

REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, JULY 9, 2009

1. 6:00 P.M. Commencement.

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

2. Open time for matters pertaining to the closed session in agenda item 3 - None

3. The Council will meet in closed session on the following:

- a) Pursuant to Government Code §54956.9 (a) re Alan Grujic v Town of Ross, Marin Superior Court, Case No. Civ 092355.

Council Member Skall recused himself from Item 3b.

- b) Pursuant to Government Code §54956.9 (b) (1) re traffic conditions at Ames Avenue and Shady Lane.

4. Open Session. Council will return to open session and announce action taken, if any.

Mayor Cahill reported that there was no reportable action on Item 3a. Item 3b has been referred to the Public Works Committee to determine a solution and bring it back to the Council.

5. Posting of Agenda.

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

6. Minutes - June

Mayor Cahill asked for a motion.

Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to approve the June 11, 2009 Town Council Minutes as amended. Motion carried unanimously.

7. Demands.

The demands were met.

8. Open Time for Public Expression.

Carla Small, Duff Lane resident, expressed concern over 54 Baywood in regard to the outside decking being twice the size of the square-footage of the house. She believed this is an ordinance the Council should review sooner rather than later. She is very concerned that more homes will come before the Council with excessive outside decking. She added that the intent of that ordinance was to create a pleasing exterior. She suggested 20% of the square-footage of the home could have this outside decking, but it must be limited. There is also the issue of mass on a slope of 36% or more and suggested stating a HLO of a higher percentage do not qualify. She believed this ordinance is separate from the HLO. She asked the Council to address this matter quickly. She further believed it was taken advantage of in a huge way on the Baywood project and she did not want to see that happen again.

Phil Cecchetti, Wellington Avenue resident, noted that Wendy Coon submitted a letter objecting to the decision on 54 Baywood and is appealing that decision on two grounds. Council Member Hunter's personal residence is on the market, and is subject to the HLO, so Council Member Hunter has an interest in interpreting the HLO and should have recused himself from consideration of the 54 Baywood application. The Coon's also take issue with Mayor Cahill's interpretation of "substantial" in regard to Section 18.39.909 in that the first paragraph trumped everything below it, including the "shall" requirement found in 18.39.090(a)(3). They also received a letter from Town Attorney Hadden Roth explaining that the Town Council, in approving this project, sat as Town Council, not as the Planning Commission making the decision only appealable through the courts. They asked the Council to enter their letter and Town Attorney Hadden Roth's letter into the minutes of the meeting, which are included as follows:

Dear Clerk of the Ross Town Council

Pursuant to Ross Municipal Code Section 18.60.010, we appeal the approval of the 54 Baywood project made at last week's Town Council meeting on two new grounds: First, it is our understanding that Council Member Scot Hunter's house at 98 Chestnut is currently on the market, and is subject to the HLO. Accordingly, Council Member Hunter has an interest in interpreting the HLO as broadly as possible to enhance his own property. In light of these facts, Council Member Hunter should have recused himself from consideration of the 54 Baywood application.

Moreover, in explaining his "yes" vote for the application, Mayor Bill Cahill cited HLO Section 18.39.090, and argued that the word "substantial" in the first paragraph trumped everything below it, including the "shall" requirement found in 18.39.090(a)(3) (Building design and placement of driveways shall conform to the natural contours of the site.) this misinterpretation renders the word "substantial" meaningless. In addition, based on California case law, substantial means "actual," and there is no way that the parking bridge is in actual compliance with the ordinance. Mayor Cahill misinterpreted the ordinance, had his vote constitutes special treatment for the applicant. We are not aware that there are any fees associated in this appeal; however, if fees are necessary, please contact us immediately. Thank you for your consideration.

*Very truly yours,
Jeremy & Wendy Coon*

Dear Mr. and Mrs. Coon,

This responds to your request to appeal the approval of the 54 Baywood project by the Town Council on June 11, 2009, described below. There is no appeal to the Town Council in this instance. The Town Council, in approving this project, was sitting as the Council – not as the Planning Commission. You should consult your attorney on how you can challenge the action of the Council if you wish to do so. Please contact me if you have further questions.

*Sincerely,
Hadden Roth
Ross Town Attorney*

Anne Hickey, Ross resident, felt banners in front of the Post Office advertising the farmer's market is inappropriate. Mayor Pro Tempore Strauss noted that they are trying to promote

the downtown and encourage activity in the downtown, but downtown signage will be discussed. He agreed the size might be questionable. Ms. Hickey felt any signage in front of the Post Office is inappropriate and noted that downtown merchants are not in favor of signage. Council Member Martin asked Ms. Hickey if placing banners on the arbor across the street is acceptable. Ms. Hickey had no objection to that location, just the Post Office.

9. Report from Mayor Cahill.

Mayor Cahill announced that this is his last report and that it has been an honor and privilege to serve as the Mayor of Ross during the Town's Centennial. He particularly wanted to thank Town Manager Gary Broad, and his tireless staff for their hard work on behalf of the Council and the residents of the Town. He is proud of the many accomplishments by Town staff and the Town Council this year. A thorough description of the work is detailed in the Town's newly published Annual Report. While they are planning on releasing an Internet version of the report, they are also printing a limited number of copies, available on a first-come, first-served basis while supplies last. Anyone interested in receiving a copy, please contact Town Manager Broad as soon as possible. Reserved copies may be picked up weekdays at the Town Administrative Office. Please take the opportunity to read the report and provide feedback.

On Saturday Ross once again celebrated the Fourth of July with a parade and picnic. John Lill, following in his Dad's footsteps as Uncle Sam, won the award for best costume. Steve Holmes and his family won the award for the best parade vehicle for their beautifully decorated woody. Special thanks must go to Roseanna Lordeaux, the Town's Chief of Protocol and Wendy Battey, who organized the parade, and for their fine work putting on this event.

On a sad note, Preston Maginis passed away last month. Preston was a former Council Member and served two terms as Vice Mayor. He was one of the authors of the very fine book: *Ross, California. The People, The Places and the History*. He then asked everyone to join him in a moment of silence in memory of Preston.

Mayor Cahill received a standing ovation as he was given a commemorative plaque in appreciation for his work over the past year.

10. Election of Mayor.

Council Member Cahill nominated Mayor Pro Tempore Strauss as Mayor of the Town Council.

Council Member Cahill moved and Council Member Hunter seconded, to appoint Mayor Pro Tempore Strauss as Mayor of the Ross Town Council. Motion carried unanimously.

11. Election of Mayor Pro Tempore.

Mayor Strauss nominated Council Member Hunter as Mayor Pro Tempore of the Town Council.

Council Member Skall nominated Council Member Martin as Mayor Pro Tempore of the Town Council.

Mayor Strauss moved and Council Member Cahill seconded, to appoint Council Member Hunter as Mayor Pro Tempore of the Ross Town Council. Motion carried 3-2. Skall/Martin opposed.

12. Selection of members to Town Council Committees and Town Representatives. Mayor Strauss provided the Ross Town Council Committee assignments for 2009-2010 as follows:

Town Committees:

- Community Protection –Skall/Martin
- Public Works – Martin/Cahill
- General Government –Cahill/Hunter
- Finance – Hunter/Skall

Other Committees:

- Joint Oversight Committee – Cahill/Martin
- TAM – Skall
- MTA – Martin
- MCCMC Legislative – Cahill/Martin
- Flood Control County – Martin/Strauss
- ABAG – Skall
- MEA – Martin/Cahill

Non-Council Appointments:

- MERA – Tom Gaffney
- Ross Valley Paramedics – Bruce Hart
- Seniors – Lorraine Berry
- Mosquito Abatement – Wendy McPhee
- Solid Waste – Gary Broad
- Street Tree Working Group – Janell Hobart
- Chief of Protocol – Roseanne Lourdeaux

Town Projects and Liaisons:

- Flood – Martin/Strauss
- Ross Recreation – Martin
- RPOA – Skall
- Leadership Council – Skall
- Ross School – Skall
- 37 SFD/6 Redwood – Hunter/Martin
- Downtown Plan – Hunter/Strauss
- Marin Art & Garden – Hunter

Goals:

1. Downtown Plan
2. Town and Ross Valley Flood Control
3. Facilities:
 - 6 Redwood
 - 37 SFD
 - Town Hall
 - Fire and Police
 - Zoning (Affordable Housing)

Possible Goals:

1. Underground Utilities
 - Lagunitas
 - Shady Lane
2. Zoning
 - Hilltop Lot Ordinance Guidelines/Rules

13. **Announcement of promotion of Police Officer Steve Nelson to Sergeant effective July 1, 2009.**

Police Chief Jim Reis announced that Police Officer Steve Nelson was promoted to sergeant effective July 1, 2009. Sergeant Nelson has served the Town for seven years and has over 22 years of law enforcement experience. The Council and staff congratulated Officer Nelson.

14. **Town Council consideration of cancelling the regular August 13, 2009 Council meeting and selection of a Special Council meeting date for a workshop to set FY2009-10 Town Council goals.**

Town Manager Gary Broad asked the Town Council to consider canceling the regular August 13, 2009 Council meeting and select a special Council meeting date for a workshop to set FY2009-2010 Town Council goals.

Mayor Strauss opened the public hearing on this item.

