

SPECIAL MEETING of the ROSS TOWN COUNCIL THURSDAY, JANUARY 18, 2007

1. 6:03 P.M. Commencement

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

2. Posting of Agenda

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

3. Draft Subsequent Environmental Impact Report (DSEIR)

Public hearing to present and take comments on the completed Draft Subsequent Environmental Impact Report (DSEIR) for a proposed 3-lot land division on Upper Road (Assessor's Parcel No. 73-011-25), owned by Skip and Brenda Berg, located between 7 and 25 Upper Road. The 35.97-acre parcel is proposed to be divided into residential lots of 10.11 acres, 11.62 acres and 14.01 acres. Access to the development would be from Upper Road. The DSEIR is focused on areas of concern identified in the initial study environmental review of the project, and identifies significant environmental effects related to aesthetics, biological resources, geology, land use, noise and traffic safety.

Gary Broad, Town Manager, explained that that the purpose of tonight's special hearing is for the public and Council to provide comments and ask questions on the DSEIR that staff had prepared for the Upper Road land subdivision. Written responses to these comments and questions will be addressed by Consultant Doug Donaldson in the Final SEIR. The point of tonight's meeting is for Council to hear questions and comments on the adequacy of the Draft SEIR. The review period extends through January 31st, so the public as well as Council, has additional opportunity to provide written comments. Then Mr. Donaldson will prepare a written response and a follow up meeting will be scheduled several months out at which time the Council will consider certifying the Final SEIR. After taking action on the EIR, the Council would then consider the merits of the three-lot land division itself.

Staff provided the Council with a recommended chronology for the meeting tonight that recommends that first the project applicant give a brief description of the project to Council and public, followed by a summary of the key findings of the DSEIR by consultant Donaldson. Then the public should be allowed to provide comments and questions on the DSEIR, and allow for any comments or questions of the applicant as well as Council. Staff pointed out that this is not a common process for Ross to hold hearings on a DEIR, so if Council has any questions in regard to the process to feel free to ask staff or the consultant.

J.T. Wick, representing Berg family, indicated that tonight is an opportunity for them to listen to comments and questions from the public and Council. He explained that the property is located on southern hillside of Ross and is about 36 acres. Northwest are single-family estates. To the south are acres of open space and to the west is Natalie Coffin Greene Park. It is a moderately sloped property with some level spots and some areas that exceed the 50% slope closer to the park. It is a heavily wooded oak woodland property. There are two swales that drain the property known as "Frog Creek" and "Swan Creek" named by the Berg children. Site access is from Upper Road.

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In addition to slope, oak woodlands and drainage that was must be respected; they also have the Ridge and Upland Greenbelt zone, which is depicted in the draft document and on their architectural drawings. Their interpretation, which they took from the previous EIR, is that all three home sites would be below that zone. Also, they must consider geotechnical constraints. Most of the hills in Ross Valley vary in levels of stability in regard to hillside properties. He then provided an exhibit depicting areas of landslide and areas of instability and explained that they tried to locate the homes out of both areas or out of the landslide area, but Parcel 3 requires additional attention in the area of instability. The great opportunity is to come up with three home sites that respect the community character, and substantial setbacks in relationship to themselves and neighboring properties.

Another benefit of the project is fire safety. There is a tank on the Mudd subdivision property that provides service for the area. They propose, as part of their project, to complete the Water District's Master Plan for water service and water storage by building a 60,000 gallon steel tank with an access road that will also be the main road for this project. There would be direct access that is paved directly up to the top of the southern ridge of Town. That road is an excellent fire break in addition to being a road due to its positioning. In addition to access, firebreak and storage, they also have a series of fire hydrants, six placed around the home sites and on the edge. This will allow the Town to take advantage of not just the 60,000 gallon tank, but also the Oak View tank and the new tank as well as the Sky Ranch tank, so cumulative service of all of those tanks will be available because it would hook up to the MMWD water system. The challenges faced with road design are the steepness of property and an elevation of 540 feet, which is required by MMWD. The previous project had a maximum slope of 25% and staff asked them to look at a 20% slope. They would achieve that at the entrance way and the average slope of the entire drive is 15%. That extra 5% generates a significant amount of cut compared to the old project design. To minimize construction traffic they looked at balancing that grading onsite. In regard to geotechnical constraints, the slopes are much steeper than 2:1 and in some instances 1:1, so they tried to minimize the effect on vegetation and tree removal and to keep them out of any geologically sensitive areas. In doing so, they balanced grading onsite. Another major feature shown is the tree replacement. They propose to replace trees lost with 800 new trees. Due to the sudden oak death, they ask not to be required to plant the exact same specie and desired flexibility of using other native trees such as redwoods or furs in order for the trees to thrive.

