

REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, MAY 10, 2007

1. 6:30 P.M.

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

2. Posting of Agenda.

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

3. Minutes-April 5th and April 16th

Mayor Pro Tempore Cahill asked for a motion.

Council Member Strauss moved and Council Member Skall seconded, to approve the April 5th, 2007 minutes as amended and the April 16th, 2007 minutes as submitted. Motion carried unanimously.

4. Demands.

The demands were met.

5. Open Time for Public Expression.

Jack Wells, Ross resident, asked the Town Council to consider building a skate park behind the police station next to the brown shingled building. He conducted research and Corte Madera's skate park was funded by a state grant in the amount of \$180,000. Mill Valley's skate park cost \$25,000 for ramps and \$100,000 for concrete and fencing, which was raised through donations and Mill Valley has no regrets. The Town has insurance, so no new insurance is needed as long as everyone wears the appropriate equipment such as helmets and pads. This would be the safest site since it is located behind the police station, so there will always be a police presence. He then provided various plans of skate parks for Council's consideration. He further indicated that at least 100 kids in Town would love to have a skate park built in Ross. Town Manager Broad agreed to investigate.

6. Report from Mayor Pro Tempore Bill Cahill.

Mayor Pro Tempore Cahill announced that the Council held a special meeting on May 3rd at the Lagunitas Club. Council discussed a number of items including the downtown plan, website utility and looking at functionality and improvement. Council would appreciate any suggestions from the public. They also talked about the construction completion ordinance and raising penalties as well as goals for this upcoming fiscal year. They must each identify their goals and come to a consensus and the goals will then be presented at the June Council meeting.

7. Selection of Committees and Town Representatives.

Mayor Pro Tempore Cahill announced the Town's four main committees as follows:

- Community Protection – Council members Skall and Strauss
- Public Works – Council members Strauss and Skall
- General Government – Council members Durst and Cahill
- Finance – Council members Cahill and Durst

Mayor Pro Tempore Cahill indicated that the other committees and non-Council appointments will be on the Town's website for those interested.

8. Report from Committee Heads.

Finance Committee - Council member Cahill

- 2006-07 3rd Quarter Budget Update

Mayor Pro Tempore Cahill reported on the financial condition of the Town through the third quarter that ends on June 30th 2007. The total revenue is about \$3.2 million, which is a healthy 9% ahead of budget. Expenses overall are about \$3 million even or about 3% under budget. As a result, net income is about \$270,000 ahead of budget. It may go down a bit by the end of the fiscal year. A more detailed look at these financials is available through staff if anyone is interested. The budget process for FY 07/08 is just commencing. The first meeting will be held tomorrow morning. He then thanked Town Manager Broad for all his efforts because he is very clear in his presentations and keeping the Town on budget. Town Manager Broad announced that staff will schedule a Council meeting and public hearing on the budget around late May after the budget goes through the Finance Committee.

Public Safety - Council member Cahill

- Fire Consolidation Update

Council Member Skull indicated that the Council had a meeting on fire consolidation on Thursday, May 3rd with a presentation from consultant Tom Brightbill. They reviewed the Phase 1 study. Council agreed to proceed with Phase 2 after some additional research is done in response to questions raised at that meeting. Town Manager Broad added that the city manager's meeting will occur on Tuesday morning, May 22nd as part of the follow-up.

Public Works - Council member Strauss

- Downtown Plan

Council Member Strauss indicated that the goal is to look at downtown planning as part of the specific plan. After talking to a very respected landscaping architect to determine a process, they decided to have a visioning session at Ross School where the entire community is invited to break down into groups and hear from the public and plan the downtown in regard to likes and dislikes. There are several elements from the General Plan that must be incorporated into the downtown plan as well as find out how the community feels. Then they will take all that information to the landscape architect. They will review parking, u-turns, and interface with the school, so it is a very exciting process. They are setting direction. They hope to meet before the summer break. Town Manager Broad is trying to schedule a Saturday morning meeting and agreed to send out dates for Council's consideration.

Ross School Liaison - Council member Skull

Council Member Skull reported that \$190,000 was raised for the school from the auction after expenses. The goal was \$106,000. The Auction Committee was most appreciative of Town staff help and support. The School Design Committee is still working on last minute budget funding and tweaking the proposed school design, which will come back in a few months.