Carla Small, Duff lane resident, asked the Council if regular agenda items are added to the workshop that those items be noticed and identified to the public. The Council agreed.

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

The Council agreed to email staff their available dates in regard to the special workshop.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, to cancel the August 13th Town Council meeting and schedule a date for a special workshop. Motion carried unanimously.

15. **Consent Agenda.**

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

- a. **Town Council consideration of adoption of Resolution No. 1673 (to supersede Resolution No. 1672) establishing and reporting Employer Paid Member Contributions (EPMC) for Fire Department personnel.**

Mayor Strauss asked for a motion.

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

b. Town Council consideration of MCSTOPPP JEPAs revisions.

Mayor Strauss asked for a motion.

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

c. 39 Fernhill Avenue, Amendment to Design Review No. 1661

The Branson School, 39 Fernhill Avenue, A.P. Nos. 73-082-01, 73-082-12, 73-141-03 and 73-151-05, R-1:B-A (Single Family Residence, One Acre Minimum Lot Size), Limited Quasi-Public/ Private Service Amendment to plans approved by the Town Council on September 11, 2007, for new buildings and related site improvements at the private high school campus. The applicant requests design review approval to re-landscape between the buildings in the “Quad” area (the lower area of the campus), which involves 270 cubic yards of fill.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, to approve Consent Calendar Item “c” based on the findings in the staff report and subject to the following conditions. Motion carried unanimously.

Conditions:

1. This approval allows for re-landscaping the “Quad” area between the lower campus buildings as shown on the plans dated 6/1/09 on file with the Ross Planning Department.
2. The existing well at the site shall be relocated and the pump installed underground prior to project final in order to eliminate neighbor concerns regarding the noise generated by the existing pump equipment.
3. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
4. The project shall be subject to all conditions of the September 11, 2009, Town Council approval.
5. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. No extension of the construction time is granted by this approval and the proposed modifications shall fall under the existing building permit for the project. 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 detailed 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.

6. 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.
7. 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.

Mayor Strauss recused himself from Consent Agenda Item d in order to avoid the appearance of a conflict.

d. 2 Chestnut Avenue, Variance and Design Review No. 1743

Daniel & Iris Winey, 2 Chestnut Avenue, A.P. No. 73-301-04, R-1:B-10 (Single Family Residential), Medium Low Density (3-6 Units/Acre). Application for design review and variance for a new one-car garage to replace the existing garage within the side yard setback (15 feet required, 0 feet proposed) and rear yard setback (40 feet required, 0 feet proposed). The garage would have a maximum ridge height of 19 feet (30 feet permitted).

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

The existing structure is nonconforming in setbacks

Mayor Pro Tempore Hunter asked for a motion.

Council Member Cahill moved and Council Member Martin seconded, to approve Consent Calendar Item "d" based on the findings in the staff report and subject to the following conditions. Motion carried 4-0-1. Strauss absent.

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

- 1 This approval is for the plans dated March 31, 2009, on file with the Planning Department. No changes from the approved plans, before or after project final, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval prior to any change.
- 2 A recorded revocable encroachment permit shall be required from the public works

- department for all improvements within the Town right-of-way.
- 3 Unless a tree removal permit is approved, trees within the construction area shall be preserved during construction and the foundation shall bridge roots or be constructed in a way that preserves all significant tree roots.
 - 4 The garage door shall be automatic. The garage shall be available for vehicle parking. The town planner may limit lighting, electrical and other improvements on the building permit plans for the garage to ensure it will only be used for garage purposes.
 - 5 Proposed storage areas may only be used as storage and are not approved as habitable space.
 - 6 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.
 - 7 This project shall comply with all requirements of the Department of Public Safety, as outlined in their ongoing project review.
 - 8 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.
 - 9 Any portable toilets shall be placed off the street and out of public view. Any temporary fencing shall not be an orange or other bright color.
 - 10 The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
 - 11 Failure to secure required building permits and/or begin construction by July 9, 2010 will cause the approval to lapse without further notice.
 - 12 The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense

of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

End of Consent agenda.

Mayor Strauss reconvened his position as Mayor of the Ross Town Council.

16. Report from Committee Heads.

Public Works - Council Members Strauss and Martin

- Status of the Lagunitas Road Bridge Replacement

Mayor Strauss noted that they continue to move forward and it will be a priority next year to get all planning in place.

- Stormwater Management Ordinance discussion

Council Member Martin reported that in May he proposed that the Council consider a new ordinance, a stormwater management ordinance. The number one problem in Town is handling flood control. Later this evening, they will hear from the Army Corps and a County Flood Control District representative about Unit 4. There is no easy solution. There are a number of steps. A critical step is good management of property. Currently, the ordinance has no specific standards with how stormwater is handled. This ordinance promotes better stormwater management practices to reduce flooding by minimizing stormwater runoff from new development. The draft ordinance lists a comprehensive set of guidelines that would apply to any new development that disturbs an area of at least 500 feet or adds at least 250 feet of new impervious area. Development, re-grading and clearing vegetation would be discouraged on slopes greater than 35%. The proposed guidelines encourage shorter and narrower driveways, two-story buildings that reduce building footprints, and the use of permeable paving materials. Promote the use of natural contours, such as bio retention areas and vegetative swales, to intercept the path of surface runoff and retain stormwater so it can naturally infiltrate the ground. The guidelines also encourage the use of dry wells and cisterns to catch rainwater from roof downspouts and paved areas. If adopted, the proposed stormwater ordinance can be a model for adoption by surrounding communities. Over time, in concert with the Army Corps and county projects, as a community can reduce the severity and frequency of flooding. The Council welcomed any comments from the public and agreed to incorporate comments from Town staff, Town Attorney Hadden Roth and Town Hydrologist Matt Smeltzer.

Mayor Strauss suggested that the Council provide everyone an opportunity to digest and incorporate all comments discussed at the Council workshop or at the September Town Council meeting. He also believed it would be good to have ADR review plant materials in the right-of-ways and what materials can be used. Council Member Martin pointed out that this is more for private properties, new development and significant re-grading. He agreed that they should revisit right-of-ways and swales. A lot of swales have been filled in or replaced with underground piping, so that should be reviewed.

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.

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Mayor Pro Tempore Hunter asked if anyone contacted San Anselmo or Fairfax. Council Member Martin indicated that it is not being considered, but contact has been made with council members in each town as well as the county, and the county is moving ahead with a similar ordinance. Mayor Pro Tempore Hunter desired an explanation on how this integrates on a countywide basis. Council Member Martin explained that the county already provided comments. The Town may go further with details and trigger points, but the language and intent parallels the county. He reiterated that the county did review and provide comments. Mayor Pro Tempore Hunter asked if the other jurisdiction was a similar like situation. Council Member Martin indicated that this is a unique legislation. He spent many hours on the Internet cutting and pasting, so it does merit review. Flood prone communities like Santa Monica and Cedar Rapids have a similar ordinance that has been effective in addressing flood issues.

Mayor Pro Tempore Hunter believed it is a great idea, but wanted to know the best way to get the entire county on board.

Mayor Strauss stated that with Flood Zone 9, all communities get together and he represents Ross, so they could look at shifting that around and propose another meeting soon to review this ordinance. Council Member Martin stated that the problem is an urgency to start somewhere. The Corte Madera Creek problem is not new. His feeling is that Ross can be in a leadership role and set an example. If placed back into discussions it will take forever. Each town has their priorities, so he recommended that Ross discuss the ordinance and move forward. Mayor Strauss agreed, but believed they should run two parallel tracks.

Jack Curley, County Engineer, believed that is a great idea and should be discussed at the next Flood Zone 9 meeting. At the last Board meeting, they wanted to hear from Stetson Engineers in regard to their report that is due next week, so they hope to have a meeting in September.

Mayor Strauss wanted to work in the bio swale. Any water being sheeted off parking lots travels to the bio swales as opposed to running into the creek, so he wanted to regionally as well as locally move forward.

Council Member Cahill clarified that the purpose is to make sure there is no additional runoff as well as reducing runoff from properties. Council Member Martin responded in the affirmative. It develops ways to allow water to percolate. Council Member Cahill stated that once an ordinance is enacted, how does the Council interpret the various elements. He asked if there is any mitigation allowed. Council Member Martin believed it changes the focus on how one approaches their property. There may not be a tendency to clear every mature tree because vegetation is an important way to collect water, but it places the burden on the property owner to look at organic methods to handle water in thinking about the building and development of a property. He further noted that there are standards that the Town will develop as part of the ordinance.

Town Hydrologist Matt Smeltzer stated that current standard practices that apply require no increase in peak runoff discharging from a site after redevelopment is completed. Whatever technology is needed to achieve that is required. That is the current practice, but it is not stated in the ordinance. To go farther, they could reduce runoff below existing

conditions, which is more flexible to do so on certain sites. They must discuss what levels would be considered appropriate to require because there are different levels. Council Member Cahill stated that it must be further refined in the ordinance. The new ordinance would need to provide standards to measure a proposed projects compliance with the guidelines. If the intent is to reduce runoff as compared to existing conditions, or to limit the runoff from new development, then the guidelines need to set appropriate and objective levels.

The Council decided to take the lead on developing a model ordinance and to encourage their upstream neighbors, including Fairfax, San Anselmo and the unincorporated areas of the county, to adopt a similar ordinance.

