estimate.

In terms of Phase 2, Mayor Strauss agreed to have a meeting with Public Works to discuss the interface.

**b. Public facilities**

Council Member Cahill reported that the Town has contracted with Architect Kathy Strauss and Mack 5 for pro bono services to develop initial schemes, budgeting and scheduling for public facilities improvements. Next steps are to interview department heads to ascertain existing and future needs. Schemes will consider remodeling and new facility alternatives. Preliminary pricing and scheduling will be prepared for each and then brought before Council in the next several months.

**c. Flood control**

Council Member Martin stated that last month, this Council passed a resolution urging officials to expedite the implementation and completion of the project work related to Unit 4. This project is long overdue and is a vital link to reducing the risk of flooding in Ross Valley. Congressional leaders request that the Ross Valley present consensus support for completion of the Army Corps project. Supervisor Hal Brown will present the resolution to the County Board of Supervisors for adoption as the County's position, including its public works and flood control agencies. He also provided the resolution to the Mayors of San

Anselmo and Fairfax, who are expected to bring it to their councils for adopting immediately. Likewise, the Flood Mitigation League has adopted it. He will ask the Friends of Corte Madera Creek, the Mayors of Larkspur and Corte Madera to also adopt the resolution.

Council Member Martin recently spoke with two members of the Army Corps staff who provided an update on the work. The Corps recently received NEPA and CEQA bids that were higher than expected. The environmental reports will take just over one year. An engineering study without a project (*the baseline conditions*) will be concluded at the beginning of 2011. The engineering study with alternative approaches should be concluded in the Summer of 2012. This will identify the preferred alternative. After that plans, specs and awarding the project is guesstimated to take nine months.

**d. Hillside lot ordinance review**

Council Member Skall held a second public meeting on January 7th and was impressed that while they had a small group, it was a good spectrum of different individuals that have current properties developed and vacant lots. After discussion, they concluded that some initial changes must be made to the current ordinance and they want to direct staff to begin flushing out language in that regard as well as schedule subsequent meetings to move forward. The hope is to bring this back to the Council in April and have it adopted by June. He is looking for direction from Council as to whether or not that makes sense. The Council had no objection. Mayor Strauss asked that a minimum house size for lots be reviewed as well. Council Member Skall hopes to flush that matter out during their meetings. Town Manager Broad noted that those in attendance did not respond enthusiastically to the idea of a minimum house size. Staff noted a great discussion occurred around limiting deck size, so that will be reviewed. Council Member Cahill desired language to be added about minimum house size for a lot, so that discussion on that subject occurs at the next meeting in order to receive input.

**e. Unfunded mandates/pensions**

Mayor Pro Tempore Hunter stated that unfunded liabilities with CalPERS are \$1.7 million and believed they should look at paying down their liability. Staff was asked to prepare a staff report, and depending on timing, he wanted to bring it before the Finance Committee, but if not, he will bring to the Council in February.

*Town Attorney Hadden Roth excused himself from the Town Council meeting at 8:16 p.m. The Council took a short recess and then reconvened at 8:23 p.m.*

**18. 74 Wellington Avenue, After-the-Fact Tree Permit**

Keith and Bridget Mattos, 74 Wellington Avenue, A.P. No. 72-121-41. After-the-fact request to allow the topping of approximately 12 bay trees and Town Council consideration of any penalties.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council consider what penalty fees are warranted.

Council Member Martin desired an explanation from staff on the redwood trees that appear to have lollipop-ed. Senior Planner Semonian explained that only 25% of a tree canopy could be removed under their ordinance, which is about every fourth branch.

Keith Mattos, owner/applicant, noted that every year he receives the same letter and phone call from his insurance agency about removing trees. He ended up topping the trees and took about 10 ft off. He then clarified that this was the first time he topped the trees and that it was the previous owner who topped the trees before.

Council Member Cahill asked if there are plans to plant more vegetation on that hillside since the hillside is relatively bare. Mr. Mattos intends to plant on the hillside, just not at the moment. He then noted that Bay trees and redwood trees have been sprouting up in the last few months.

Council Member Martin asked if the tree company was aware of the standards or limitations. Mr. Mattos had four separate tree companies licensed and bonded bid on the project and none of the four companies ever mentioned that a permit was required.