- Street Tree Working Group

Council Member Durst reported that they met on May 2nd as a full group. Chairperson Janell Hobart drafted a mission statement, which the group will review, make refinements and adopt at the June 6th meeting. Janell, Mimi LaPeyre and Cynthia Zak will be examining doing a street tree plan for the Fernhill Avenue area in consultation with Town Arborist Becky Duckles and

Public Works Supervisor Robert Maccario. She recommended that Janell present an agenda update to Council at their June 14th meeting.

- Letter to Winship Park Residents

Council Member Durst announced that prior to the April 5th Council meeting, they received a letter signed by 28 residents in Winship Park asking Council to address their concerns about the Winship Bridge area. She also received a letter from Ann Brenner and Suzy Rice requesting a meeting to discuss their concerns about the Winship Bridge. Council discussed these letters as an item of correspondence at the April meeting and determined that a letter to the residents who signed the March 29th letter to Council be sent responding to their concerns. Mayor Hunter and she sent a letter dated April 26th.

- Marin Telecommunications

General Government - Council member Durst

Council Member Durst reported that last night Sue Buske of the Buske Group gave a report on the status of non-profit PEG media center project, currently named "*The Community Media Center of Marin*." There was an article in the IJ editorial section several days ago that outlined the purpose of the Community Media Center of Marin. This new entity is looking to fill the board of director positions. Applications are due May 16th. Those interested can check MTA's website. MTA directors also authorized staff to sign an MOU with Comcast for funding for the Opt-E-Man/I-NET implementation. The Town received an increase in fiscal year 2007 allocation of \$7,124 due to an increase in revenue.

- Bolinas Avenue

Council Member Durst noted that on May 1st she attended an extraordinary meeting between Ross and San Anselmo Town staffs regarding traffic speeds on Bolinas. In attendance were Town Manager Broad, Chief Heying, Public Works Director Jarjoura, San Anselmo Town Manager Debbie Sutsman, Police Chief Charles Maynard and Public Works Director Rabi Elias. As a result of that meeting, both police chiefs will coordinate speed enforcement efforts. Both police chiefs will send a letter to area residents, businesses and schools advising everyone to be mindfully careful of the speed limits and pedestrians. San Anselmo will use its speed indicator trailer in the area to promote traffic calming and collect speed data. They will meet again in the fall to discuss results and determine the need for a formal traffic study.

9. Report from Ross Property Owners Association.

Frank Doodha, representing RPOA, discussed the lamp posts downtown that were installed and paid for by RPOA as well as the banners that change periodically. Trees are hiding the banners as well as restricting the light and RPOA asked the Town to consider trimming those trees. Director Jarjoura agreed to review.

Mr. Doodha pointed out that two concrete posts still remain and wondered if there is a plan to replace those posts as well. Council Member Strauss added that under the entire downtown plan they would review those concrete posts. Town Manger Broad agreed to review the two concrete posts. Mayor Pro Tempore Cahill suggested that RPOA put up those banners on those concrete posts as well. Mr. Doodha agreed to coordinate with Director Jarjoura in that regard. He then thanked Council and Chief Heying for the public awareness program. RPOA called attention to the current water control flood measure and invited the Town to use the RPOA's bulletin board in regard to such matter. Council Member Strauss thanked RPOA, but believed such posters are already posted on the bulletin board.

10. Flood Control Report.

Council Member Strauss stated that they need support from all on the flood measure. This is one opportunity to have all various governing agencies behind this flood measure. At the next Council meeting on June 14th they will present the fish ladder. The bridge and fish ladder are highest priority at this point on impacting the watershed area. He will talk to Supervisor Brown to see if they can expedite the fish ladder sooner than 2011. He did not understand why it would take three years to implement the project and that is a question they should ask Jack Curley next month. Town Manager Broad agreed to contact Mr. Curley about the fish ladder timeframe.

Council Member Strauss noted that on Tuesday they had a bridge meeting with engineers trying to figure out the numbers and how to appropriately apply for funds. Director Jarjoura noted that a field review occurred including a URS consultant and environmental person from Caltrans in attendance looking at cost and initial environmental studies. The project will require an EIR. The width of the bridge must be addressed in regard to safety measures, but bike lanes and pedestrian widths can be tweaked. Pedestrian crossing, if attached, will be paid through federal funding, if detached, federal funds would not be available.