- Sir Francis Drake Blvd/Lagunitas Road intersection improvements

Mayor Strauss noted that they received bids and determined the design work for the intersection was high and will solicit other bids to competitively bid the project.

17. Report from Ross Property Owners Association.

Frank Doodha, RPOA representative, thanked everyone for the banners, popcorn and so forth in regard to the Fourth of July celebration.

18. Flood Control Report – Discussion will occur during Item 20.

19. Report from the Ross School - None

20. Briefing from the Army Corps of Engineers and the County of Marin on the status of the Unit 4 Fish Ladder Replacement Project and related creek improvements.

Jack Curley, County Engineer, reported that efforts are furthered in Ross Valley by authorizing \$1.3 to be spent on a list of efforts. A feasibility study is underway by Stetson Engineers along with a team of consultants looking at possibilities for reducing flood damage in Ross Valley that consist of containing water, expanding capacity and dealing with cumulated sediment of lower reaches of the channel. There is a program with the Urban Creeks Council assisting homeowners with erosion problems on creek side properties with well over 100 applying. They provide advice and recommendations on addressing erosion. They build awareness on permits required and how it fits into flood control programs and offer assistance as they go through that process. They did receive an EPA grant that will assist homeowners during construction. Staff time has been budgeted to assist Friends of Corte Madera Creek. Also, they have two general consulting contracts to participate with the Town's projects and offer insight gained from studies done in Ross Valley, specifically hydrology information.

Katherine Reyes, US Army Corps of Engineers planner, provided a powerpoint presentation on the status of the Unit 4 channel improvement and fish ladder replacement project that included the following:

- Presentation outline:
 - Work accomplished in 2008-09
 - Items to be completed in 2009
 - Schedule

- Corps planning process
- Past design studies
- Preliminary design consideration
- Public discussion

Planner Reyes explained that the Corps is currently analyzing baseline conditions for the environmental reports and developing project alternatives that will be used in the cost-benefit analysis. Draft environmental reports are projected to be complete in June 2010 and finalized in 2011. If Congress approves funding, construction could be completed in the summer of 2012.

Town Manager Broad asked that the identified funding level be rechecked because original approval was almost 100% of federal funding. Mr. Curley agreed to double-check that number. Council Member Martin noted that they are talking about 1962 standards, which have changed today, but they are going by the old contract. Mayor Strauss desired confirmation. He has a copy of the letter of the contract that was agreed to by Jim Miller and wanted an acknowledgment as soon as possible, if it is for the whole project. Planner Reyes agreed to investigate. The Town agreed to provide the letter from Jim Miller.

Planner Reyes noted that the majority of funds are going to environmental. Council Member Martin asked if that is adequate to move this forward. \$750,000 was requested and only \$230,000 was provided. It slows everything down. All team members are not able to move at the same pace. The EIS is several years old, so they must recognize any environmental issue.

Bill Firth, US Army Corps Hydrologist, continued the powerpoint presentation discussing the following:

- Past design studies
- Flood risk management
- Recent measures investigated by Stetson Engineers
 - Remove fish ladder
 - Transition structure for Unit 4 to Unit 3
 - Channel modifications 100 to 120 feet long
 - Floodwalls
 - Lower channel bed
 - Widen channel bed

Hydrologist Firth explained that in order to increase the flood capacity from the current channel capacity of 3,300 cfs to 5,400 cfs, the Corps recommends replacing the fish ladder, lowering the channel bed and widening the channel in some places, and building floodwalls 1 to 3 feet high in some locations. These improvements would be adequate to contain a 30-year flood.

Mayor Strauss asked if this is part of the EIR in terms of Stetson Engineers and is this being considered as a real solution. Planner Reith believed it is a possible solution. Mayor Strauss only sees paperwork and money spent and not rational thinking. Hydrologist Firth stated that it is an incremental plan. Mayor Strauss explained that several want the fish ladder removed tomorrow. How do they prevent what has been repeated in the last three years. Originally, the fish ladder was going to be addressed and now it is being pushed out to 2012. In regard to considering a retention basin behind the Post Office for parking, he is not seeing rational thinking.

Engineer Curley stated that channel widening is less intrusive. It is not cutting into too much of that bank. Planner Reith stated there are five measures and each measure will be reviewed separately. Mayor Strauss understands a natural solution of widening. Hydrologist Firth stated that the plan is 5,400 cfs through Ross. Some studies of building detention structures upstream is part of Corte Madera's plan and not part of this project.

Public Safety Director Mel Jarjoura asked the capacity of the concrete channel. Hydrologist Firth stated that it is less than 5,400 cfs. Mayor Strauss noted that the new bridge is designed to handle 5,400 cfs.

Town Hydrologist Matt Smeltzer explained that any plan for 5,400 cfs will require low flood walls extending upstream of Unit 3. They could be landscaped mounds. Under existing conditions, water does not make it to this level. There can be more flow to the channel if solutions are developed upstream.

Mayor Strauss stated this is the first he heard of any walls above the fish ladder. Council Member Martin remembered a natural setting. He asked if any of this work would occur upstream from Lagunitas Bridge close to San Anselmo on the Ross side. Hydrologist Firth indicated that work stops below the bridge.

Mayor Strauss did not see the natural solution for resting ponds. Units 2 and 3 are downstream from Ross. Unit 4 will be a natural solution and wanted to continue along the lines of a natural solution. Planner Reyes stated that would select a plan with the most natural solution. The current plan calls for removal of the fish ladder and a transition structure, so a 50-foot concrete structure down the stream end, a natural bottom with toe stabilization. Mayor Strauss indicated that the Council must be involved and they must stay on track.

Mayor Strauss opened the public hearing on this item.

Bob Rorick, Ames Avenue resident, asked if walls will prevent water from going into the creek. Planner Reith stated that it is to prevent water from getting out of the creek. Interior drainage must be reviewed to allow flow into the creek to drain the properties. If property owners do not accept floodwalls, then there will be reduced capacity. He further noted that there could be a no floodwall capacity.

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

Council Member Martin wanted to be involved in the design. This is a priority. This originally came up in 1962 as a congressional act. It must be expedited and the community must welcome the design. They always looked at a natural approach and not extending the concrete channel. He wondered if they are looking at dredging up creek to create a deeper channel through Ross and if that is part of the evaluation. A lot of gravel and sediment deposited over the years. Planner Reith stated that when they remove the fish ladder the bottom of the channel will drop. That initial amount of gravel will be removed or run down stream and deposit down farther in the concrete section. Gravel will always move through this section of the channel, it is part of the creek.

Planner Reyes does not anticipate dredging above specific limits. Council Member Martin asked if bank stabilization is being reviewed. Planner Reyes responded in the affirmative. Council Member Martin pointed out that only one-third of funding was received. He reported that representatives from Congresswoman Woolsey Office and Senator Barbara Boxer's Office want to help with funding and developing a design. He wanted to get this project done. He believed it is helpful for the community to be involved. Planner Reyes appreciated the community assistance and wanted a good justified federal project.

The rest of the Council agreed with Mayor Strauss and Council Member Martin's comments.

Mayor Pro Tempore Hunter asked representatives from Congresswoman Woolsey's Office and Senator Barbara Boxer's Office to be in contact with the Army Corps of Engineers.

Mayor Strauss wanted to see this completed and convey all comments that have been discussed to avoid repeating themselves. He pointed out that it is very frustrating to hear about walls, so that must be addressed. He did not see that as a real solution. They are trying to balance the whole watershed.

Tom Roth, representing Congresswoman Woolsey's Office, asked who would make the final decision in regard to which project moves forward. Engineer Curley responded that the Board of Supervisors would make a decision that includes key stakeholders of the community. Mayor Strauss noted that they all agreed that one community cannot bare the full burden, so they must share in the solution.

The Council thanked the Army Corps for their presentation and agreed to lobby Senator Barbara Boxer and Congresswoman Lynn Woolsey to designate funding for the project. The Council also asked the Corps to confirm the Town's understanding that federal funding will pay for 98.5% of the project.

21. Marin Energy Authority update by Jamie Tuckey.

Dawn Weisz, Interim MEA Director, reported on MEA's progress, which is a joint powers agency created earlier this year among the County of Marin and eight other cities and towns, including Ross, in an effort to reduce greenhouse gas emissions through energy efficiency and renewable energy projects. The powerpoint presentation included the following:

- Critical Actions & Decision Points
- Formation & Governance
- Meetings of the Board
- Committees of the Board
 - Executive Committee
 - Technical Committee
- Ad Hoc Technical Advisory Group
- CCA: Marin Clean Energy- Bids are due on July 20th and the MEA Board will review and determine project feasibility. MEA is currently soliciting bids from energy suppliers to provide power with 25% renewable energy mix at a cost equivalent to PG&E's rates, as well as 100% green energy to those willing to pay for it.