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 cannot justify any penalties for this situation. The owner was unaware of the requirement. Insurance companies are requiring that the trees be cut, so in his view this does not justify a penalty.

Council Member Skall is curious if the Town has ever run into such situation of insurance companies requiring trees to be removed, otherwise homeowners will lose their insurance. Fire Chief Tom Vallee indicated he receives a dozen of these per year in regard to stopping coverage in terms of insurance. A good example is 100 Sir Francis Drake where oak trees were considered a fire hazard, so they were cleaned. Insurance companies in the last two or three years are using any excuse to change the landscaping by issuing letters or they will cancel insurance, if not removed. It is an ongoing matter, and fees are waived by the Town for cutting trees to reduce the fire hazard.

Council Member Martin wondered if they can get the word out about these notices to work with the Town to find a solution that can also guarantee the preservation of trees. They must be proactive. He further believed they must protect the trees.

Council Member Skall agreed to waive the penalty. Mayor Pro Tempore Hunter suggested at a minimum to at least recover staff and consultant time. The Council agreed.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Cahill seconded, to approve the After-the-Fact tree removal and to charge the applicant the cost of the application review, not the triple application fee, not-to-exceed \$600, for the Town Arborist and Senior Planner Semonian's time for the after-the-fact removal. Motion carried unanimously.

*Town Manager Broad agreed to follow-up with tree companies and include language in "The Morning After."*

**19. 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 setback area (10 feet required, 7 feet 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 front yard setback variance is requested in order to expand the residence towards the street (25 feet required, approximately 19 feet proposed). 94 cubic yards of cut and 47 cubic yards of fill are proposed.

Lot area	13,596 sq. ft.	
Existing Floor Area	17.7%	
Proposed Floor Area	22.8%	(20% permitted)
Existing Lot Coverage	12.0%	
Proposed Lot Coverage	14.0%	(20% permitted)

Senior Planner Elise Semonian summarized the staff report and recommended that the Council continue this matter to allow proper notice for the rear yard setback variance and discuss the variance and the second story deck.

James Procter, applicant, worked with staff and the primary concern is solving the existing water intrusion problem, which they agree to solve. Other issues are privacy related and they have no objection to planting foliage. The major issue is the deck that will lead to increased noise, and he is not sure how to solve that concern. He believed the issue with the garage could be solved. He then provided several material samples for the Council's consideration. They have not purchased the property. It is currently in escrow and there are real-time constraints. The mortgage on this property is long overdue and they have been able to hold the finance company off until the end of January. He further noted that he is not moving forward with funding without approval.

Mayor Strauss noted that the Council cannot consider those types of hardships; it is not about the individual, but the property. They must preserve the General Plan and design of the project. He further noted that the desire of the Council is to work together in order to move forward.

The Project Architect agreed to follow ADR guidelines. They looked at the concerns from the neighbors at 19 Wellington and there is a big distance between the sites. There are a number of oak trees. The garage extends about 15.5 ft. and looking up from 19 Wellington one only views the top portion of the garage. The property slopes down from Prospect toward Wellington. They looked from the existing window, which is the location of the future living room and a narrow area is seen. In those areas they propose to plant redwood trees to be topped in order to block the view. There are claims that those trees have sudden oak disease, but the arborist has not yet reviewed the trees. Regarding 23 Wellington, most of the structure faces southwest from their home and most windows face away from their property. There is one window in the upper deck looking down at that property and that

again is in the neighborhood of 50 to 60 ft. They will plant trees or hedges or build a new fence. In terms of FAR, there is an additional greenhouse on the site and that greenhouse is about 14 ft. by 18 or 20 ft. and they are removing that portion of the greenhouse and in-lieu building the new garage.

Mayor Pro Tempore Hunter expressed concern for FAR overage. Council Member Cahill stated that 20% permitted is 2719 sq. ft. and the proposal is 3100 sq. ft., so the question is how is the extra 400 sq. ft. justified over the allowed FAR. The Project General Contractor responded that there is a requirement for a one-car garage and they are adding a two-car garage as well as a break line for the neighbors. He further noted that the garage could be made smaller.

Mayor Strauss recommended that the Council provide the applicant some guidance and then continue the matter. The Council agreed.