11. Update from Chief of Protocol Molly Gamble, on July 4th celebration, Town Dinner and Town Centennial.

Molly Gamble, Chief of Protocol, provided the Council with an update on the July 4th celebration, town dinner and Town Centennial. She reported that the Fourth of July picnic will start at noon with the parade at 1 p.m. Council members can ride their bike or they will provide a vehicle. There are four confirmed grand marshals. Many other World War II vets are attending. The committee has offered to buy all the veterans lunch. They are working on getting a marching band. They believe this is a great way to honor fellow community members. Also, the centennial committee is forming. The Town centennial will be September 20, 2008 and will include a day and evening event. They have about a year and a half to plan for that event. The committee is getting pulled together. She is in touch with San Anselmo in regard to their centennial happening this year. This year's Town dinner will occur on September 28, 2007 and will be similar to the one that occurred two years ago in front of the Post Office, where they closed the streets and have a very open European style dinner. It will be a very casual dinner.

12. Award of contract and authorization of expenditures for Winding Way Overlay Project (from 101 to Laurel Grove).

Mel Jarjoura, Public Works Director, summarized the staff report and recommended that Council award the contract and authorize the expenditure for the Winding Way Overlay Project.

Council Member Strauss asked staff if there is any benefit if the Town offered contracts in bulk, such as a package bid for both Winding Way and Winship. Town Manager Broad said we could ask companies to bid separately as well as together to determine the best option. Director Jarjoura indicated that they cannot exceed \$100,000; otherwise it will be an open bid. The advantage is using local contractors. Town Manager Broad agreed to investigate.

Mayor Pro Tempore Cahill 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 Pro Tempore Cahill asked for a motion.

Council Member Strauss moved and Council Member Skall seconded, to award contract to W.K. McLellan and authorize expenditures for Winding Way Overlay Project. Motion carried unanimously.

13. Award of contract and authorization of expenditures for Winship Avenue Overlay Project (from the bridge to Town limit).

Mel Jarjoura, Public Works Director, summarized the staff and recommended that Council award contract and authorize expenditures for Winship Avenue Overlay Project.

Mayor Pro Tempore Cahill 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 Pro Tempore Cahill asked for a motion.

Council Member Strauss moved and Council Member Skall seconded, to award contract to Nerviani Paving and authorize expenditures for Winship Avenue Overlay Project. Motion carried unanimously.

Town Council, sitting as a Planning Commission, to consider the following item:

14. Consideration of recommending adoption of the proposed negative declaration for the Town of Ross General Plan 2007-2025 and adoption of the Town of Ross General Plan 2007-2025 to the Town Council.

Gary Broad, Town Manager, summarized the staff report and recommended that Council adopt the proposed negative declaration for the Town of Ross General Plan 2007-2025 with findings and schedule adoption of the Town of Ross General Plan 2007-2025 to the Town Council on the June 14th Council meeting.

Town Manager Broad discussed the smoking issue and suggested making it more general in regard to the non-smoking ban in order to address the issue of second-hand smoke. They must explore the different options to figure out the best way to address this situation. They want to keep it more general in the General Plan. Staff received a letter from MMWD and the Federated Indians and staff will bring that matter back at the next public meeting. Jeff Baird will prepare the same response to comments and any additional suggested changes as well as any comments received tonight.

Mayor Pro Tempore Cahill commented on the Federated Indians who mentioned in their correspondence that Senate Bill 18 requires Council to institute consultation with them and assumed such a consultation should occur. Staff will go through comments, provide responses to comments and offer to consult with the Federated Indians and let them know staff is willing to consult or if Council preferred, they could offer to consult first before providing any comments. Mayor Pro Tempore Cahill expressed concern for timing. Town Manager Broad has draft comments that were submitted by Jeff Baird to provide to the Federate Indians, if Council so desired.

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Mayor Pro Tempore Cahill asked staff to decide which approach is most effective. Town Manager Broad is happy to meet with the Federated Indians, as the Senate Bill requires. Mayor Pro Tempore Cahill indicated that the Town has several cultural sites and wanted to make sure they have it put into the process.