- Interface with PG&E to increase amount of renewable energy in Marin. Dialogue continues. Looking for concrete solutions. Last proposal was issued in November, door remains open.
- Other greenhouse gas reduction programs MEA is proposing for grant funding:
 - Energy efficiency retrofits that could be paid through a tax assessment attached to the property.
 - Developing a project to install 70 electric vehicle-charging stations with solar panel shade structures in seven Marin parking lots.
- AB811 – SEED – Solar Energy Efficiency Districts – Grant information as well as an implementation plan was distributed to the Council
- Grant Proposals:
 - Martin Community Foundation
 - Bay area Air Quality Management District
 - Bay Area Economic Institute
 - California Energy Commission
- Questions:
 - www.marinenergyauthority.org
 - www.marincleanenergy.info

Interim Director Weisz provided the Council with the Community Choice Aggregation study for their review.

Mayor Pro Tempore Hunter discussed the 90-day review period and asked if a quorum of participating communities is needed. If shelved after receiving bids, would the bottom timeline move forward. Interim Director Weisz responded that the bottom timeline is reliant on grants. One is not dependant on the other. They are completely separate tracks. The Board is considering offering joint exercise powers agreement to allow MEA to offer programs for a small fee. Non-members jurisdiction would have access to programs. It is up for discussion at the Technical Committee and then the Board on the 23rd of July.

Council Member Cahill stated that recently San Joaquin abandoned efforts for CCA and asked for a brief explanation. Interim Director Weisz stated that timing impacted San Joaquin. Their threshold was different. They were looking at a price point 5% below PG&E and not a high content of renewables. They were interested in a 5% discount and a guaranteed 2% escalation per year. Bids were workable. They selected a vendor, but they had difficulty in the program agreement to be signed between the JPA and San Joaquin. City and town members can choose to take on debt and liability. JPA's are set up to create a firewall. PG&E was arguing that they would not sign the delivery contract unless joint severalty contract was signed. That was resolved, but it took six months for CPUC to resolve. After that period, the decision in favor of the JPA was appealed by PG&E, which delayed again. After a 9-month period, the market changed and San Joaquin only locked in with one supplier who was not able to execute that deal. They spent six months in a holding pattern to wait for another vendor to lock in on that price, which did not occur. The Board decided to suspend exploration of the project. Lessons have been learned. The joint severalty liability has been settled. It is good that the RFP is occurring after the market fell apart. It is a good idea to keep talking to more than one supplier. Having two or three at the table at the course

of discussions is appropriate in order to continue friendly competition. San Joaquin's experience does not directly impact their process. At or below PG&E's cost and modeling shows that it is possible in today's market.

Mayor Strauss opened the public hearing on this item.

Bill Conrow, Berry Lane resident, stated that Palm Desert was used as a comparison and asked if there is a closer comparison to Ross, geographically. He noted that Ross is a different type of community. Interim Director Weisz responded that Palm Desert was the first to launch. Solar potential in Marin County is the question. A solar map of Marin was done in 2005 to find out the best solar rooftops and parking lots and amount of energy that could be generated. 200mw of power could be generated and Marin County's load overall is 240 mw. Not taking into account financial constraints, but it does take into account geography. When the program launched in Berkeley they were sold out in eight minutes. Palm Desert took seven days. Sonoma County has already sold out and it took them two weeks. They are not concerned about interest. They designed the program to be scalable. Berkeley launched with \$1.5 million. Solar installation has halted and all are waiting for a new round of funding. Palm Desert launched with their general fund money, after the sell out, they are waiting for a new round of funding. They built a scalable or renewable program. Formed partnership with three local and regional banks that will be used to fund initial outlay. Then work with larger financial institutions to provide bond facility to pay back the \$20 million lien. They expect to do that about 15 times before hitting market saturation. It can be scaled depending on the interest.

There being no further public testimony on this item, the Mayor closed the public portion and moved onto the next agenda item.

22. Town Council consideration of approval of a Conceptual Downtown Plan, including the implementation for parking lot expansion and improvements between the Post Office and the Downtown commercial area.

Mayor Strauss stated that they are considering phasing different project areas and receiving proposals. The SWA Group will address other ideas of connecting Marin Art & Garden Center with the community, possibly a park and address the parking lot next to the Post Office. Curbs and sidewalks must be addressed as well. He is requesting the Council's approval for getting proposals for implementing engineering of the post office parking lot.

Mayor Pro Tempore Hunter believed the bridge over Sir Francis Drake could be worked on parallel with grant funding.

Larry Reed, SWA Group, provided a powerpoint presentation on the downtown plan concepts. The plan began in 2007 with local community trying to envision a downtown plan. The task was to take early thoughts from the community. The general idea is enhancement to parking and circulation. The SWA Group teamed with Nelson Nygaard to enhance the flow of vehicles and pedestrians, maintaining pedestrian integrity and enhance the connection with downtown businesses and Ross Common. He provided cross-sections for the Council's review. The first zone is Lagunitas Road and the bridge, removal of vehicular cut-through and restoring corners. Traffic calming attempts to ease circulation across Sir Francis Drake. They included enhancement to the park and restoration of the historic bridge

along with street tree planting. They met with the Tree Committee and talked about enhancements the Town is interested in and protection of heritage trees is one. The idea of a bridge crossing to Marin Art & Garden Center as well as a gateway element to identify Ross to travelers on Sir Francis Drake was discussed. The primary gateway is framed by the Town Hall. They thought through international competition they could receive interesting ways of crossing Sir Francis Drake. The next zone is the downtown area. Very charming Town, but the missing piece is enhancing edges to be more pedestrian friendly along with outdoor seating. After meeting with representatives from the Bicycle Coalition, they propose signage, bench seating and street furnishings. Bulb outs were discussed to compress intersections, but not along Ross Common, except at the Post Office. They proposed squeezing down the entry to Redwood Drive. More outdoor space is needed in front of Eddie's as well as enhance the corner that provides visual to Ross Common. Important part of the plan was connecting the downtown with the Post Office. It is not a very friendly connection. Realizing they could narrow the road to allow parking enhancements. They provided continuous pedestrian way between the Post Office and downtown, including street trees and separation by wall to the parking lot. They have enhanced the entry to Ross Common. A parking shelter will replace the existing wood gazebo. They have generous and friendly crossings to Ross Common. This plan suggests narrowing the entire length of Ross Common to two lanes with parallel parking, which they all feel is an improvement, but there was concern about narrowing that street. They could only improve the top half and leave the bottom half as it was, so there is a lot of flexibility in this plan. They still feel very strongly that two-way system with parallel parking on either side is a friendly solution. Cross-sections showed enhancements taken through 7 Ross Common. He further noted that by narrowing the road it provides outdoor seating.

Mayor Strauss stated they must create a channel to allow water back into the creek if there is a flood event, so they must review both ways (keeping water in). Consultant Reed has been working with pervious pavements. There is an excellent opportunity to provide some stormwater relief. He then provided several cross-sections for the Council's review. They propose architectural elements to frame the parking court. They provide shaded structures for bicycle parking and a kiosk, which is a real opportunity to enhance. More slides talked about street furnishings to the downtown area. Currently, there is no connection. They provide recycling bins, bicycle racks, and the idea of covered bicycle parking with a series of poles and stretched canvass.

Mayor Strauss opened the public hearing on this item.

Joyce Konigsberg, Wellington Avenue resident, asked about the budget. Mayor Strauss stated that each piece must have price tags and then they will address and create a menu of cost and priorities. First is the sidewalk. If they have buy-in then public works can implement parts of the project to move forward. They are looking at how to fund that bridge and it must be in parts. Council Member Martin noted that funds are in the budget for some improvements. Mayor Strauss stated funds are available for street furniture, signage and landscaping. The community likes the character. There are great bones for a great downtown with the school, Post Office and Common. SWA grabbed the idea of community and it is an enhancement to the downtown.

Nancy Vernon, Marin Art & Garden Center president, supported the idea of a bridge over Sir Francis Drake to tie the community together and keep kids safe at the same time. Mayor

Strauss believed it works for Laurel Grove residents as well and it connects the Town. He further believed the bus stop needs enhancement.

Carla Small, Duff Lane resident, did not care what the Bicycle Coalition indicated. She expressed frustration for “*rude and law-breaking cyclists*,” which was one of the major beefs of the survey and she did not want Ross to become a magnet for bicyclists. She asked the Council to create a great downtown for residents. She did not want bicycle parking on the street. She wanted to avoid the rudeness. She is very concerned that if Ross Common is narrowed, it will create more tension and more problems because that is one area to get around the bicyclist. As it is, bicyclists do not allow pedestrians or vehicles to pass. On the school side, she is not comfortable with parallel parking due to the many children on the sidewalk. On the other side it is not that big of a deal, but on the school side, especially on Saturday and Sunday careful consideration must be given to dogs, children, pedestrians and bikers. Also, they cannot talk about downtown without including Fred Allen Park. It is an embarrassment to the community with how it looks. In terms of roadways being more environmentally friendly, possibly use granite. Fred Allen Park must be addressed. Mayor Strauss noted that money is in the budget for parks and Fred Allen Park is part of the downtown plan. They would be buying into the plan with the idea to come back to the community with a specific developed plan for that area. They all recognize the fact that Fred Allen Park is in poor condition. Ms. Small believed there is extreme liability in regard to the sidewalk. Trashcans were placed in front of the Post Office and many filled up with trash from homes, so she cautioned the Council in regard to the number of trashcans provided.

