

## REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, MARCH 8, 2007

1. 6:04 P.M.

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

2. Posting of Agenda.

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

3. Minutes - November 2006 and February 2007.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Durst seconded, to approve the November 2006 minutes as presented and the February 2007 minutes as amended. Motion carried unanimously by Council.

4. Demands.

The demands were met.

5. Open Time for Public Expression - None

6. Report from Mayor Rick Strauss.

- "Green" Police Vehicles

Mayor Strauss thanked Chief Heying on the green police vehicles report, which he believed is great. He then asked Chief Heying to discuss the old fire truck for-sale. Chief Heying responded that he found a buyer willing to pay \$5,000 for the old fire truck, but clarified that it is not the historic fire truck.

- Replacement Street Tree Planting

Council Member Durst will discuss tree replacement during her report.

- Town Pathways

Town Manager Broad and Public Works Director Jarjoura have tried to schedule a meeting with Executive Director Dianne Steinhauser from TAM. The Town has some money available from a State grant for repaving Sir Francis Drake. TAM ultimately will pay for the repaving work along Sir Francis Drake, which could include sidewalks along Drake. Staff hoped there is some way to do the work now rather than wait several years for TAM to pay for the repaving in order not to lose the money available from the state. Staff explained that possibly the Town could advance money to TAM to have the work done sooner, then TAM will reimburse the cost for the improvements. Staff felt it is very beneficial from a liability standpoint to implement a plan that provides for sidewalks, which follows the Safe Routes to School program in regard to sidewalks on the west side of Sir Francis Drake. Staff will meet with Executive Director Steinhauser next week to discuss Sir Francis Drake as well as Shady Lane. Staff noted that this must be budgeted for Council and Council approval is needed before any action is taken, so this is a preliminary discussion.

- Undergrounding Utilities

Town Manager Broad looked into the idea of a public/private partnership to underground utilities starting at the corner of Lagunitas Road and Sir Francis Drake. Undergrounding will travel up Lagunitas Road. There would be a little jog at Ross Commons where there is 500 feet of telephone poles to be included, then turn on Shady Lane and extend down almost all the way to Southwood. Staff has a commitment from one of the four large property owners in that area that they would be willing to pay a portion of the cost and also help staff by talking to the next three large property owners in that area about financially supporting the underground project to receive enough private money. Staff explained this is a combination of PG&E money, some Town money from the General Fund and then private money to pay for the undergrounding. The total distance is 1,600 feet of undergrounding. This must come back before Council as well as have a public meeting on the whole idea. Staff noted that this could be done without a full assessment district, which would be a lot easier, if the four private properties pay a portion of the cost.

The Town can still do undergrounding without private money, but not as far down. Staff believed it is a great opportunity to put together three pools of money and have a dramatic effect on Shady Lane. Mayor Strauss believed it is a good use of PG&E funds available for the public. Town Manager Broad noted that PG&E money could only be used for projects that are a public benefit. Staff is hopeful over the next month to move ahead with discussions and report back informally during the April meeting. Staff must notify all residents that own property in that area about taking this action. Staff pointed out that it would take time to get this done because it must be coordinated with the bridge project and expanding the creek, so it is about three years out. Staff further added that it is a slow process.

- Town Facilities

Mayor Strauss noted that the Town Facilities have been put on hold until the Town finds out what will occur with fire consolidation.

- Downtown Plan

Mayor Strauss announced that there is a meeting tomorrow morning at 9:15 a.m. to interview MPA and he will report back more at the April Council meeting.

## 7. Report from Committee Heads.

Public Safety - Council member Hunter

- Fire Consolidation Update

Mayor Pro Tempore Hunter reported that they continue to meet and are waiting on the consultant's report. If desirable, then a presentation will be made to Council.

Public Works - Council member Durst

- Public Works Report

Council Member Durst reported that the Public Works Committee met on February 28<sup>th</sup> and discussed the following issues:

They received a citizen's complaint from Ross resident Jill Baker and San Anselmo residents Lisa Travaglini and Thom Cooper about the speed of vehicles on Bolinas Ave. They have requested stop signs at the intersection of Richmond Ave. They determined that in order to put stop signs at this intersection they would need to do a traffic study with the Town of San Anselmo. On March 1<sup>st</sup>, she sent a letter to Mayor Cooper and the San Anselmo Town

Council advising them of the complaint and their wish to examine the issue with them. In the meantime, Public Safety has stepped up patrol of the area.