Mayor Pro Tempore Cahill 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 Pro Tempore Cahill asked for a motion.

Council Member Strauss moved and Council Member Durst seconded, that the Town Council sitting as a planning commission recommended that the Town Council adopt the proposed negative declaration for Town of Ross General Plan 2007-2025 with findings and adopt the Town of Ross General Plan 2007-2025 at the June 14th Council meeting. Motion carried unanimously.

The Town Council will return to sitting as a Town Council.

15. Town Council consideration and response to the Grand Jury report dated March 19, 2007 entitled “Retiree Health Care Costs: I Think I’m Gonna Be Sick.”

Gary Broad, Town Manager, summarized the staff report and recommended that Council consider and respond to the Grand Jury report dated March 19, 2007 entitled “*Retiree Health Care Costs: I think I’m gonna be sick.*”

Council Member Strauss believed everyone must be aware of the cost, which keeps increasing.

The Town Council accepted staff’s responses.

Mayor Pro Tempore Cahill 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 Pro Tempore Cahill asked for a motion.

Council Member Durst moved and Council Member Strauss seconded, to authorize staff to submit the proposed responses to the Grand Jury. Motion carried unanimously.

Town Attorney Hadden Roth excused himself from the Town Council meeting at 7:32pm.

16. Planning Application Consent Agenda.

The Council indicated that items a., c. and e. would be taken up on the consent agenda and items b., d. and f. would be removed from the consent agenda.

a. 31 Winship Avenue, Variance and Design Review No. 1646

Kevin Howley, 31 Winship Avenue, A.P. No. 72-153-10, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). Variance and design review to allow modifications to the existing residence including: 1.) modification of the lower level to create 230 square feet of living area, increase the size of the garage to provide two tandem covered parking spaces, and create 108 square feet of new basement storage area with a

ceiling height less than 6.5 feet; 2.) reconstruction of the roof over the master bedroom to increase the maximum building height by approximately 2 feet within a side setback (15 feet required, 9.25 feet existing); 3.) modification of existing entry stairs on the west and south elevations; and 4.) 350 square foot rear deck.

Lot area	12,072 square feet
Existing Floor Area Ratio	20.4%
Proposed Floor Area Ratio	21.8% (20% permitted)
Existing Lot Coverage	17.5%
Proposed Lot Coverage	18.5% (20% permitted)

The existing residence is nonconforming in setbacks.

Mayor Pro Tempore Cahill asked for a motion.

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

Conditions of Approval

1. The building permit plans shall eliminate the proposed patios, parking and fireplace within the setback areas, since those have been withdrawn by the applicant.
2. The new 108 square foot storage room shall have a maximum ceiling height of 6.5 feet and only one bare bulb light fixture is permitted in the room. No electrical outlets, plumbing or windows are permitted in this space.
3. The garage shall be used only for parking and the area of the garage, mechanical and storage areas shall not be traded for living space in the future.
4. A landscape plan shall be required prior to project final. The Town reserves the right to require additional screening landscaping up to three years from project final.
5. Prior to project final the applicant shall correct the following:
 - a. Flowers, shrubs and other growth, with the exception of trees, in the sidewalk area shall not be permitted to exceed eighteen inches in height.
 - b. The applicant shall remove the rocks between the sidewalk and the street.
 - c. Materials used to retain soil in the planting strip at the sidewalk may be a trip hazard and shall be removed.
 - d. The driveway apron shall be reconstructed in accordance with Town standards and any applicable disabled access requirements.
6. This project shall comply with the following requirements of the Department of Public Safety: 1.) A street number must be posted {minimum four inches on contrasting background}; 2.) A local alarm system is required.
7. 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.
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.

9. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
10. **NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.** Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
11. **FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY MAY 10, 2008 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**
12. 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.
13. 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.

c. 2 Fallen Leaf, Variance No. I653

Peter and Mary Lyon, 2 Fallen Leaf Avenue, A.P. No. 72-071-27, R-1:B-20 (Single Family Residence, 20,000 Square Foot Minimum Lot Size). Variance to allow new photovoltaic panels on the roof of the existing residence, which is located within the front yard setback (25 feet required, 5 feet proposed).