Phil Cecchetti, Wellington Avenue resident, stated that everyone runs the stop sign in front of the Post Office. Bicyclist and vehicles are mixed and a disaster is being created if the channeling is done in that area. Consultant Reed stated the circulation occurs now and they did not want to impede, but encourage a safer transition to that path. Mr. Cecchetti asked that the consultant observe what occurs at that intersection, just with vehicles.

Cate Babcock, Redwood Drive resident, discussed diagonal parking on Redwood and objected to squeezing Redwood. Mayor Strauss stated that change occurs in front of Ross Common and Eddie’s to discourage U-turns. Consultant Reed stated that it was an attempt to provide relief in terms of improvements.

Bill Conrow, Berry Lane resident, was involved with the new pre-school at Marin Art & Garden Center and suggested a bridge, but now he is concerned that the bridge would be a real magnet for graffiti. Also, the Council must consider the freeway feel that it will provide. In terms of Ross Common, he agreed with Ms. Small that the Post Office is wide enough to meander around bicyclists. Otherwise, vehicles are stuck behind bicyclists and that is a real potential negative in terms of narrowing that area. If terms of comparing the number of parking spaces now between Redwood Drive and Lagunitas, how does the number of spaces compare to the new plan. Consultant Reed stated it is a gain of 10 spaces leaving the west side of Ross Common as is. They will lose a few spaces if the west side is converted to parallel parking. Mayor Strauss stated that it makes more sense to recommend keeping diagonal parking at Ross Common to maintain the historic pattern. They were looking for a compromise that addressed these issues with a net gain of 10 spaces.

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

Council Member Skall asked about restrooms. Mayor Strauss hoped it would be included with the school. Council Member Skall believed restrooms must be considered in terms of bicyclists. If they are proposing to bring in folks to the downtown, then they must have facilities. He would not rely on the school to provide restrooms, so it must be addressed. Mayor Strauss talked about it with the public works department, but a good solution has not yet been provided.

Council Member Cahill felt the plan is great. Council Member Martin liked the improvement to the Post Office parking lot in regard to moving the curb out, adding trees, having a pervious surface and creating a larger plaza.

Mayor Strauss encouraged the landscaping architect to include bio swales. Also, bicyclists must be respectful of the community and encouraged the police officers to manage that corner (Ross Common and Redwood). They want to promote bicycling as an alternative means of transportation and draw more customers for the downtown merchants. He recommended approving the downtown plan in concept, including retaining the diagonal parking against Ross Common to keep it wide enough while addressing parking downtown. He noted that Fred Allen Park must be addressed and a bridge must be considered to connect Marin Art & Garden Center with the community. He suggested exploring the bridge idea and felt architecturally it can be sensitivity handled. He wanted to move forward with the Post Office parking lot in regard to the engineering required to implement, and conceptually approve the downtown plan with the idea that each individual part will be brought back to the community for review and approval as well as include a budget.

Public Safety Director Mel Jarjoura stated that it would cost \$60,000 for engineering. There is no allowance for landscape materials, only engineering. Mayor Strauss wanted to move forward with the engineering proposals. Public Safety Director Jarjoura stated that \$250,000 is budgeted for the downtown plan improvements this year with additional grant funding potentially available for park improvements. Mayor Strauss believed some money is set aside for landscaping as well.

The Council agreed to approve the downtown plan in concept, including a redesign of the Post Office parking lot adjacent to the commercial area, and to solicit bids for engineering and design work. The project will convert diagonal parking on the east side of Ross Common to parallel spaces, narrow the roadway between the Post Office crossing and Redwood Drive, provide “*double loaded*” parallel parking in the parking lot, and install new street trees, landscaping and sidewalks. The project will also include new entrances to the Common across from the Post Office and at the corner of Redwood Drive. “*Bulb outs*” on both corners of Redwood Drive will discourage illegal U-turns and add an 8-foot wide seating area in front of the Ross Grocery. The plan also envisions new street signage, benches and street trees in the commercial area. Also, a new plaza at the entrance of Fred Allen Park could provide space for a coffee kiosk, outdoor seating and bicycle parking.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, agreed to move forward with receiving bids for engineering on this project. Motion carried unanimously.

23. Town Council discussion of the Advisory Design Review process established in Resolution No. 1644 and initiated on March 11, 2008.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council discuss the ADR process established in Resolution No. 1644 and initiated on March 11, 2008.

Mayor Strauss opened the public hearing on this item.

Carla Small, Duff Lane resident, felt when an item is before ADR neighbors should be made aware of it as with Council meetings. The other issue, like any committee in Ross all members of any committee representing Ross should be in good standing. Any individual that sits on any committee that has issues or is not following guidelines or facing possible fines that person should not sit on a committee that represents the community. Anyone who sits on any committee should be free of those issues.

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

Council Member Martin stated that in reading the staff report and attachments that included comments from eight individuals, it is a mixed bag. While ADR allows neighbors to have the benefit of professional design guidance and builds understanding of a project in an informal setting, some believe it adds another layer of bureaucracy that can delay a project. Conflict of interest has been discussed. They want government to be transparent and clear as possible. Some towns have a conflict of interest ordinance requiring appointed committees and consultants to fill out Form 700 and not to engage in any private work within that community, so their advice to the Town can be truly impartial. They must explore what type of standard ADR should function under because there are issues that have been discussed. He also heard from members of ADR that if membership is restricted, then good talent would be lost. It is very important for anyone who has worked in Town that has conflicts to recuse themselves, as suggested by staff. He then provided several suggestions:

- Try as much as possible to use objective standards.
- Encourage members of audience to sit at table and participate on each project in order to be part of process.
- Not let a single committee member dominate the process. Allow each member of the ADR an opportunity to express views.
- Provide summary of recommendations to the Council and include each view.
- Provide plenty of notice to notify neighbors of ADR meetings.

For the record, the Mayor does not appoint ADR members; it is an appointment by the Council.

Council Member Skall learned that more communication is better, and preferred that the Town communicate with any affected neighbor.

Mayor Pro Tempore Hunter pointed out that this is a free service. ADR was to offer a guide. If they start noticing, there is a cost and this could then require a fee. Conflict of interest

must be addressed. If he was a design professional, giving up time to serve on a committee and then suddenly not able to take a job in Town, then they will quickly not have a committee. ADR members must recuse themselves when directly involved in a project in anyway. Guidelines that ADR established suggested use of alternates only when a quorum cannot be reached. Alternates are used only when needed for a quorum will provide a smooth functioning of ADR. At the start of the meeting, point out that it is a recommendation and they are providing a service. Five-minute summary at the end would be very good for the audience and the Council. Overall, the letters are a mixed bag, but it is a great new service. Being a member of the General Plan Committee, he believed the first year has been a success and thanked the committee on a great job. The Council concurred.

Mayor Strauss echoed comments made by his fellow council members.

Town Manager Broad noted that 90% noticing occurs now. It is not mandatory, it is at the applicant's discretion, but most are noticed without a fee. Staff uses discretion on applications in terms of noticing. Several emails are sent out as well.

Council Member Martin asked if there is a set of written procedures or standards to provide members in regard to conflict of interest. Senior Planner Semonian agreed to bring that back to the Council for consideration. Mayor Pro Tempore Hunter believed it would be good to have it with Council as well. Town Manager Broad suggested another check-in within the year in regard to the process. Staff suggested six months with new appointees.

Joey Buckingham, ADR member, recommended requiring some basic information, including setbacks and floor area information, lot coverage and slope calculations with design submittals, otherwise it is a waste of time because there is fudging. Mayor Strauss believed a suggested guideline might be beneficial. He agreed to discuss fudging during the Council retreat. The ADR Group agreed to take five minutes at the end of each meeting and summarize recommendations and make one or more definitive points.

The Council directed ADR members to recuse themselves whenever there is a perception of a conflict of interest and asked staff to develop written conflict of interest procedures. The Council decided against barring ADR members from working on projects in Town. They asked ADR members to encourage neighbors to sit at the table during project review and to ensure no one person dominates the conversation.

Town Attorney Hadden Roth left the Ross Town Council meeting at 10:08 pm.

24. Town Council consideration of Resolution No. 1665 re-establishing permit parking restrictions on Redwood Drive during the Ross School construction period.

Town Manager Gary Broad summarized the staff report and recommended that the Council consider Resolution No. 1655, re-establishing permit parking restrictions on Redwood Drive during the Ross School construction period.

Mayor Strauss opened the public hearing on this item.

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Judy Gosling, Redwood resident, wanted something to be done. She had a near miss experience today. With vehicles parked on both sides it is very difficult to see oncoming traffic. Without parking, there would be better visibility.

Sue Johnson, Redwood Drive resident, stated that several make U-turns, which is very dangerous.

Cate Babcock, Redwood Drive resident, desired permit only parking. She believes they have tried all other avenues and suggestions to resolve this matter have not worked. She further asked the Council to re-establish “*residential only*” parking.

Mayor Pro Tempore Hunter did not attend the February meeting, but found the notion of extending the fence interesting and asked if it is Town property why are they asking the school. Mayor Strauss explained that the fence has to be an exit way as well due to fire. Mayor Pro Tempore Hunter is very concerned about the businesses. He suggested, as a temporary solution, adding pylons. Police Chief Reis stated that restricted parking pushes the problem to a different location. Tickets are being issued for making illegal U-turns. They tried to respond to residents needs. They brought officers in on overtime. They improved the double yellow line and erected “no U-turn” signs. Permit parking only will not solve this problem in his view. It will diminish the amount of parking for employees. He is sensitive to both sides, but at times there is no clear-cut solution.