Also, they discussed a citizen's request to re-stripe the fog line on Sir Francis Drake at #74 closer to the center divider. Council Member Cahill and the Public Works Director will review that request in more detail. She noted that Chief Heying will review their discussion about U-turns on Ross Commons later on in this agenda. She noted that the Town has received a request from a resident about scheduling a father/daughter baseball game on the playing field. Since the Town does not schedule events, she met with Ross Rec Board President Dean Holter to talk about whether Ross Rec would take responsibility for scheduling events, both for teams and residents on the playing field. They discussed the efficacy of collecting a deposit for litter pick up, as these events tend to overwhelm the trashcans. President Holter and she also talked about Ross Rec coordinating with Ross School the ability to schedule events on the playing field and use of the restroom on the playground. President Holter will discuss the issue with Ross Rec Board at their March 20<sup>th</sup> meeting.

- Street Tree Working Group

Council Member Durst announced that on February 14<sup>th</sup>, Chair Janell Hobart, Town Arborist Becky Duckles, Public Works Supervisor Robert Maccario and she met to outline a mission statement and to get to know each other. She will save comments on the mission statement for the General Plan portion of tonight's meetings. Ms. Hobart has appointed Cynthia Zak and Mimi Lapeyre, both are landscape architects, to the Street Tree Working Group and they will meet on March 14<sup>th</sup> as a full Committee.

Mayor Strauss asked about the redwood trees on the corner. Council Member Durst explained that in reviewing several arborist reports, every solution makes the trees die faster. She noted that redwood trees create their own weather and there is not a good solution for those trees. Hopefully, they will be able to develop an attractive appearance for that area.

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

Lesley Reidy, representing RPOA, announced that RPOA scheduled a CPR training class for Saturday, March 24<sup>th</sup> at Ross Library from 8:30am to 12:30pm by Jake Peterson. They hope to use the Town's email list to announce the CPR training class to the broader public. Also, new banners in mid March will go up to celebrate the Garden Tour, which were done by students from grades 4<sup>th</sup> to 6<sup>th</sup>.

**9. Flood Control Report.**

Mayor Strauss announced that the bridge fund audit has been waived and they will move forward. Also, they must schedule a County presentation. Town Manager Broad announced that Supervisor Hal Brown and Jack Curley from the County would attend the April Council meeting to do so. Staff further noted that design alternatives for the fish ladder replacement for Unit 4 must still be scheduled.

**10. Enforcement of No U-turn regulations on Ross Common by the Post Office.**

Chief Heying received complaints of increased U-turn activity in front of the post office, which is against the law because it is a business district. He suggested a short public education campaign to remind people that it is not okay to make U-turns. Staff felt signage is not appropriate or necessary and after public education, enforcement will occur.

Council Member Durst hoped to discuss this matter during the downtown planning discussion.

**II. Town Council consideration of Resolution No. 1620 approving the landscape screening plan associated with March 2005 Council approval for Stanley and Karen Stern, 66 Bridge Road, A.P. No. 70-302-10.**

Mayor Strauss summarized the staff report and recommended that Council adopt Resolution No. 1620, approving the landscape screening associated with March 2005 Council approval for Stanley and Karen Stern.

Town Attorney Hadden Roth indicated that the resolution is acceptable.

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

Mayor Strauss asked for a motion.

**Council Member Cahill moved and Council Member Durst seconded, to approve Resolution No. 1620, approving the landscape screening plan associated with March 2005 Council approval for Stanley and Karen Stern. Motion carried 4-1. Durst opposed.**

**12. Steering Committee presentation of the draft 2007-2025 Town of Ross General Plan to the Town Council.**

Town Manager Broad noted that tonight is the kick off in presenting to Council the Draft General Plan. Over the 2.5 years it has been his pleasure to work with the consultant and the Steering Committee, which includes six members of the community, plus former Council Member Thomas Byrnes as Council liaison and then Mayor Pro Tempore Hunter as the Council liaison. It has been a wonderful process learning about the Town and the issues as well as having over 20 meetings. There has been a huge amount of effort in regard to the document before Council tonight. It has been an effort of getting a lot of material and then condensing it all back down into a manageable form. He is very proud of what has been developed and he thanked the Steering Committee who has done a terrific job. He further noted that he is very pleased with the effort to date and this will be a real asset to the Ross community.