Mayor Pro Tempore Cahill asked for a motion.

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

Conditions of Approval

1. A building permit is required. The solar energy system shall comply with any requirements imposed by the building department. There will be no building permit fees associated with the solar panel installation.
2. **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 any revisions.
3. 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.
4. **FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY MAY 10, 2008 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**

5. 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.

e. 16 Garden Road, Variance and Design Review No. I652

Michael and Phylisette Thoma, 16 Garden Road, A.P. No. 72-153-06, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). Variance and design review to allow modifications to the existing residence including: 1.) removal of existing 70 square foot deck and construction of new 294 square foot deck at the southwest corner of the residence, behind existing fence; 2.) 15 square foot bay addition to kitchen within the rear yard setback (40 feet required, 17 feet proposed); 3.) 20 square foot bay addition to family room; and 4.) roofline modifications to the 1970's addition to the residence.

Lot area	12,197 square feet
Existing Floor Area Ratio	29.9%
Proposed Floor Area Ratio	32.6% (20% permitted)
Existing Lot Coverage	27.0%
Proposed Lot Coverage	28.6% (20% permitted)

The existing residence is nonconforming in setbacks.

Mayor Pro Tempore Cahill asked for a motion.

Council Member Strauss moved and Council Member Skall seconded, to approve Consent Calendar Item "e" as presented. Motion carried unanimously.

Conditions of Approval

1. All windows must appear as real wood true divided light and are subject to the review and approval of the Planning Department. Final window details and specifications must be submitted prior to the issuance of a building permit.
2. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
3. Any landscaping damaged during construction shall be replaced. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
4. 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.
5. This project shall comply with the following requirements of the Department of Public Safety: 1.) A street number must be posted {minimum four inches on contrasting background}; 2.) The property must be cleared of all dead or dying flammable materials; 3.) A local alarm system is required.
 6. 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.
 7. 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.
 8. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
 9. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY MAY 10, 2008 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
 10. 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.
 11. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

End of Planning Consent Agenda.

b. 94 Sir Francis Drake, Variance and Design Review No. 1643

Gus Shuwayhat, 94 Sir Francis Drake Boulevard, A.P. No. 72-151-04, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). Variance and design review to permit a 566 square foot single-story addition to the rear of the existing residence within the north side setback (15 feet required, 3 feet proposed).

Lot area	11,529 square feet	
Existing Floor Area Ratio	15.0%	
Proposed Floor Area Ratio	20.0%	(20% permitted)
Existing Lot Coverage	17.3%	
Proposed Lot Coverage	22.5%	(20% permitted)

The existing residence is nonconforming in setbacks and legal covered parking (1 space required).

Council Member Strauss expressed concern for approving 2.5% over the 20% lot coverage limit. The increase in lot coverage is due to the eaves, but the deck is also covering the lot, although less than 18 inches in height. He has a problem approving items in the flood hazard area greater than allowed. Senior Planner Semonian responded that only part of the lot is in the 100-year flood area, as shown on the Flood Insurance Rate Map, and staff believes the developed areas will be outside of the 100-year flood area.

The applicant noted that his basement floods, but none of the living areas inside the house floods.

Council Member Strauss believed a workshop is needed on pervious and impervious surfaces and what the Town is willing to push towards. He further noted that consideration is needed in the future.

Mayor Pro Tempore Cahill asked for a motion.

Council Member Strauss moved and Council Member Skall seconded, to approve Consent Calendar Item “b” as presented with the findings and conditions outlined in the staff report. Motion carried unanimously.