Doug Donaldson, the preparer of the DSEIR, stated that the purpose of the EIR is to evaluate and provide information to the Town's decision-makers about potential environmental effects or the project. The EIR focuses specifically on the application submitted to the Town. He noted that all drawings presented tonight are included in the DSEIR plus additional drawings. He explained that the DSEIR addresses the projects planning and zoning considerations, nine areas of potential environmental impacts and four project alternatives.

The DSEIR looked at the following:

Aesthetics – The EIR looks at the visibility of the subdivision from public viewpoints in the area. Three were selected for simulation and are found on page 52-58. He used a view from Baywood Avenue, across Ross valley, a view from Goodhill Road, relatively close to and above the site, and a view from Jordan Road in San Anselmo, over two miles away. The homes shown on the simulations are hypothetical and the only landscaping shown is the landscaping along the roads. This is because the homes and their landscaping are not a part of this application, which is for the subdivisions, grading, roads and utilities only. The

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section also addresses visual impacts on adjoining parcels and impacts from light and glare. Mitigation is proposed, but he concluded that the impacts from the tree removal and grading will not be fully mitigated and that visual impacts from Goodhill Road perspective will be significant.

Air Quality – All the impacts will be from construction, especially the potential for dust during the grading phase. A rigorous mitigation plan is proposed to control the impacts.

Biology – This section looks at potential impacts on special status species, wildlife habitat, wetlands, and loss of trees. Mitigation measures are proposed, and all but one impact can be reduced to a less-than-significant level. He concluded that the loss of the trees and woodland habitat would be a significant impact.

Geology – This section is the most difficult and complex of the EIR and results in three impacts that are classified as significant and unavoidable including future slope instability, landsliding and slope instability impacts related to Parcels 1 and 3, and landsliding and slope instability impact related to access roads. In these areas, mitigation is proposed that would include additional slope stability investigation, additional quantitative slope stability analysis and technical peer review. He believes that this work could force significant changes in the project design and that the geologic impacts of this project, as currently proposed, would not be reduced to a less-than-significant level.

Hazards and Hazardous Materials – The significant issue is wildland fires, as the site is in a high fire hazard area. The proposed project would add water storage, five fire hydrants and an access road where none exist today. This section of the EIR assesses these benefits together with the hazard factors developed by the NFPA, as shown in Table 10 on page 131. Eighteen mitigation measures are proposed and the hazard could be reduced to a moderate level avoiding significant impacts.

Mayor Pro Tempore Hunter joined the Town Council Special meeting at 6:27 pm.

Hydrology and Water Quality – The project would increase the impermeable area of the site by about 5.7%, resulting in an increase of almost 1 cfs in a 100-year storm. This would add less than 0.1% to the flow in Ross Creek. However, mitigation is proposed to avoid adding any additional storm water flows to Ross and Corte Madera Creeks because these creeks currently flood in large storms. Other issues requiring mitigation include potential effects on the existing drainage along Upper Road at the site entrance, and the potential of water quality impacts from the grading work. Also, a SWPP plan will be required by this EIR and by the State Regional Water Quality Control Board.

Land Use and Planning – This section addresses the type of intensity of land uses, conflicts with surrounding land uses and conflicts with the Ross General Plan and zoning. There are potential impacts related to the general plan and zoning conformance, and a land use impact on the adjacent shade-loving garden at 7 Upper Road, which would be affected by construction of the entrance road. Alternative mitigation is proposed, including an alternative road design submitted by the adjacent homeowner, but it would have a 24.5% gradient as compared to the 20% gradient for the project entrance road.

Noise – The existing site is very quiet and the addition of three homes to the site would not significantly change that. The construction noise impacts would be significant and

unavoidable during the estimated 5-month time span when site clearance, grading and road construction would occur.