Mayor Strauss thanked the Steering Committee as well as former Council Member Byrnes and Mayor Pro Tempore Hunter as the Town's liaisons.

Jody Becker, Steering Committee, noted that almost two and a half years of intense effort, including 23 meetings and numerous subcommittee meetings, the General Plan Steering Committee is pleased to present to Council the Draft Ross General Plan. They had a great time working on the plan because they had a terrific committee under the gentle but firm guidance of our Chairman, George Dirkes who sincerely regrets that he is unable to attend the meeting tonight. They thanked Council for providing them with two excellent dedicated liaisons, Thomas Byrnes and Scot Hunter. Their trenchant, incisive observations added great value to their meetings. In alphabetical order the other members of the Committee are Bruce Goldberg, a former President of the Ross School Foundation who, as we speak, is overseas conducting supervision of his worldwide manufacturing business.

Next member of the Committee is Richard Hannum, a renowned architect and one of the most creative minds in California; his contribution to the plan was crucial. Wendy McPhee is a talented graphic artist, designer and marketing expert with offices in downtown Ross. She is a member of the Ross Property Owners Board of Directors. Lesley Reidy is the epitome of a multi-tasker. As of this moment she is busy taking notes for the RPOA. Lesley was the Vice President and advertising account supervisor for clients including Proctor and Gamble, Clorox and Nestles. The Committee expressed its regard and appreciation for Jeff Baird, their truly outstanding consultant who listened carefully and put it all together, including the input from eight strong-minded Committee members. Special kudos to Town Manager Gary Broad whose essential knowledge, insights and overall assistance were an intrinsic contribution to the creation of the plan. They also appreciate Town staff that was consistently and cheerfully helpful. The Committee wishes to express its gratitude to the professional architects, landscape architects and designers, all residents of the Town who by invitation from Richard Hannum, came to two separate meetings to provide them with invaluable ideas, many of which are incorporated in the plan. There were also significant thoughts and concepts contributed by some of the 75 of their neighbors who attended the community vision event at Ross School last April. Finally, thanks to the Council for giving them the opportunity for intense continuing education in a variety of matters of which some of them had been blissfully ignorant – dry ponds? Wet ponds? Vegetation swales? Stormwater quality protection? Who knew? She understands the public hearings will be scheduled in April and May and they look forward to hearing the Council's comments and questions.

Jeff Baird, consultant, agreed it was a wonderful stressful process of collaboration. He along with Richard Hannum provided Council with a powerpoint presentation in regard to the Draft General Plan for their consideration that included the following:

- Overview of the Steps in the Ross General Plan Preparation Process
- Work Program Meetings – *November 2004*
- Steering Committee Meetings (2005-2007) – *Tour of Ross; meetings with experts on sustainability, creeks, historic preservation trees, Safe Routes to School, etc.*
- Ross School Outreach (*March-April -2005*)
- Community Vision Event (*April 23, 2005*)
- Meetings with Local Designers (2) (*March-April 2005*)
- Town Council Check-In (*June 2006*)
- Announcements
- Steering Committee Meetings
  - *Presentation by Friends of Corte Madera Creek*
  - *Presentation on Marin Countywide Plan/Sustainability Practices*
- Meeting with Local Designers
  - *Design review process*
  - *Components of excellence of design*
  - *Distinctive areas/key locations in Ross*
  - *Neighborhood context*
  - *Street presentation*
- Community Vision Event
  - *Environmental protection*