Mayor Strauss opened the public hearing on this item.

Margret Deede, Real Estate Agent, stated that this is a distressed situation. The property is underwater and time is critical. It extremely difficult to receive the proper financing. The house is not livable. She further asked the Council to be as effective and efficient as possible to move this matter forward.

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 recommended that the architect consider and incorporate the ADR's comments into the plan.

#### **FAR**

Mayor Strauss is willing to go over the FAR to accommodate another garage space, but if it is only a one-car garage, then the applicant must remain within the allowable FAR. Council Member Cahill believed there is a benefit to the property owner to have a second garage space, so with circumstances as this in the past, the Council decided to give the homeowner an addition over the allowed FAR equal to about half of the size of the second space. A similar approach would be appropriate for the garage to give around 100 sq. ft. over the FAR. The Council agreed.

#### **Setbacks**

Mayor Strauss believed all setbacks should comply with zoning. Council Member Martin believed there is ample room on the property. The Council agreed. Council Member Cahill then suggested incorporating the house into the garage structure itself, which is less costly from a construction standpoint to utilize the space more efficiently. The Council agreed.

#### **Second Story Decks**

The Council noted that second story decks are discouraged in tight neighborhoods.

#### **Drainage**

Mayor Strauss stated that there should be no net increase and the runoff should be reduced. Council Member Cahill welcomed the applicant solving the problem as indicated during his presentation.

**Site Planning**

Mayor Strauss agreed the garage could be worked into the design better and strongly encouraged that the applicant incorporates ADR’s comments. Mayor Pro Tempore Hunter recommended that shingles combined with stone should be reconsidered. Mayor Strauss believed the entrance needs more consideration as well.

Ed Margolis, an owner, stated that the lot is 75 ft. deep and 195 ft. is frontage. The deck is located in the rear and with screening there is only one neighbor that would view that deck when there is any potential activity. Mayor Strauss recommended approaching the neighbor in order to receive their approval.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved Council Member Martin Skull seconded, to continue this matter to the next available date in order to provide the applicant an opportunity to consider the comments made tonight. If the applicant is ready to move forward in February, then this item should be placed on the Town Council February agenda. Motion carried unanimously.

- 20. **201 Lagunitas Road, Design Review and Demolition Permit No. 1766**  
 Kara and Josh Fisher, 201 Lagunitas Road, A.P. No. 73-221-07, R-1:B-A (Single Family Residence, 1 acre minimum lot size), Very Low Density (.1 - 1 units per acre).  
 Proposal for redevelopment of the site, which would involve an application for design review and demolition permit. The project includes demolition of the existing 2,196 square foot house and garage and construction of a new, two-story, 6,535 square foot residence and attached 3-car garage. The project also includes 265 linear feet of landscape retaining walls ranging from 0 to 1.5 feet tall, 133 linear feet of landscape retaining walls ranging from 1.5 to 4.25 feet tall, 440 cubic yards of cut and 440 cubic yards of fill, 18 x 40 foot pool, outdoor fireplace and kitchen area, and 6 foot tall driveway gate between stone columns (4 feet permitted). Approval of a tree removal permit would be required for the removal of 8 protected trees ranging from 9” to 19” in diameter.

Lot area	43,654 sq. ft.	
Existing Floor Area	5.0%	
Proposed Floor Area	15.0%	(15% permitted)
Existing Lot Coverage	3.7%	
Proposed Lot Coverage	15.0%	(15% permitted)

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

Council Member Cahill questioned if the cupola was above the height limit. Staff indicated that sometimes structures appear over the height limit because of where the height section is drawn. Peter Brockman, Architect, clarified that the cupola is under the height limit.

Mr. Brockman, presented drawings for the Council's consideration. They believe the project is an appropriate response to the site and are trying to keep the design traditional and timeless. They worked with the site to nestle the building onto the contours to keep it within the height limits. They are under the FAR and the lot coverage is under or at limit. They approached the neighbors in September to assure a nice project within the allowable limits. They went through the ADR process and ADR seemed generally pleased. There were a few comments on windows and their choice of stone at the base. They have addressed each ADR comment, which were very minor, but very good advice. They maintained as much as possible on the site, so the cut and fill is plus/minus zero. The driveway will be kept as is and all "park like" features of the lot will be maintained. The orientation of the house is toward the park. They tried to show respect to all neighbors. They took into account the site, the Town history, allowable limits and style and hoped this stands proud for the next two to three generations. They will have permeable surfaces. Water will dissipate onsite. They will maintain the current swale and keep it as natural as possible. The main issue at ADR was windows, so he presented a metal clad window sample for the Council's consideration as well as a metal clad wood window along with samples of the stone. They have not made a determination in regard to the windows as of yet and looked forward to hearing the Council's input.