Mayor Strauss asked about no right turn during certain hours of the day. Police Chief Reis stated that it would increase traffic flow on surrounding streets.

Council Member Martin suggested re-establishing residential parking only for approximately a one-year period. Mayor Strauss noted that it is really burdening the downtown. It is a traffic movement issue in his mind. He wanted to maintain those spaces to the community during construction.

Council Member Cahill stated that the problem has been created by school construction. Parents driving on Redwood, parking and making U-turns. Before construction there was no problem. Employees were able to park on Redwood and it did not create an issue before the Council. To be fair, permit parking should allow the downtown occupants to get permits, but not allow parents, which is an alternative solution. Council Member Skall concurred. Issue permits for each business, their employees and hopefully those spots will generally be filled up.

Mayor Pro Tempore Hunter asked staff how “special” parking is enforced. Police Chief Reis believed it would be a difficult proposition.

Council Member Cahill liked the pylon suggestion. It may require some sort of red zone addition, but that should be explored. The Public Safety Committee agreed to address.

Ms. Babcock lived through permit parking and this situation did not exist. She lived with both realities and agreed to add on employee parking. The difference is that there were no problems with “residential only” parking and asked the Council to allow for the next school year to have employee and residential parking only for the 9 months.

Sue Townsend, Redwood resident, stated that when the middle school was constructed there was still drop off and now with this, there is no drop off and all traffic is pushed onto Redwood.

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 stated that permits would not solve the U-turn problem. He suggested using pylons at the Redwood Drive bend to prevent drivers from making illegal U-turns. Look at permits for residents and employees as well as pylons. He recommended trying both and review at the November meeting. Council Member Cahill wanted to address permit parking tonight. The Public Works Subcommittee agreed to further review.

The Council agreed to implement parking restrictions on Redwood Drive. Parking will be restricted from 8 Redwood Drive to Brookwood Road on weekdays between 8am and 4pm. during the Ross School construction period through August 2010. The Town will issue up to two parking permits to eligible Redwood Drive residents. Recognizing the parking restriction will impact the commercial area, the Council decided to offer parking permits to downtown businesses as well.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Martin seconded, to approve the Resolution as amended with permit parking for residents and employees, as well as move forward with pylons to be reviewed in a few months. Motion carried unanimously.

25. Town Council consideration and response to the Grand Jury report dated June 3, 2009 entitled "Saving Marin's Major Crimes Task Force."

Town Manager Broad summarized the staff report and recommended that the Council consider and respond to the Grand Jury report dated June 3, 2009 entitled "saving Marin's crimes task force."

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

Mayor Strauss asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, to agree with Findings 1-7 in the staff report and inform the Grand Jury that the Council followed Recommendations 1 & 2. Motion carried unanimously.

The Council took a short recess at 10:32pm and reconvened at 10:45pm.

26. Town Council consideration of adoption of Resolution No. 1674 denying the appeal of David DeRuff, 3 Southwood, A.P. No. 73-152-09, of the penalty for failure to complete construction under Ross Municipal Code Section 15.50, Time Limits for Completion of Construction.

This matter has been continued to a later date.

- 27. Town Council concluding discussion of the implementation of the five Town Council goals for 2008-09 and preliminary discussion of potential 2009-2010 goals.

Continued to Town Council retreat.

- 28. Town Council consideration of adopting Resolution No. 1675 amending Resolution No. 1630 eliminating planning fees for second units and home occupation permits, reducing variance fees for second units in existing nonconforming structures and clarifying parcel slope determination fees. Town Council discussion of potential municipal code amendments to streamline some development applications and reduce applicant processing costs.

Continued to Town Council retreat.

Council Members Cahill and Martin recused themselves from the next agenda item in order to avoid the appearance of a conflict.

- 29. **97 Shady Lane, Variance, Design Review and Demolition Permit No. 1654**
Archdiocese of San Francisco, 97 Shady Lane, St. Anselm Catholic Church, A.P. No. 73-051-22, R-1 and R-1:B-10 (Single Family Residential), Limited Quasi-Public/Private Service. Application for a demolition permit, design review and use permit to significantly remodel the existing rectory building for the church. The project includes demolition and reconstruction of the roof and exterior materials on each elevation. Although the applicants seek to retain elements of the structure, they also request approval to fully demolish the structure in the event it is necessary because of exiting, unknown, conditions. The project would create an expanded meeting room, kitchen, offices, priest's quarters and accessible restrooms. A variance is requested to maintain the existing encroachment in the side yard setback (15 feet required, 4 feet proposed). A new landscape plan is proposed that includes removal of the wooden barriers on Shady Lane, new parking lot landscaping, and elevating approximately 2,500 square feet of courtyard between the church and rectory buildings. A variance is requested to construct a seat wall and gathering space in front of the church, within the required side setback from Shady Lane (15 feet required, 0 feet proposed) and partially within the right-of-way. An encroachment permit is requested for new landscaping within the Fernhill Avenue and Shady Lane rights-of-way.

Lot area	30,600 sq. ft.	
Existing Floor Area	45.7%	
Proposed Floor Area	46.2%	(20% permitted)
Existing Lot Coverage	43.5%	
Proposed Lot Coverage	50.3%	(20% permitted)

The existing structure is nonconforming in setbacks.

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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, including ADR and Mayor review of approved materials that could be brought back to the Council.

Clyde Ostler, applicant, introduced the architect and landscape architect and explained that the church celebrated their 100 year anniversary last year. They brought everyone together to consider their position in the next 100 years. Several ideas were discussed. They established a capital campaign. They are before the Council to receive approval to move to the next step of bids in this economic environment. They had a beauty contest and interviewed a number of architects and their goals were to compliment the church without competing. The desire is to upgrade the building. There are a lot of deferred maintenance issues and they must be in compliance with ADA, so they are better off remodeling. They are going to beautify the landscaping. Housing for four priests will be reduced to housing for two priests. The library and access will be improved. The bulk will be moved off the street. ADR was quick to love the design and thought it would anchor the end of the street and back entrance to the Town. A lot of back and forth about design tweaks around complimenting, not competing. ADR at the second meeting was very satisfied with what they designed. All residents surrounding the project received letters along with a drawing and a schematic of the lot. They hosted a meeting and only one person was in attendance. He further noted that all adjacent neighbors are all in favor of the project.

Project Architect stated that originally it was discussed to demolish, but a remodel is to avoid an elevator. The site is odd. It extends over the property line. Existing permeable surface of 5600 sq. ft. will be increased by 2700 sq. ft. The only ADA access is through a narrow gap and it is very important to provide a ramp in front to connect to the modified steps to the front portion of the church. They are going from 13,322 sq. ft. to 15,300 sq ft. in lot coverage. There is more public use. The ground floor is split in half with a dining quarters and office spaces. Priest quarters will be moved upstairs. Handicap bathrooms will be provided. They are adding 100 sq. ft., which will address current needs of the church. They wanted to grab on to the joy and excitement of the detail and romantic fun of the existing building. The idea is to compliment the existing sanctuary with smaller shaped building on Shady Lane and Fernhill. Looking at color palettes that range from: brick veneer; cement plaster with brown trim; brown or darker brown trim on existing building; as well as not have a great color contrast so two shades of medium brown. The elevations represent medium and dark brown. Cement plaster is a concern. They like four-color schemes and desired approval of the color scheme preferred by the Council and allow ADR to have discretion to work with them to choose the final colors. They also looked at beige with gray trim. If there are versions of these palettes that turn the Council's stomach then that must be known. The existing roof on the church building should stay, but the new roof does not need to match. They proposed painted wood windows, cement plaster and cement fiber trim. They propose composition shingle roof with exposed hardware that is natural and allowed to weather.

Michael Yandle, landscape architect, explained that they are trying to create a unified landscape treatment that presents itself to the community, Shady Lane and Fernhill as well as remove unsightly conditions out front. They propose to remove a lot of the asphalt. Treat the entire area more residential, relative to the frontage or pedestrian in scale. They removed a lot of the front asphalt. They removed the curb cut that allowed drive-through and created

landscaped areas out front. The sycamore trees will remain, which provides a great buffer. Most critical is coming down Shady Lane where landscape is needed. By moving the curb line they can have five to six feet of landscaping along Fernhill. They will plant at ground level and at medium level plant hedge screening to not look directly in the front and back end of vehicles. They are increasing the tree canopy heading into the parking lot. Drainage will be greatly improved. The parking lot will drain toward this landscape feature. The front will sheet flow into the new landscape areas and the entire courtyard goes into the garden that is landscaped and graveled. They reduced the impervious surface by 2700 sq. ft. The overall effect will be a great benefit to the community. They want to create a barrier, not a park, so short brick columns and historical looking wrought iron fence is proposed with small box hedges and ivy ground cover throughout along with seat benches that are 18-inches high.

Mayor Strauss suggested improving the curb cut and moving the curb cut at the corner.

Mayor Strauss opened the public hearing on this item.

Chris Martin, Shady Lane resident, noted that he is very supportive of the project. He pointed out that drainage is a problem on that corner. There is nowhere for the water to go other than adjacent areas. On the Fernhill side, there is a great opportunity to create a swale that would be a great improvement along with additional permeable surfaces. He further believed it is a win/win for the community.