- *Downtown enhancement*
- *Design review*
- *Flood control*
- *Less reliance on cars*
- *Underground utilities*
- *Historic preservation*
- *Community character*
- Overview of the Ross General Plan
- Purpose of the Ross General Plan
  - Legal – Respond to State law requirements and provide a foundation for: Development; Zoning; and Capital Improvements.
  - Visionary – Provide a statement of community's vision for the future of Ross
  - Clear – Establish policies to guide future decision-makers
  - Strategic – Identify implementing actions and commitments to achieve the Town's vision.
- Contents of the Ross General Plan
- Key Components of the Ross General Plan
- Our Vision of Ross in the Year 2025 –*Visioning is a way of looking at the future and our ability to define a future state.*
- Ross Advisory Design (RADR)
- Recognizing Different Areas in Ross
- Preparation of Design Guidelines:
  - *Steeper areas*
  - *Transitional areas*
  - *Traditional neighborhoods*
- Prepare a Plan for the Downtown Area
- Prepare a Pedestrian/Bicycle Master Plan
- Other Comments
- Next Steps in the Process

Mr. Hannum explained that from this process he discovered the real level of commitment. Mayor Strauss believed that would carry through with the downtown plan and undergrounding utilities. He then asked if consideration was given to how often the RADR team would meet. Mr. Hannum responded that they are charged to sit down with staff to work out details. He explained that there will be five to nine participants with rotating groups of three at any given time. They want to let the process prevail and not lobby Council in order to keep Council separate until it is time. They created this for the City of San Francisco and it was extremely effective. The Board of Supervisors and Planning Commission would defer to design review and they would table the proposal until it went through design review. It does not require the amount of time one might anticipate. This process will be quicker, less expensive and facilitate a better relationship for all.

Consultant Baird added that the concept was discussed with designers and there was discussion around a seamless fit with expert design review. Another benefit of this process is that the Town will have more and more educated designers. Mayor Strauss pointed out that

there is no obligation on a particular applicant. He appreciated the rotating aspect in order to avoid lobbying.

Mr. Hannum stated that the Town has a reputation, which had a negative impact in general in regard to the quality of design work. Simplifying and making it a more favorably dynamic process representative of the idea of how to support excellence is a great approach.

Mayor Strauss asked what the other two top items were other than utilities. Mr. Hannum responded that groundscape, hillsides, trees, flooding and how to deal with hillside runoff protection and restoration were discussed. Also, maintaining floor infrastructure of the community in a healthy way. The Town has a history of importing the most exotic species, so it is an eclectic environment. They hope to bring forth true historic study and help beef up the grading ordinances. They want to create a positive spin on preserving elements. Safe streets was another big issue as well as dealing with accessibility. They must also deal with the core environment. One element discussed at the end is how the school interacts with the Town. Guidance, interaction and influence created by Council on how that is handled in the end was continually expressed. He further believed several interesting ideas came about.

Council Member Cahill noticed a green belt line and asked how the green belt line was determined. Mr. Hannum responded that along with staff, history and land use plans is how the green belt was developed. He added that the Committee was heavily advised by staff in that regard. Those lines are fuzzy and it is not intended to state that the lines are so specifically drawn, they are much softer and it is up to implementation of the policies and Council to interpret where that line is shown. Town Manager Broad noted that the County open space map was used to locate the open space line. Mr. Hannum stated that by utilizing what is already in place provides the best way to avoid the CEQA process. He further added that Council will have the tools necessary to advise and make decisions.

Council Member Durst clarified that this is a living document. Mr. Hannum responded in the affirmative.

Town Manager Broad provided the following information to Council for their consideration:

- Process to Completion
  - March/April 2007 – *Completion of Environmental Review*
  - March – May 2007 – *Town Council Public Hearings on Draft General Plan*
  - June 2007 – *Town Council Adoption of the Draft General*

Town Manager Broad agreed to provide information on the web and online in regard to the General Plan. Staff will also post notice. They are required by law to do some sort of publication in the local paper, so they will include information in the IJ. Staff will make a full effort to make those in the community aware of the Draft General Plan. This will go before Council sitting as both the Planning Commission and Council, which will require more time, but the hope is for Council to adopt before summer vacation.

Mayor Pro Tempore Hunter asked staff to mention how user friendly this will be in regard to links. Town Manager Broad explained that the document itself is real user friendly, accessible to the public and will be easy to read and understand. Related to that, they talked about the idea of the online version including links in each subject area to take a user into

the appropriate zoning section. The idea of having the General Plan and within the General Plan, appropriate zoning links will be included, which makes it very user friendly.