Mayor Pro Tempore Hunter asked about the comments from ADR in regard to the garage cupola. Architect Brockman stated that visually it created a conflict with the cupola being centered. There was some discussion about removing the cupola, which could work, but the plan is to have an open hallway to receive natural ventilation and daylight into the hall. They could use skylights for natural light, but a cupola would allow light to come in through the side.

Architect Brockman then discussed the revised entry that is more generous. It is a pre-entry hall and they are thinking of stained glass windows. The landing was turned at the bottom as well. Mayor Strauss felt the landing is sandwiched against the house. Architect Brockman noted that there is a second landing as seen on the sketched piece. The window was modified to a trimmed out bay window with the same fenestration as the other window to identify the entry. Mayor Strauss desired more proportion to scale in regard to the entry.

Josh Fisher, owner, desired a comfortable house, not a massive entry to their home.

Mayor Strauss opened the public hearing on this item.

Theo Goldin, Lagunitas resident, did not object to this project, but wished he had more discussion with the architect and ADR. He received notice of the ADR meeting a few days before the meeting in regard to the project, but he was unable to attend due to an illness. His major concern is that the house has been designed with much of the bulk and mass very close to the property line they share. As described, his home is very close to that property line as built in the 1970s. Currently, there is a very light and open feeling. They have indirect light along with an open and airy feeling well designed by the previous owner, which creates a very open and natural feeling for both properties. The magnolia trees are not randomly

placed. It is a lovely grove of magnolia trees that he has enjoyed. When they received the elevation that faces his property, the current plan shows a very large and unbroken wall going straight to the ground to the maximum elevation. Instead of a nice filtered view through the trees, they will view a huge structure. This issue was raised when they first met the owner and no effort has been made to resolve the matter. He wanted to sit down with the Town Planner and their Architect Brockman to find a solution and make appropriate decisions. He further asked that the Council continue this matter in order to address his concerns.

Wendy McPhee, Ross resident, expressed concern for removing protected trees and moving the trees to another location is not protecting Ross's tree canopy.

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 is moved by the neighbors concern in regard to this design and felt a continuance is appropriate in order for Mr. Goldin to have an opportunity to express his concerns. He further expressed concern for driving into the property and viewing a garage, which is not good design in his view.

Council Member Skall stated that it is really important that all neighbors have an opportunity to discuss their concerns, so he agreed that a continuance is important.

Mr. Fisher called his neighbors equally. They all called back and sat down and discussed the matter. Mr. Goldin did not call back until months later. He met once and then paid for his architect to meet with the Mr. Goldin two additional times. The key part is that they had ample time to review the design. A discussion took place where Mr. Goldin's wife asked for a chunk of their lot since they have such a skinny lot and that is how the relationship started. He further noted that elevations were presented to Mr. Goldin in advance of the ADR meetings.

Architect Brockman reiterated that he met with Mr. Goldin, so he has seen the drawings and had several opportunities to provide input. They have not received any calls about issues until they received an email today. He also provided a sun and shade study at Mr. Goldin's request and the plans were shown at that time as well. He spent over two hours at the site with Mr. Goldin and did free sketches of a garage solution for the Goldin's. He also identified every tree to be removed. He walked through Mr. Goldin's kitchen pointing out the view to the subject property. Mr. Goldin asked again for a piece of property to exit out Lagunitas. He has shown Mr. Goldin the plans on several occasions. He then provided a parcel map along with a site survey for the Council's consideration.

Mayor Strauss asked Mr. Goldin if he met with the architect on Sunday. Mr. Goldin responded in the affirmative.