Traffic and Transportation – the project would not have significant traffic impacts. The issue is accessibility and safety as they relate to road design. The Town does not have an adopted road design standards, so he used three reference standards to evaluate these issues – Marin County, AASHTO and CDFFP standards, which are shown on Table 16 on page 176. Issues addressed include:

- **Road width** – the 20-foot wide entrance road conforms, but the 12-foot common driveway meets only Marin County standard. He called for mitigation to add more turnouts.
- **Gradient** – All three standards are exceeded by the design of the entrance road at 20% for 355 feet, which is shown on Figure 7 on page 15. The common driveway for the entrance road also has pitches that exceed all three reference standards the individual driveways would be acceptable under Marin County standards, but only Parcel 1 driveway would meet all three standards.
- **Curve Radii** – The reference standard is 40 feet, but Ross needs 44 feet for its largest fire truck. The road around the water tank has a 45-foot radius, but the EIR identifies six other turns that are tighter than 40 feet.
- **Sight Distance** – Would be an issue for traffic headed downhill on Upper Road. Mitigation measures are proposed, but the impacts related to the steep gradient would not be eliminated and mitigation of the curve radii impact could force significant design changes to the project.

Planning and Zoning – As required, the EIR looks at “Relationship to Plans” these are not necessarily environmental impacts; they are evaluations of conformance or non-conformance. Ultimately, the interpretation of the Ross General Plan lies with the Town Council, not the EIR consultant.

Ross General Plan – The analysis found potential conflicts with eight general plan policies:

- **LU-5: Residential Site Design and Density.** This policy calls for mitigation of the significant environmental impacts of proposed construction. Since the project would have some significant unavoidable impacts, after mitigation, it may not conform with this general plan policy.
- **LU-7: Design Approach.** This policy calls for excellent design that is harmonious with the needs and features of each site. The project attempts to balance trade-offs between natural features and the need for safe streets and stable building sites. The analysis in the SEIR is for safe streets and stable building site. The analysis in the SEIR is to assist the decision makers in determining whether or not the subdivision is sensitive enough to the site’s topography, geology, biologic and hydrologic features while meeting appropriate access requirements and public safety concerns.
- **LU-8: Hillside and Ridgeline Views.** Policy calls for preservation of these views where possible. The aesthetics section addressed the visual impacts and provides input for interpreting whether this policy will be met.
- **NE-4: Creek and Drainage Setbacks.** Policy requires maximizing setbacks from creeks. All of the home sites would be 40 feet or more from the respective creeks. Mitigation measures to minimize impacts on these features are presented in the biology and hydrology sections.

- **NE-7: Preservation of Open Space.** Project would involve development activity on about eight acres of the 36-acre site; about 79% of the site would be undeveloped, private open space. This policy raises the need for a determination as to whether or not the principles establishing the Upland Ridge and Greenbelt line could be met with this subdivision design.
- **HS-1: Health and Safety/Geologic Hazards.** Policy indicates that new development shall only be approved if geologic hazards can be reduced to suitable levels by appropriate mitigation. A general plan determination as to whether the project achieves this will have to be made, if the project is to be approved.
- **HS-18: Emergency Vehicle Access.** Policy calls for adequate emergency vehicle access. A general plan determination as to whether the project achieves this will have to be made. Information to assist is provided in the Traffic section of the EIR.
- **Ross Zoning:** Parcel is zoned R-1:B 1-A. (single-family, special building site; 10 acre minimum) The site is also in the special hazard district and the Town's hillside lot regulations are applicable.

Consultant Donaldson found that the layout of Parcel 1 does not conform to the R-1:B 10A zoning because the parcel is too long and narrow. The height limit requirement of the zoning district would also be a constraint on Parcels 1 and 3, since the height is measured from existing grade, and the proposed residences would be located on top of fill, which would in some places be quite deep. The hillside lot regulations set slope/intensity guidelines and apply to a number of issues at this stage of development and to future homes planned for the respective building sites. Design review is required for grading operations and retaining walls.