Senior Planner Semonian noted that staff received one letter requiring an arborist report with tree protection measures to be submitted prior to issuing the building permit. Also, an email was received expressing concern for parking on the street and safety of children.

Mayor Pro Tempore Hunter asked if they are losing or adding a space. Landscape Architect Yandle indicated that they are adding a space.

Project Architect noted that the design conditions are acceptable.

Margie Ellis, Fernhill Avenue resident, stated that parking in front of Mrs. Russell's is impossible because she has 10 vehicles that never move. She further noted that church parking is not a problem and had no objection.

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

Council Member Skall concurred with the staff report and felt it is a beautiful project.

Mayor Pro Tempore Hunter agreed it is a gorgeous project. He desired the architect's preferred color choice, but if departed from that color, then the Council must review again. Mayor Strauss agreed. He also likes the end result with the gable and that a solution was worked out with the neighbor to have a hip roof as opposed to a gable. Project Architect provided three alternatives to the neighbors and they preferred to see less roof, so a hip roof worked best.

Mayor Strauss believed it is a great project at the corner. Mr. Ostler announced that the church is always looking for contributions.

Mayor Strauss wanted to add conditions for requiring handicap curb cuts and sidewalks. Mr. Ostler agreed to work with staff in that regard. Landscape Architect Yandle pointed out that they are recreating a storm drain system that is not in the budget. The sidewalk along Bolinas will be redone. There will be an asphalt berm down Shady Lane with concrete at the corner for the handicap ramp.

Mayor Strauss asked for shade trees in the remote parking lot. Mr. Ostler believed that is a discussion for another night. Mayor Strauss hoped to have more tree canopy in that area, but understands the water problem and asked the applicant to consider and review the matter. Landscape Architect Yandle agreed to take the Mayor's comments under advisement.

Senior Planner Semonian recommended that some type of drainage swale be created on Fernhill. Staff suggested working with the public works department on the drainage swale. Landscape Architect Yandle noted that the area is flat, but water will be slowed down. Senior Planner Semonian suggested cuts in the berms on Shady Lane to allow water to flow into the landscape as much as possible.

Mayor Strauss agreed to add the arborist tree protection plan. Senior Planner Semonian indicated that the arborist report is needed with the protection measures.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Skall seconded, to approve the redesign and construction of St. Anselm Catholic Church subject to the findings in the staff report and the following conditions. Motion carried 3-0-2. Cahill/Martin absent.

St. Anselmo, 97 Shady Lane Conditions:

1. All planting beds shall have the ability to absorb runoff so drainage is maximized.
2. An arborist report shall be submitted with tree protection measures to be followed during construction, including precautions to be taken during removal of the asphalt around the trees to be preserved.
3. The curb cut arrangement must be worked out at the corner of Shady Lane and Bolinas, so the crosswalk does not end up on the driveway.
4. The first option for colors is accepted, but if at any time the applicant wants to make a change, it must be brought back to the Council for that purpose.
5. The use permitted under this use permit shall be established and conducted in conformity with the description in the materials presented by the applicant and the existing church use. This use permit approval is based upon and limited to maintaining the intensity and hours of the existing church uses as described by the applicant and compliance with the conditions of approval. Any deviations from the project description or conditions must be reviewed and approved by the Town Planner for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.

6. The applicant shall maintain the number of parking spaces proposed. In addition, the off-site parking at the corner of Sir Francis Drake Boulevard and Bolinas Avenue AP 073-052-25 shall be maintained for the church use.
7. All buildings, grounds, parking areas and landscaping shall be maintained in a neat and orderly manner at all times.
8. The meeting room shall be used in association with the existing church uses and not for outside groups not associated with the church use. An amendment to the use permit is required to amend this condition.
9. The applicant is responsible for ensuring that the project will comply with all applicable disabled access regulations.
10. All encroachments into the public right of way require prior approval of a revocable encroachment permit from the Director of Public Works.
11. This project shall comply with the following requirements of the Department of Public Safety: 1.) Sprinklers are required; 2.) A street number must be posted; 3.) A knock lock box is required; 4.) a 24 hour monitored alarm system is required.
12. **NO CHANGES FROM THE APPROVED PLANS AND USE SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.**
13. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee.
14. All exterior lighting shall be shielded and downcast and shall not extend off site.
15. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
16. 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.

Council Members Cahill and Martin reconvened their positions on the Town Council.

30. **93 Bolinas Avenue, Variance and Design Review No. 1747**
Paul and Tori Steege, 93 Bolinas Avenue, A.P. No. 73-041-15, R-1 (Single Family Residential), Medium Density (6-10 Units/Acre). Variance and design review to allow the following modifications to the existing residence: 1.) relocation of existing dormers on the north facing roof and construction of a new gable/shed dormer to increase the ceiling height of existing upper level floor area; 2.) new gable roof for existing carport and extension of the carport 8 feet towards the front yard; 3.) replacement of the existing porch with a new porch and second floor roof deck; and 4.) a new hot tub within the rear yard setback (40 feet required, 3.5 feet proposed) and east side yard setback (15 feet required, 3.5 feet proposed). The hot tub would be located on an existing deck that covers a seasonal stream contained in a concrete channel.

Lot area	6,400 square feet	
Existing Floor Area Ratio	1,943 sq. ft.	30.3%
Proposed Floor Area Ratio	2,037 sq. ft.	31.8% (20% permitted)
Existing Lot Coverage	1,393 sq. ft.	21.8%
Proposed Lot Coverage	1,487 sq. ft.	23.2% (20% permitted)

The existing residence and carport are nonconforming in side and rear setbacks.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the project as proposed with the conditions in the staff report.

Paul Steege, owner/applicant, stated that it has been a great place to live. This is a project that came about because they have dry rot in their carport and overhang, so they wanted to make it nicer with their improvements. It is a low budget project and it will be an improvement. In terms of the hot tub addition, they always wanted one. It would be portable, around 6 feet wide, and it will not be over the watercourse.

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

The Council indicated that they are very comfortable with the project and favored the application.

Mayor Strauss asked for a motion.

Council Member Martin moved and Council Member Cahill seconded, to approve the project at 93 Bolinas with the conditions and findings outlined in the staff report. Motion carried unanimously.

93 Bolinas Conditions:

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

1. The approval is for the plans dated June 9, 2009, on file with the Planning Department. No changes from the approved plans, before or after project final, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval prior to any change.
2. All site drainage shall be dissipated on site and not directly to the watercourse.
3. 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.

4. This project shall comply with all requirements of the Department of Public Safety, as outlined in their ongoing project review.
 5. 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.
 6. Any portable toilets shall be placed off the street and out of public view. Any temporary fencing shall not be an orange or other bright color.
 7. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
 8. Failure to secure required building permits and/or begin construction by July 9, 2010 will cause the approval to lapse without further notice.
 9. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.
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31. **81 Wellington Avenue, Variance No. 1746**
Paul & Valerie Herzog, 81 Wellington Avenue, A.P. No. 72-072-21, R-1:B-10 (Single Family Residential), Medium Low Density (3-6 units per acre). Request for variances to permit an outdoor fireplace, outdoor kitchen, and new patio and deck areas within the side setbacks (15 feet required, 0 feet proposed) and rear yard setback (40 feet required, 3 feet proposed). A tree removal permit is also requested to remove a pittosporum, privet and bay tree.

This item was continued to a later date.

32. **126 Winding Way, Variance and Design Review No. 1736**
Douglas and Miranda Abrams, 126 Winding Way, A.P. No. 72-091-14, R-1:B-5A (Single Family Residence, 5 Acre Minimum Lot Size), Very Low Density (.1-1 Units/Acre). Design review and variances to allow a significant remodel and addition to the existing residence, originally designed by Bay Area architect Bernard Maybeck. Demolition permit to allow modifications to each elevation of the residence,

including replacement of the siding and roof and removal of the carport. Design review and hillside lot/hazard zone 3 use permit for the following: 1.) 806 square feet (net) addition to create a 4,885 square foot residence; 2.) landscape improvements that include construction of 715 linear feet of new landscape retaining walls up to 10 feet in height; 3.) approximately 650 cubic yards of cut and 600 cubic yards of fill associated with the landscaping and construction; and 4.) a wood, lattice design, driveway gate up to 6 feet in height between new stone columns. Variances to allow the following: 1.) a new arrival court and associated retaining walls within the front yard setback (25 feet required, 0 feet proposed); 2.) removal of one covered parking space and all parking spaces to be uncovered (2 covered spaces required); and 3.) new pool within the rear yard setback (40 feet required, 8 feet proposed). A tree removal permit is requested to allow the removal of 14 protected trees ranging from 10 to 21 inches in diameter. Fifteen trees not protected under the Town tree ordinance are also proposed for removal.

Net lot area	44,201 square feet
Existing Floor Area	9.2%
Proposed Floor Area	11.0% (15% permitted*)
Existing Lot Coverage	5.7%
Proposed Lot Coverage	8.0% (15% permitted)

**The slope of the lot is 35%. The Town Hillside Lot Ordinance guidelines recommend a maximum floor area of 3,530 square feet. The existing residence is nonconforming in number of stories (2 permitted) and covered parking (2 spaces required).*

Senior Planner Elise Semonian summarized the staff report. Staff noted that the Council did not need to worry about the permit streamlining act, as the Town had not yet determined that the project was categorically exempt from the California Environmental Quality Act.