Mayor Strauss opened the public hearing this item.

Carole D'Alessio, Crest Road resident, discussed implementation and asked if that would be phased when zoning regulations are evaluated or changed. She wanted to know what is meant by implementation. Mr. Hannum explained there are recommendations in regard to creating design review guidelines that are ranked over priorities. Those are discussed in regard to implementation. Also, zoning updates would be taken up at the same time. The committee is advisory back to staff and to Council.

Brian Salmen, Shady Lane resident, asked what the planned process is for determining who actually would be on this RADR. Mr. Hannum indicated that they are working on that. Any one committee would have a registered architect and one layperson. Staff will not be a member, but staff may attend the meetings. RADR would not deal with zoning issues or ordinances; it is a design only response. He explained that the selection process would go to staff and Council. Town Manager Broad added that it would be spelled out in the resolution that establishes the RADR process. Mr. Hannum further noted that it would not circumvent the Council process.

John Martin, Bolinas Ave. resident, discussed traffic control and noted that Bolinas Avenue residents would love to help participate in a traffic study.

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

Council Member Durst discussed trees and when she met the Street Tree Working Group they discussed ideas incorporated in the mission statement. She further believed there was an incredible amount of thought and communication with the Steering Committee.

Mr. Hannum added that it has been an exciting process. Council looked forward to the next step.

**13. Planning Application Consent Agenda.**

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

**a. 130 Laurel Grove Avenue, Design Review No. 1624**

Lisa and Peter Park, 130 Laurel Grove Avenue, A.P. No. 72-211-21, R-1:B-A (Single Family Residence, One Acre Minimum Lot Size). Design review for a new 834 square foot, attached, pool house.

Lot area	37,558 square feet
Existing Floor Area Ratio	12.5%
Proposed Floor Area Ratio	14.7% (15% permitted)
Existing Lot Coverage	11.8%
Proposed Lot Coverage	14.3% (15% permitted)

Mayor Strauss asked for a motion.

Council Member Cahill moved and Council Member Durst seconded, to approve Consent Calendar Item “a” as presented. Motion carried unanimously by Council.

### 130 Laurel Grove Conditions

1. The Town reserves the right to require additional screening landscaping between the addition and adjacent properties up to three years from project final.
2. ANY PERSON ENGAGING IN BUSINESS WITHIN THE TOWN OF ROSS MUST FIRST OBTAIN A BUSINESS LICENSE FROM THE TOWN AND PAY THE BUSINESS LICENSE FEE. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
3. This project shall comply with the following requirements of the Department of Public Safety: 1.) A street number must be posted {minimum four inches on contrasting background}; 2.) Clear all brush impinging on access roadway; 3.) Roadway to have vertical clearance of 14 feet; 4.) A Knox Lock box is required; 5.) Remove and clear all dead or dying flammable materials per Ross Municipal Code Chapter 12.12; and 6.) 24 hour monitored alarm system exists and shall be extended to cover the new construction.
4. Any portable toilets shall be placed off of the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
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.
6. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval prior to modification.
7. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY MARCH 8, 2008 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
8. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
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.

**b. 31 Upper Road, Design Review No. 1640**

Judy and Tom Hyde, 31 Upper Road, A.P. No. 73-111-10, R-1:B-5A (Single Family Residence, 5 Acre Minimum Lot Size). Design review to allow: 1.) expansion of the garage from 555 square feet to 930 square feet; 2.) 570 square foot addition to the upper level of the residence for a guest bedroom suite; 3.) 188 cubic yards of cut associated with re-sloping the driveway; and 4.) retaining walls up to 5 feet in height along the driveway. The project also involves construction of a new covered entryway and modification to the existing dormers.

*This item was continued.*

**c. 3 Madera Avenue, Design Review No. 1637**

Paul and Susanne Carek, 3 Madera Avenue, A.P. No. 72-072-20, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). Design review to allow the construction of a new, 58-inch tall, open-design, black metal driveway gate to be located 18 feet from the edge of the road.

Mayor Strauss asked for a motion.