Alternatives (Chapter VI on page 182) – This chapter summarizes the project configurations and alternatives addressed in the previous EIR, and evaluates the No Project Alternative and three alternatives to this project design as follows:

- *The No Project Alternative* would avoid the impacts of the subdivision or defer them to a future date.
- *The Reduced Grading Alternative* is based on a project iteration submitted to the Town in 2002. It would have about 7,000 cubic yards of cut and fill compared to almost 50,000 cubic yards for the proposed project. This would substantially reduce the land area disturbed, the number of trees cut, and the elevation of the highest pads, but the entrance road gradient would be 25% and the road gradients would also be steeper. As with the project, certain curve radii would also be tighter than permitted by the reference street design standards.
- *The Unit Clustered Alternative* calls for three units on the low ridge immediately above Upper Road. The remainder of the site would be dedicated open space. There would be no water tank and associated access road, reducing the impacts but also reducing the public benefits. It would require re-zoning of the site, but it could be designed to clearly conform with the Upland Ridge and Greenbelt boundary. This alternative would have fewer visual impacts and would involve less tree removal, less grading and fewer geological impacts. However, it would have greater potential for land use impacts on adjoining residential parcels. The traffic impacts and trade-offs would depend on the entrance road design. Under any alternative, the amount of grading and tree removal will increase if the road gradient decreases.
- *Single-Family Residence Alternative* assumes one residence would be built on the parcel. There would be no water tank and associated access road. It would be expected to

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have fewer visual impacts, less tree removal, and less grading than any alternative. The access road would be a private driveway, so it could be narrower and steeper. This alternative was identified as the environmentally superior alternative.

Consultant Donaldson concluded that this DSEIR finds that the proposed project would have 10 significant unavoidable environmental effects. Alternatives are available to reduce the number and magnitude of these impacts, but because of the site's steep topography, landslide prone geology, extensive tree cover, and narrow entrance corridor, no alternative with the potential to avoid all significant impacts was identified. He reiterated that the review period closes on January 31st. He will respond to questions, modify the DSEIR where appropriate and then that document will become the Final EIR to come back to Council for review and certification. The purpose is to make sure that Council has adequate information on the environmental effects to approve, disapprove or approve with conditions the application before them.

Mayor Strauss opened the public hearing on this item.

Stuart Ryan, Upper Road resident, supported the environmentally superior alternative of a single-family residence. He further noted that he would submit written comments prior to January 31st deadline.

Michael Moore, Shanley Lane resident, expressed concern for flooding, which is a problem that has not been solved and runoff is vital. She has been out of her house for 18 months and some of her neighbors have just moved back in. She believed timing of this application is not good for the Town Council because there are many problems with flooding that must be addressed.

Jonathan Braun, San Anselmo resident, stated that the consultant did a great job identifying the negative impacts. The document notes that this property abuts open space land, but the document is very minimal and provides a short amount of analysis in that regard. There are views of Mt. Tam, MMWD trails, a world-class park and open space areas used by thousands. He had the opportunity on several recent hikes to scope out view corridors and the EIR should look at the fire road, Crown Road and many others, so in his view more work is needed. Aspects of this project will impact views of public land. Efforts of construction involve removing 163 trees for the water tank and the access road. Grading between cut and fill will create a scar visible for many miles away. Visual impacts from the water tank will be seen even if it is a dark color. He expressed concern for placing the water tank in that area and recommended looking at alternatives of undergrounding at different location, possibly improving the existing system. In regard to mitigation to fire danger, this project introduces fire sources into the wildland by being in close proximity to thousands of areas of public open space such as machinery, barbeques and so forth. This will increase fire danger significantly. In regard to Table Mitigation S19, it is creating a new connector road across the face of the hill to connect with the proposed road system, and he questioned from an aesthetic standpoint due to further grading and more tree removal the necessity for that because that area will be highly visible.

Dan Dunn, representing the Marin Conservation League (MCL), pointed out that this is a highly constrained project site with several significant unavoidable impacts. It will be useful for the DSEIR to discuss the project in terms of urban wildlife management plans scheduled to be enacted by the beginning of next year, which will have a great impact on wildland fire

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danger that this project might present under those regulations. Also, they wanted to see the subdivision lines for the suggested alternatives to see how they will layout specifically on the property.