Charles Theobald, architect, stated that this is a special home with special places that influence the way they approached this project. Two rooms are living rooms that are often published in photographs, with a beautiful stairway and exterior. It is a classic example of beautiful work. Recognizing that this is for a family in 2010. Bernard Maybeck was an advocate of having homes fit the needs of families. The addition proposed is addressing those needs. The first addition off the great room will be used as the master bedroom. Part of proposal is to create a hallway that connects the master with the three bedrooms. They added to the backside a master bath. It is a very simple stone structure. Off the back, they propose a sanctuary area. A high walled area that allows light and privacy between the master bath and the neighbor to the side. A 3D modeling was done on the project and it prevents any direct eyesight between neighbors. The other addition is on the backside. Kitchens are the heart of the home. The proposed location for the kitchen is in the middle with the living room, which creates living space for the needs of the family. This will preserve the beauty of this space. Current life today, families interact more than ever and are involved in common tasks and the kitchen is the heart of the home. To follow the spirit of historical guidelines, they propose between the addition and existing structure the use of mechanisms to clearly see Bernie's and their work that do minimum impact to the existing Bernie house. He addressed neighborhood comments. Three neighbors surrounding the project have been supportive. Mr. Lay has concerns and wants the beauty of this house to be

preserved. They have a 40-foot setback on the rear and they are keeping inside that space. They also maintain the woodland buffer along the exterior of the project.

Michael Yandle, landscape architect, very excited to restore this home. He wanted to make sure that whatever they did, it did not call attention to itself. When visiting this site the compelling spaces are at an angle to the house. Nestled view spaces back into the slope. The entire oak woodland buffer that runs around the home will remain as is. They wanted to create an arrival space for safety. There is a minimal site arrival court. The auto court that functions well is 60 feet and this is 45 feet. The part that drove the shape was the amount of fill, so they looked at areas onsite to cut to create fill. They will maintain the historic terrace, drop two feet with permeable surface and tuck the pool back into the slope. The arborist advised moving on the backside of that oak to preserve the large oak tree. They consulted with staff in terms of the pool and determined this was the location with the least amount of impact on any properties. The pool is really not seen from any surrounding properties. By cutting into the slope it allowed for a small changing room. They worked closely with the civil engineer and developed a state-of-the-art drainage plan. Lawn will be used as retention areas and parking area. Gabion walls will be used as water baskets filled with onsite rock. Also, they are capturing rainwater from the roof that will go into a containment system for summer irrigation. They reduced the pervious paving close to 1200 sq. ft. They are proposing roughly 41 trees to increase the tree canopy. Several use design excellence, but the owner is willing to save this great historic structure. Site improvements are not in competition with the house. He further believed all improvements are organic and compliment.

Architect Theobald noted that they plan on using other green technologies. Gabion walls allow them to minimize off hauling. They propose a water catchment system and are pursuing photovoltaic. They are also off setting insulation techniques as well.

Senior Planner Semonian discussed the concerns raised by the adjacent neighbor regarding the large window in the family room. The applicant had indicated that he would place a fireplace in this location, eliminating the large window.

Council Member Cahill asked if consideration was given to utilizing the basement space as a garage to replace parking. Architect Theobald noted that suggestion was not considered. Part of it was acceptance on the owner that they could do without a garage. They would have had a lot of push back from the historical consultant. It would take it out of a 1906 experience. The question was not asked of the structural engineer. It is probably possible, but it is a matter of cost. They propose a door into a mudroom. Senior Planner Semonian noted that she contacted Carey & Co. regarding the potential of adding a garage to the basement level and they could not offer an opinion without reviewing the design. Landscape Architect Yandle believed there would a lot of tree removal and it seems to allow the vehicle to intrude on the site. Council Member Cahill felt it has less high retaining wall on that side in the turnaround. He wanted to know if they could avoid the variance within the structure itself.

Mayor Strauss opened the public hearing on this item.

Doug Lay, Winding Way resident, submitted a letter for the Council's review. He had not attended the ADR process. When story poles were erected he contacted the architect and expressed concern. Everyone hears about Maybeck, but this is one of his great works. It has

been barely touched. It has unusual features that he came back and designed with the addition. It is a very important building that deserves careful restoration. It is nestled into the site. This is not a large site. It is rigid, with no flat land. To expand such a place, the character of the existing structure will be changed. If there is ever a case for applying the HLO this is it. They must preserve the quality and feel of a great historic structure. Changes to some interiors on this space is defacing a great piece of art and it is a shame there are no protections for that. Parking is a major issue. This is a very narrow street and parking is needed. Not having covered parking is a concern and should be explored. This situation does not justify drastic expansion. They tried to be extremely sensitive to the site and integrate with the building, but it is more than is appropriate for this site and house. The concern is the master bath being able to view his patio. He is concerned about noise and sight lines to his patio area. The kitchen and great room is a big structure and must be carefully considered as well.

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 asked about the historical aspect and the HLO. It is a very important house as stated by the architect. He would hate to see this kind of development on a hillside with no covered parking. Floor area could adhere to what they have now. Setbacks should be respected. There are concerns with the height of the walls. The fireplace is a concern and whether it is natural gas. He expressed concern for trees being removed. The pool house must be re-noticed to act on. He further stated that the north elevation appears to be very busy, not cohesive.

Mayor Pro Tempore Hunter stated that there is no justification or findings for this additional square-footage. In good conscious he could approve what is there now and it can be moved around a little bit, but there are no findings to go over the floor area permitted in the Hillside Lot Ordinance. The Council agreed.

In terms of the historical aspect, Council Member Cahill stated that it is a historical resource and Carey & Co. developed a number of items for the applicant that have not been reviewed by the Council.

Mayor Strauss felt direction is to go back and look at the HLO and come back with a scheme or deny this project. Council Member Cahill asked if structures are counted that are falling down in terms of the shed. Senior Planner Semonian believed it is used as an accessory shed, but agreed to further review. Architect Theobald indicated that they are removing this structure and constructing a 240 sq. ft. replacement structure that is buried in the hill. So, in a sense, they are improving the visual appearance of the site. But if that cannot be done, then that structure will be kept.

Mayor Strauss believed there are other design features. Putting a pool in a side yard setback and a structure in the side yard setback is the general plan intention. Council Member Cahill stated that this is a condition not as bad as many circumstances in terms of the setback. They might want to be more lenient in cases such as this; the sighting of those structures will not intrude on any neighbor. Mayor Strauss wanted to review with a much-scaled back house.

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Council Member Martin discussed the pool and the proposed location is in a dormant swale on a fairly significant slope. Alternative site near the patio is a flatter area and wanted that reconsidered as a possible location. Overall, it is an outstanding project. There is flexibility on the FAR, even with HLO the project merits further review. He wanted the pool moved off the hillside on a flatter area.

Mayor Pro Tempore Hunter felt the use of the gabion walls and all green methods are positive. This turnaround solves a problem. As a vehicle lover, he would think it would get real old parking outside all the time. A garage should be considered when thinking of how the property will be used. Council Member Skall agreed a garage should be considered.

Council Member Cahill stated it was hard to tell from the plans how the contours were being altered with various retaining walls and circular driveway, and if the pool room and pool were recessed, it would be nice to have sections through these areas showing existing slope compared to what is proposed to understand the difference between existing contours of the land and what is proposed. The lower addition in the rear blocks a significant part of the existing house. It is very large if viewed from down below as well as very bulky. Architect Theobald stated that the original house towers significantly higher than that.

Council Member Cahill noted that they are talking about replacing what is currently there, which is around 4,000 sq. ft.

There is consensus by the Council that it is a historic Maybeck House.

Senior Planner Semonian stated that to avoid the HLO, the applicant must limit the addition to 20%, or approximately 800 sq. ft. Council Member Cahill clarified that it is 20% of the original house, not the existing house. Senior Planner Semonian explained that it would be 20% of the existing house.

Town Manager Broad noted that it is 20% of the size of the primary structure. Mayor Strauss argued that they are over the HLO and they would grandfather the area of the site, which is 4000 sq. ft. Council Member Cahill stated that under the HLO, staff interprets that they are allowed to expand up to 20% without kicking in the HLO, even though they are over the ordinance.

The majority of the Council agreed that the project should be limited to the existing floor area, which is already over the permitted floor area under the Hillside Lot Ordinance. Council Members Martin and Skall viewed it as indicated by staff.

Council Member Cahill recommended exploring parking in the basement area of the house to see if there is a way and propose to Carey & Co. and get their response. The Council agreed. Council Member Cahill wanted to encourage covered parking, which is good for the Town and vehicles.

Mayor Pro Tempore Hunter stated that there is a bulk and mass issue that must be addressed. Also, they must find some sort of covered parking.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, to continue 126 Winding Way application to a later date. Motion carried unanimously.

33. Correspondence - None

34. Other Business - None

35. Adjournment

By order of Mayor Strauss, the meeting adjourned at 12:36 am.

Richard Strauss, Mayor

ATTEST:

Gary Broad, Town Manager