Council Member Martin did not want the proceedings to become like "Judge Judy". He just wanted to consider the plans presented tonight. He liked the design because it takes into account the property, the drainage issues, and it is a sensitive design. The only drawback is the potential impact with Mr. Goldin, and he did not know how that could be satisfied without extensively redesigning the project. He is very satisfied with what is being

presented. Council Member Cahill concurred with Council Member Martin's comments. He also liked the design. He believed it is a mistake to come in at the 11<sup>th</sup> hour with comments to the Council. He received the email from Mr. Goldin when he walked into the meeting tonight and that is not a good way to review a project. He stated that if there are valid concerns then they should be addressed. The elevation on that side of the house has windows. It is not a flat wall. The only way to accommodate moving the house back farther is a significant redesign as indicated by Council Member Martin. He pointed out that the other end of the house is at the setback, so it cannot be pushed back. He also is sensitive to heritage trees, but these trees in question were planted by the former owner and they are only heritage in the sense of the Town's code, so they have flexibility to remove the trees, if there are benefits. He further noted that he favored the design as presented.

Mayor Strauss agreed with the previous comments from the Council Members Martin and Cahill. In general, he liked the design. He felt a few refinements could be made, since design is subjective. In terms of the copula, it may need to be removed. The north elevation feels sandwiched in and the projection as a gable end out of the master bedroom is not consistent. He could approve the scale of the overall house, but if simplified and the architect found a consistent element, it would improve the design. Also, rather than the one double car garage, he suggested three openings or reduce the stone to the lower portion of the windows in order to break up the line. He further noted that it is a good design and the elevation facing the neighbor was simple and the best elevation.

Council Member Skall takes comments from the public seriously and did not appreciate being told there was no contact, when there indeed was contact, so for that he also favored the project as submitted.

Mayor Pro Tempore Hunter preferred not to drive into the property and view three garage doors, but that is his preference. He also agreed with the previous comments from the Council and noted support for the project.

Mayor Strauss asked for a motion.

**Council Member Cahill moved and Council Member Skall seconded, to approve the application at 201 Lagunitas Road as submitted along with the findings and conditions outlined in the staff report. Motion carried unanimously.**

#### **Conditions 201 Lagunitas 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 January 14, 2010, dated 12/28/09.
2. Grading is prohibited between October 15 and April 15.
3. The pool equipment and any other exterior mechanical equipment shall be placed in a sound proof enclosure, insulated, and/or vented so that its operation is not heard from adjacent sites.
4. This project shall comply with the following requirements to the satisfaction of the Department of Public Safety:
  - a. A street number shall 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. The Roadway shall have a vertical clearance of 14 feet and the applicants shall work with Public Safety to provide an adequate turn around area.
  - f. A 24 hour monitored alarm system is required.
5. 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.
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. Prior to issuance of the building permit, the applicants shall submit written evidence that the arborist has review the construction level drawings (including foundation

- plans, any proposed trenching for utilities, landscape plan, etc.) to prepare the tree protection plan. The applicants shall comply with the recommendations of the project arborist, including the recommendations in the December 23, 2009, report by James Lascot, WCISA Certified Arborist, and any amendments to the recommendations made after review of the construction level drawings. The applicant shall provide staff with a letter or report from the arborist after the pre construction inspection that confirms all tree protection measures are in place. The applicants shall retain an arborist to periodically inspect the site during construction to ensure that that all tree protection measures remain in place.
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 approved landscape plan prior to project final.
  11. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded. No up lighting is approved.
  12. The applicants shall comply with all requirements of the Marin Municipal Water District and Ross Valley Sanitary District.
  13. 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.
  14. 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.
  15. 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.
  16. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
  17. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
  18. 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.
  19. Failure to secure required building permits and/or begin construction by January 14, 2011 will cause the approval to lapse without further notice.

20. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.
21. **51 Wellington Avenue, Variance, Design Review and Demolition Permit No. 1685** Craig and Melissa Slayen, 51 Wellington Avenue, A.P. No. 72-071-15, R-1:B-10 (Single Family Residence, 10,000 Sq. Ft. Minimum Lot Size), Medium Low Density (3-6 Units/Acre). The applicants request approval of a demolition permit, variances and design review to allow the total demolition of the existing 3,333 square foot residence and carport and for construction of a new residence and attached, two-car, garage within the front yard setback (25 feet required, 20 feet proposed) and rear yard setback (40 feet required, 12.5 feet proposed). A total of 3,595 square feet of floor area is proposed. The project involves landscape improvements including 1.) grading involving 85 cubic yards of cut and 135 cubic yards of fill, 2.) construction of a fenced trash enclosure, 3.) 180 linear feet of new retaining walls up to 5 feet in height; and 4.) new terrace within the front yard setback (25 feet required, 20 feet proposed) and rear yard setback (40 feet required, 10 feet proposed).