**Council Member Cahill moved and Council Member Durst seconded, to approve Consent Calendar Item “c” as presented. Motion carried unanimously by Council.**

**3 Madera Conditions**

1. The pavers within the alignment of the roadway shall be removed and replaced with asphalt, to the satisfaction of the Town Public Works Director, prior to installation of the gate.
2. The gate shall be located at least 18 feet from the edge of the roadway.
3. Failure to secure required building permits and/or begin construction by March 8, 2008 will cause the approval to lapse without further notice.
4. This project shall comply with the following recommendations to the satisfaction of the Department of Public Safety: 1.) a street number must be posted (minimum 4 inches on contrasting background) and; 2.) a Knox Lock box is required.
5. 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.
6. 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 Planning Consent Agenda.**

14. **12 Norwood Avenue, Amendment to Variance and Design Review No. 1551**  
Ken and Lori Tishgart, 12 Norwood Avenue, A.P. No. 73-091-29, R-1:B-20 (Single Family Residence, 20,000 Square Foot Minimum Lot Size). Variance, design review and amendment to the April 7, 2005 Town Council approval to permit the following: 1.) construction of a 40 foot by 20 foot swimming pool within the east side setback (20 feet required, 14 feet proposed); 3.) new patio area within the setback from the rear property line of 10 Norwood (25 feet required, 22 feet proposed), west side setback (20 feet required, 14 feet proposed) and guideline watercourse setback (25 feet recommended, 10 feet proposed); 4.) modification to the design of the pool pavilion and outdoor fireplace; 5.) 70 square foot third story addition (two stories permitted) in the area of an approved deck; and 6.) modifications to the windows on the third floor of the west elevation.

Lot area	54,700 square feet	
Approved Floor Area Ratio	9.8%	
Proposed Floor Area Ratio	9.9%	(15% permitted)
Approved Lot Coverage	7.0%	
Proposed Lot Coverage	7.0%	(15% permitted)

*The existing residence is nonconforming in setbacks, maximum height, and number of stories. Existing accessory structures are nonconforming in setbacks.*

Town Manager Broad summarized the staff report and recommended that Council deny the third-story variance request, but approve the application subject to the findings and conditions with amended Condition No. 8 as provided in the March 8<sup>th</sup> memorandum: “A detailed landscape plan shall be provided to the Planning Department for review and approval and installed prior to project final. The lawn area proposed along the east property line shall be reduced to increase the area available for landscape screening along the east property line. The landscaped areas adjacent to the retaining walls shall focus on screening the development from off site views and shading the creek. All lawn areas shall be designed so that any runoff or excess irrigation flows away from the creek. New plants within 25 feet of the non-channelized creek banks shall be appropriate for the riparian area.”

Lori Tishgart, owner/applicant, indicated that the Friends of Corte Madera Creek had concerns, so they moved the lawn back 25 feet from the creek. She then provided an architectural drawing of the original proposal in order for Council to better understand what is proposed. She explained that she liked the old house and wanted to maintain that same look from Norwood and felt with this approach the original house would be respected.

Mayor Strauss asked staff to discuss the concrete bank area in regard to lawn. Town Manager Broad responded that the condition requires riparian planting within 25 feet of the non-channelized portion of the creek, so just the back part.

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Mayor Pro Tempore Hunter noted that staff referenced another application in the staff report that came before the Town and pointed out that all applications are different and the pool at 42 Fernhill was in the ground and functioning, so it was either leave it or move it. In this case the pool is gone and it is not the same. He then asked staff to be more careful in comparisons in the future. Council Member Cahill noted that the hole is still present, so cut and fill is similar to the other project. Council Member Durst agreed with Mayor Pro Tempore Hunter's comments that it is not a similar situation.

Council Member Cahill discussed mandatory findings for a variance application and pointed out that it is unclear who prepared the findings. Town Manager Broad indicated that the applicant submitted the findings. Staff agreed to be clearer in the future.

Ms. Tishgart noted that her architect prepared the findings. They did not want to raise the house because they wanted maintain the historic feel and usage. They wanted to make the site more green and living. There is an orchard in back and they did not want to destroy the green belt, which also provides a nice buffer zone. She felt they developed a reasonable design. The addition proposed is very small. It is a shed roof with no additional windows. They just pushed the windows together and came out 4.5 feet with a small shed roof. There is minimal impact on the western side. She further provided the approved map for Council's consideration explaining that the pink line depicts the addition proposed.