Conditions of Approval

1. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
2. The applicant shall reimburse the town for costs related to town arborist review of the project.
3. Attic areas may not be finished, no electrical work is permitted in attic areas except a bare light bulb fixture.
4. An automatic driveway gate shall be installed prior to project final. Plans for the gate shall be reviewed and approved by public works director.
5. The concrete parking pad in the rear yard shall be removed prior to project final. Staff suggests using this area for storing material and equipment during construction to avoid compaction of soil around the trees.
6. A landscape plan shall be submitted for review by staff and installed prior to project final. Landscaping within 25 feet of the creek bank shall be appropriate for the riparian area. See Marin County Stormwater Pollution Prevention Program web site for creek plant lists (<http://www.mcstoppp.org>).
7. The boards of the new deck shall be spaced to allow water to run between the boards.
8. Prior to the issuance of a building permit, the applicants shall submit evidence that a certified arborist has been retained for independent on site monitoring of tree protection during construction.
 - a. Before the start of any clearing, excavation, construction, or other work on the site, or the issuance of a building permit, every significant and/or protected tree shall be securely fenced-off or otherwise protected at the non-intrusion zone, or other limit as may be delineated in the required tree protection plan. Such fences shall remain continuously in place for the duration of the work undertaken in connection with the development.
 - b. If the proposed development, including any site work, will encroach upon the non-intrusion zone of a significant and/or protected tree, special measures shall be

- utilized, as approved by the project arborist, to allow the roots to obtain necessary oxygen, water, and nutrients.
- c. Underground trenching shall avoid the major support and absorbing tree roots of significant and/or protected trees. If avoidance is impractical, hand excavation undertaken under the supervision of the project arborist is required. Trenches shall be consolidated to service as many units as possible.
 - d. Concrete or asphalt paving shall not be placed over the root zones of significant and/or protected trees, unless otherwise permitted by the project arborist.
 - e. Artificial irrigation shall not occur within the root zone of oaks, unless deemed appropriate on a temporary basis by the project arborist to improve tree vigor or mitigate root loss.
 - f. Compaction of the soil within the non-intrusion zone of significant and/or protected trees shall be avoided.
 - g. Any excavation, cutting, or filling of the existing ground surface within the non-intrusion zone shall be minimized and subject to such conditions as the project arborist may impose. Retaining walls shall likewise be designed, sited, and constructed so as to minimize their impact on significant and/or protected trees.
 - h. Oil, gas, chemicals, or other substances that may be harmful to trees shall not be stored or dumped within the non-intrusion zone of any significant and/or protected tree, or at any other location on the site from which such substances might enter the non-intrusion zone of a significant and/or protected tree.
 - i. In no case shall construction materials or debris be stored within the non-intrusion zone of a significant and/or protected tree.
 - j. The applicant shall comply with any recommendations of the Town arborist.
9. 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.
 10. This project shall comply with the following requirements of the Department of Public Safety: 1.) Clear all brush impinging on access roadway; 2.) Roadway must have a vertical clearance of 14 feet; 3.) A street number must be posted {minimum four inches on contrasting background}; 4.) The property must be cleared of all dead or dying flammable materials; and 5.) A local alarm system is required.
 11. Any portable toilets shall be placed off of the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
 12. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice.
 13. **NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.** Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
 14. **FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY MAY 10, 2008, WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**

15. 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.
16. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
17. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

d. 18 Olive Avenue, Variance and Design Review No. 1648

Alexander and Joohee Muromcew, 18 Olive Avenue, A.P. 73-171-08, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). Variance and design review to allow modifications to the existing residence including: 1.) the replacement of existing dormers on the east and west elevations with new, larger, gable/shed dormers to increase the ceiling height of existing upper level living space; 2.) new windows on the west and rear elevations; and 3.) reconfiguration of walls on the rear elevation. Design review of new retaining walls.

Lot area	7,324 square feet	
Existing Floor Area Ratio	49.5%	
Proposed Floor Area Ratio	49.5%	(20% permitted)
Existing Lot Coverage	33.2%	
Proposed Lot Coverage	33.2%	(20% permitted)

The existing residence is nonconforming in setbacks, height and number of stories (2 permitted, 3 existing).

A representative for the owner of the two adjacent sites, the Lord's, made a plea that the item be continued to the next meeting since the adjacent neighbors were unable to attend. They felt very strongly about their concerns outlined in their letter submitted to staff and Council. Very similar plans were presented to Council 10 years ago and rejected. The Lord's wanted to express their concern and greatly appreciated an opportunity to do so.

Council Member Durst asked if there concerns are over and above the letter they wrote dated May 3rd. The Lord's representative is not sure. The Lord's desired an opportunity to express their concerns. The story poles are of concern and they desired an opportunity to have a more accurate view of the impact and express their concerns.