Liz Huntington, San Anselmo resident, encouraged Council and the consultant to pay close attention to growth inducing impacts on the rest of Bald Hill from the access road, water tank and utilities. She expressed concern for increasing development of the summit of Bald Hill. She felt further exploration of the alternatives of placing the homes lower and down toward Upper Road should be done.

Tom Weisel, Upper Road resident, thanked the Town for reviewing an alternative for a single-family residence, which he would support. He also submitted a letter to Council back in March of 2000 where he supported the proposal for a single-family residence on this site.

John Gray, Upper Road resident, has been involved with this project for 18 years or so. He knew Bill Roth and asked why this lot is such an odd shape and it was considered an unbuildable lot with possibly a small house with access off the street. This is an attempt to get around the almost insurmountable obstacle. The land is so steep, particularly at the entrance, that a 25% roadway grade is necessary. He pointed out that if the grade exceeds 25% the hose on the fire trucks slides off the back of the truck. The road, even a new designed road, is a single lane road very steep and very tight. The type of fire to occur is a wild fire that a 60,000-gallon tank will not be able to fight such a wild fire. Also, there will be fires more likely generated on site that would not be generated on site with the property the way it is today. He did not believe the tank or access road will do much, if anything, nor do anything for fire safety because a fire truck cannot turnaround. It is too narrow and too steep. He endorsed the idea of the original vision of an opportunity of a single home off Upper Road served by a driveway to allow a fire truck to park at the bottom and hoses could be pulled up to the house. The cubic yards removed is 44,900, which is a level of development that has never occurred in Ross that involves this level of earth moving fill, retaining walls, and steepness of grade. He wanted to know the line of the hillside open space areas in the general plan that are exempt from development, which would take away space from Lot 1. It is a difficult project and he cannot support and hoped for an alternate plan.

Phil Derosia, 21 Echo Court resident, believes there is potential of wild fire danger in this area and in his view it seems to be a great benefit to have a water tank and a paved access road in this area. He found the proposal beneficial and noted his support.

Robert Dickinson, Glenwood Avenue resident, noted that hydrology is a concern and noted that a portion of the creek runs into his backyard. The Town installed a large 30-inch culvert to capture runoff. That water runs into a 24-inch culvert under Glenwood Avenue and a portion of the creek has flooded in the last three years. It puts traffic on Glenwood Avenue at risk if the water flows over the culvert. Vehicles are at risk for hydroplaning. New Year's Day one year ago his home flooded. On January 9th of this year he submitted a letter in regard to an unnamed creek on page 137 and the Director of Public Works was unable to confirm or deny if that is the creek that runs through his property. The creek has been mislabeled, so that unnamed creek might flood his property. He cannot absorb any additional runoff from property development done uphill. The proposal shows that stormwater drainage systems on page 40 would be put in place along the common driveway. That concentrated runoff or existing swale would be transported to a downslope location or an existing watercourse and

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dissipate energy. Whether this project directly feeds this unnamed creek or if runoff makes its way to that creek, the consequences for his family are disasters. The alternatives proposed on page 197 are not any better in his view and did not recommend the Town of Ross proceed with this application.

Brian Salmen, Shady Lane resident, stated that the visual impact will be huge and this will change the entire experience of hiking near the watershed. A wildfire will not be fought with these tanks and recommended finding an alternate plan for fire prevention to exist. His house flooded and has been working with the Town of Ross on flood control and there can be containment systems, but impervious surfaces increases water runoff and the main thrust is to not allow more impervious surfaces. He is concerned about removing live trees. Ross has always projected and preserved trees. Planning and zoning issues do not conform to the Town's plan. He believed the Upland Ridge Greenbelt line is key. He further pointed out that once the Town allows development in this area it would be changed forever.

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

Council Member Durst attended a conference in Sacramento and pointed out that for the Planning Commission to approve this EIR it must be consistent with general plan. Also, it indicated that the City should make a housing balance finding and asked staff if that must occur. Town Manager Broad noted that staff would respond to those questions in the Final EIR. Council Member Durst noted that also they must make a finding related to passive or natural and heating or cooling for a subdivision approval. Town Manager Broad agreed to address that in the Final EIR. Staff pointed out that it might not be discussed during the EIR process, but could be part of the evaluation of the application of the subdivision merits or the project itself.