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

Council Member Durst asked the applicant to explain access through the front area of that deck with the addition. Ms. Tishgart responded that the front of the house would not change from the street. It would just come out 4.5 feet in order for her daughter to have a study area.

Council Member Durst agreed with the staff report to approve the additional square feet. She believed the Tishgart's have done a stellar job preserving the historic character of the home. She suggested having no deck access and that the Tishgart's change the opening to a bay window, which could be justified and preserve the buildings historic character. Creating that study area would be a way to justify a bay window, which would reduce the bulk and mass. She further suggested that the matter be continued due to the letter Council received from Mark Gamble requesting a continuance due to a number of design change elements to the project.

Council Member Cahill asked the applicant if they consider a bay window. Ms. Tishgart desired a bay window in back of the house, but was told it would be difficult, so they eliminated that idea. She explained that it is a difficult and a nonconforming property and in keeping with the same footprint, in looking at the third floor, it is seamless and appears as a second floor because the lot takes such a dip. She further noted that it is a difficult piece of property.

Council Member Cahill agreed with the staff report on all items, except he disagreed with the staff report on this addition. He reiterated that the Tishgart's have done a fabulous job on this house and not allowing them to do a minor addition sends a very bad message to those

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preserving homes in Ross. He believed the findings can be made as listed in the pages submitted by the Tishgart's architect, which supported the minor addition.

Council Member Skall agreed with Council Member Cahill's comments. It is a very small request. They are not adding on a third-story to an existing second-story house. This is already a three-story house by definition. It is very small compared to the size of the home and what is being preserved and he felt it is reasonable. He also believed that Council Member Durst's idea has merit. Council Member Cahill would support Council Member Durst's idea as well, but felt what is proposed by the applicant is acceptable. Council Member Durst stated they are preserving historic character of the house and the applicant has gone the distance. She further noted that it definitely had to be upgraded.

Mayor Strauss did not want to slow construction, but he struggled in the past with the garage location due to the waterway. Policy is to not build structures within 50 feet of the bank or hardscape improvements within 20 feet. Mayor Strauss believed they have an opportunity to move the pool and keep it out of the side yard setback, abandon the carport and grant the area on the roof in whatever form deemed appropriate. He further pointed out that Council has an opportunity to correct the situation.

Council Member Durst cannot see any reason to take out the carriage house. Mayor Strauss recommended continuing that portion of the application in order to come back with a master plan. Ms. Tishgart noted that the carriage house was built in 1901. Council Member Cahill asked staff if demolishing the carriage house would be an issue with the Demolition Ordinance. Town Manager Broad explained if it is a carriage house it is regulated, if not a carriage house, then it is not regulated under the Demolition Ordinance.

Mayor Strauss felt they have an opportunity to move the pool and remove the stairs. He further pointed out that the carriage house is not before them tonight.

Mayor Pro Tempore Hunter finds this difficult due to the notion of the master plan. It would be easy to separate the third floor addition from the rest of the application. As far as the third floor, he agreed very good work has been done and the applicants should be congratulated.

Mayor Strauss supported Council Member Durst's idea of a bay window and enclosing the area, which would remove a third-story deck.

Mayor Pro Tempore Hunter stated that they always treated it as a third-story and it is a third-story and he had no problem with Council Member Durst's suggestion, but wanted to continue the rest of the application until they had a master plan. He further desired plans for the shed/carriage house.

Public Works Director Jarjoura noted that the Building Department would issue a separate permit for pool construction.

Mayor Strauss recommended continuing any site development from the stairs and back patio until there is a master plan to understand the whole picture. He recommended pulling the pool away from the west to correct the side yard setbacks. He agreed with the solution for the upper deck and agreed to continue site development to a future date that includes a master plan for the pool house. He further believed the pool house should be removed

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because it is in the watercourse. Ms. Tishgart noted that former Council Member Jeanne Barr is her neighbor and is 100% supportive of this project. From a design standpoint, they centered the pool on the pool pavilion and they moved the pool out of the setback. Town Manager Broad noted that the applicants had indicated that the stairway would be eliminated, not relocated to the other side. Ms. Tishgart noted that there is a 5-foot drop off, so that is why the stairs exist. Mayor Straus wanted to be neighborly as well, but the carriage house is a design issue and Council must view the whole picture. He believed it would be in the applicant's best interest to have their architect or landscaper review the issue and solve.