The project is similar in design to the project approved by the Town Council in June 2009. However, the roof design has been modified, the maximum ridge height is now 29' 10.5" (30 feet permitted), and the exterior would be finished with stucco.

Lot area	11,275 square feet	
Existing Floor Area Ratio	29.6%	
Proposed Floor Area Ratio	31.9%	(20% permitted)
Existing Lot Coverage	26.6%	
Proposed Lot Coverage	25.0%	(20% permitted)

*The existing residence is nonconforming in setbacks.*

Senior Planner Elise Semonian summarized the staff report and indicated that if the design and materials are found to be acceptable by the Council, staff would recommend approval of the proposal to demolish the existing residence and to construct a new home subject to the findings and conditions

Mayor Pro Tempore Hunter felt the new facade seemed similar to the house across the street. Craig Slayen, owner/applicant, noted that several features would be different including roof material, colors and details throughout the house.

Council Member Martin liked the design last year and asked the reason for the modification. Mr. Slayen stated the original change came from raising the roof over the new extension of

the living room and dining room. The old design had lack of symmetry, which bothered him in regards to the classic architectural style. In regard to curb appeal, the new design seemed to be a better design. After looking at several shingled homes, stucco homes seemed to weather better.

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 found the roof far superior and believed it is a very handsome house. Mayor Strauss agreed it is a very attractive home and it fits the neighborhood.

Mayor Strauss asked for a motion.

**Council Member Cahill moved and Council Member Martin seconded, to approve the application at 51 Wellington Avenue along with the findings and conditions outlined in the staff report. Motion carried unanimously.**

#### Conditions of Approval for 51 Wellington

These conditions shall be reproduced on the plans submitted for a building permit:

1. The project shall substantially comply with the plans approved by the Town Council on January 14, 2010, except as otherwise provided below.
2. The building permit plans shall reflect the construction of a new residence. Plans for the mechanical and crawl space areas shall be reviewed and approved by the planning department to ensure that no new floor area is created. Only a single light fixture and outlets and plumbing dedicated to mechanical equipment are permitted in crawl space areas.
3. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN PLANNER APPROVAL. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval prior to the issuance of any building permits or prior to any modification.
4. The new fireplaces shall be gas or EPA certified woodstoves that are Phase II certified or equivalent.
5. A Revocable Encroachment Permit is required from the Public Works Department for all work within the right-of-way.
6. The landscaping shown on the approved plans shall be installed prior to project final.
7. The tree house within the west side setback shall be removed.
8. Automatic garage door openers shall be installed. The garage shall be available for automobile storage at all times. No more than two electrical outlets shall be permitted in the garage and the area shall not be heated or air-conditioned.
9. This project shall comply with the following requirements of the Department of Public Safety: 1.) A street number must be posted {minimum four inches on contrasting background}; 2.) A 24 hour monitored alarm system is required; 3.) Sprinklers are required; and 4.) Remove and clear all dead or dying flammable materials per RMC Chapter 12.12.
10. 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).
11. Any portable toilets shall be placed off of the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
  12. 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.
  13. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY JANUARY 10, 2011, WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
  14. 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.
  15. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
  16. 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.
  17. 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. Correspondence – Working Tree Committee  
Town Manager Broad noted that it would be discussed at Public Works.

**January 14, 2010 Minutes**

Council Member Martin noted that Larkspur passed a findings report and accepted the environment impact statement and passed an ordinance amending Corbet's Hardware. He added that there are limitations on the hours of operation, but it was a 4-1 vote by the Larkspur City Council to approve.

**23. Other Business - None**

**24. Adjournment.**

By order of Mayor Strauss, the meeting adjourned at 10:08 p.m.

\_\_\_\_\_  
Richard Strauss, Mayor

ATTEST:

\_\_\_\_\_  
Gary Broad, Town Manager