Council Member Durst stated that the EIR did not address the timeframe for construction. She stated that if it is found that there are sufficient endangered species, the EIR suggests that construction period would be August 1st to January 31st and to construct roads, retaining walls and water tanks in the subdivision approval in the EIR, she did not see that happening in the first six months if significant wildlife is found. Also, she asked why the tradeoff is a 1:1 ratio in regard to tree replacement. She understands sudden oak as a cause, but her main question is the notion of the tree replacement ordinance with a 3:1 ratio for every tree taken out. When a tree is removed the volume is missing in the landscaping that could take decades to resolve. She then asked why the applicant is exempt from the 3:1 ratio. Another issue with the EIR was the geotechnical section. There is no geotechnical data or study undertaken on this lot. Onsite there was an incredible amount of loose leaf matter making it very difficult to walk and understands the presence of that precluded an effective geotechnical analysis and asked why, since it formed such a large question in the EIR as to developable lots, is that not addressed? Town Manager Broad reiterated that Council as well as the public has until January 31st to provide written comments.

Council Member Cahill believed this entire process is very valuable for Council, and he appreciated the very thoughtful comments. In regard to questions related to gradient, he asked that the consultant to review more specifically what are the maximum grades that will allow the Town's fire trucks to maneuver up on the site and also for mutual assistance. Also, he asked the consultant to look at the Greenbelt line because there are two greenbelt lines in different locations on the lot that have been identified. One from the general plan and one by

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the applicant and he wanted to determine how that line got into the EIR and which of these lines is the line that they should be using and what criteria should be used to make that determination.

Mayor Pro Tempore Hunter desired more information on the Ridge and Upland Greenbelt boundary because it is shown in the general plan draft and then located lower on the applicants draft and believed they must determine exactly where that line is located. In regard to the driveway grade, he is surprised that Ross did not have a standard. The EIR should address what the Town's fire safety officials recommend in terms of grade for access roads and driveways in order to begin to develop a standard. Also, it is his understanding that the geotechnical report underneath the proposed water tank has not been updated and that would be worthwhile to have in the Final EIR.

Council Member Skall desired to see a proposal for two residences and if in fact the water tank could be proposed in the clustered environment.

Mayor Strauss discussed driveway standards and the lack of driveway standard and pointed out that they must use the County standards that reflect 18% for roadways and 25% for private driveways. Also, the Ridgeline and Greenbelt must be defined. He stated that soil stability is another issue that must be addressed. He also desired more information on making this a "Green" site for whatever is developed in order to address the environment that is being impacted.

Mayor Strauss appreciated all comments from Council and public. The applicant announced that they would take some time to simulate the comments heard tonight and provide assistance to staff where possible.

Town Manager Broad explained that the public hearing is occurring in the middle of more than a 45 day review period due to the holidays, so the public, including Council, has up through January 31st to provide any additional written comments on the Draft SEIR. Staff announced that the document is available on the Town's website as well as CD's available for anyone interested. Staff added that by January 31st all comments made tonight will be compiled along with all written comments and then Consultant Donaldson will come back with a response to every issue raised and that time period is unknown at this point. The consultant will work through preparing responses and then staff will schedule a public hearing for Council to consider those responses and the process of certifying the EIR. Once Council completes their environmental review, then Council will consider the merits of the actual project. Staff believed everyone tonight did a great job in terms of keeping the discussion focused on the Draft EIR.

Consultant Donaldson added that this EIR has been circulated to State agencies and they set their own deadline, which is before January 31st, so they will likely also receive comments from certain State agencies. In addition, they circulated the EIR to public agencies in this area such as the Water District, other fire agencies and others and their deadline is also January 31st, so staff will likely receive comments from public agencies as well as citizens.

Town Manager Broad stated that due to the difficulty of knowing who in Town might believe they are impacted by this project, mostly thinking visually, but in terms of flood issues, staff received comments from residents throughout the community. Staff did a Town wide notice initially, and anyone who is in attendance tonight and desired to be notified of

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future meetings could provide their contact information to staff because staff is developing a noticing list for future meeting.

4. Adjournment.

By order of the Mayor, the meeting adjourned at 7:27 P.M.

Richard Strauss, Mayor

ATTEST:

Gary Broad, Town Manager