Ms. Tishgart noted that the master plan, as it stands, is to paint and landscape. Mayor Pro Tempore Hunter noted that there is substantial bracing in front and concrete into the structure. Mayor Strauss added that the wood floor is falling into the creek and he felt it would be a benefit if the applicant had a master plan or another option is to do nothing to it.

Ms. Tishgart desired feedback on what is on the agenda this evening. Council Member Cahill believed three Council Members recommended continuing the master plan of the backyard. All Council provided comments and recommended that the applicants go back to the architect to see if some of the issues can be addressed as well as meet their needs.

Council Member Durst recommended coming up with a landscape plan that provides screening. Also, the pool pavilion in regard to the stairs must be seen. She explained that the Mayor asked the applicant to consider pulling the pool out of the east setback, which should be considered in the landscape master plan. She personally had no issue with the current placement of the pool as suggested. The issues around the carriage house, since that was not an item for discussion tonight, the Mayor asked if any thought was given about the future other than preserving it, and if so, that should be iterated on the master plan. Ms. Tishgart wanted to leave it open for a ping-pong table and paint it. She flipped the stairs as an accommodation to the Friends of Corte Madera Creek. Mayor Strauss felt the Tishgart's have an opportunity to design the backyard in order to comply with the watercourse.

Mayor Strauss liked the idea of not having a third-story deck. Council Member Cahill felt it is de minimis in regard to the third story deck. Council Member Durst noted that it preserves the historic character of the house.

Council Member Cahill discussed the impact of this backyard on the watercourse and explained that a retaining wall will inhibit that area. When developing the spa and pavilion, it is in an area that interferes with the flood flow of the creek and creates additional flood issues and there is an opportunity to redesign, so that should be reviewed and recommended a redesign of the spa and hardscape.

Mayor Strauss asked staff if the carriage house is subject to design review. Town Manager Broad responded that some work could potentially be done as repair, but a structural alternation cannot be made to a nonconforming structure.

Council Member Durst stated that in order to preserve the historic character of the house, they should approve the additional 70 square feet as proposed, but continue consideration of the pool area until there is a detailed master plan.

Mayor Strauss asked for a motion.

Council Member Durst moved and Council Member Skall seconded, to approve the addition to the third floor bedroom as proposed in order to preserve the historic character, including the findings in the staff report; and continue consideration of the pool area for a broader presentation of a detailed master plan for landscaping, including addressing the carriage house; with the following conditions from the staff report. Motion carried unanimously by Council.

#### 12 Norwood Conditions

1. This approval is limited to the proposed third story addition and window modifications. Details associated with the April 7, 2005 Town Council approval, such as the design of the railings and the materials, are not changed by approval of this application.
2. The proposed improvements to the rear of the residence are not approved. The applicants may return to Town Council with a master plan for the rear yard.
3. The project shall be subject to the conditions of the April 7, 2005, Town Council approval.
4. No work is permitted in the creek without appropriate JAARPA permits.
5. The applicant shall immediately take the precautions identified in the March 29, 2006 Bartlett arborist report. Heavy equipment shall not be located under the dripline of any tree.
6. The applicant shall immediately place hay bales at the site as specified on the building permit plans to prevent runoff into the creek in the area of the pavilion and to protect the creekside trees during construction.
7. The applicant shall submit a revised drainage plan that demonstrates all site and landscape drainage, including the pool and pavilion area, will be dissipated on site and not directed towards the creek.
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. This approval does not extend any construction completion dates for any other permits for this site.
9. No changes from the approved plans shall be permitted without prior Town approval. Redlined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
10. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this 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.

#### 15. Correspondence- None

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16. Other Business- None

17. Adjournment.

By order of the Mayor, the meeting adjourned at 8:36 P.M.

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Richard Strauss, Mayor

ATTEST:

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Gary Broad, Town Manager