The project designer addressed the concerns raised by the Lord's letter. She indicated that the applicants provided the Lord's with the full set to review for some weeks and have visited the site and seen the story poles. Regarding the issue of valuation of property, the neighborhood values would increase from this project. In regard to sensitivity to windows over their yard,

there are two small windows being added and large oak trees clouding the view from the one existing window. Mass of home was mentioned and in 1997 they did have approval that was similar, but it was not approved or disapproved, it was continued and never denied. Also, in 1997 the prior owners asked for a large amount of additional square-footage for the front of the home, which is not included in this proposal today. The dormers are smaller and have been placed to appear more historic. There are two gables with a shed dormer in the middle and in 1997 it was just a shed dormer, so this proposal is not similar to the proposal 10 years ago. Also, they are not asking for more square-footage, but to be allowed to use their existing square-footage.

The Lord's representative made a plea for Kate and Joan Lord to continue this matter. The investment of another month will be well repaid over the years of being neighbors. She asked the Council to continue this matter to the June Council meeting.

Mayor Pro Tempore Cahill 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 liked the design. The house needs the upgrade, so she cannot see the objection. It is really just an exchange of space and improving existing space, but in the interest of allowing the Lord's to speak, she agreed to place this item on the June Consent Calendar. The project is obvious in its value and the design is far and better than what exists.

Council Member Strauss concurred with Council Member Durst's comments. He is very pleased with the design of the house. He would recommend approval contingent on technicalities with property line issues, if such issues exist. Council Member Skall concurred and agreed to approve tonight.

Mayor Pro Tempore Cahill agreed as well. He sympathized with the Lord's, but visited the property twice and reviewed the issues indicated and found them not compelling. This property is being improved with better design and commended the applicant and designer on a job well done. He further noted that he could approve tonight.

Council Member Durst agreed to approve tonight as well. She had read the detailed letter with colored pictures in regard to the Lord's objection and took those objections into consideration.

Mayor Pro Tempore Cahill asked for a motion.

Council Member Durst moved and Council Member Skall seconded, to approve Consent Calendar Item "d" as presented with staff findings and conditions outlined in the staff report. Motion carried unanimously.

Conditions of Approval

1. Any landscaping damaged during construction shall be replaced prior to project final.
2. A landscape plan shall be submitted for review and approval and installed prior to project final.
3. The applicant shall provide details regarding the proposed materials for the retaining walls to planning staff for review and approval prior to building permit issuance.
4. The Town reserves the right to require additional landscaping for up to three years from project final.

5. This project shall comply with the following requirements of the Department of Public Safety: 1.) A street number must be posted {minimum four inches on contrasting background}; 2.) A local alarm system is required.
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 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.
8. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
9. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY MAY 10, 2007 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
10. 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.
11. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

f. 89 Shady Lane, Variance and Design Review No. 1651

Mark and Emily Wilson, 89 Shady Lane, A.P. No. 73-091-12, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). Variance and design review to permit the following modifications to the existing residence: 1.) elevating the residence 3.25 feet, to a new maximum ridge height of 20 feet within the north side yard setback (15 feet required, 12.4 feet existing); 2.) 70 square foot landing and stairs addition within the front yard setback (25 feet required, 20 feet proposed); 3.) 104 square foot addition in the form of three new bays, an entry, and a china closet; and 4.) replacing the existing horizontal siding with new stained cedar shingles and painted horizontal siding.

Lot area	8,171 square feet
Existing Floor Area Ratio	20.7%
Proposed Floor Area Ratio	21.9% (20% permitted)
Existing Lot Coverage	21.17%
Proposed Lot Coverage	23.9% (20% permitted)

The property is currently nonconforming in side setbacks.

Elise Semonian, Senior Planner, discussed the neighbor's concerns and provided photographs of the visible roof and wall taken from the neighbor's site. Staff visited the site and the house will be raised. There is no room for additional landscaping to be installed on the applicants' site due to the location of the property line. However, the existing landscaping may be permitted to grow in height and the neighbors could agree to additional landscaping. Staff felt the height increase is reasonable to protect the house from flooding and not an excessive request. Additional protection is beneficial and insurance rates will decrease the higher the house is raised. They are going three feet, which brings all floor joist safe from flooding. Staff supports the application. The neighbor is concerned about the windows impacting her privacy. At this time, staff recommended changing Condition No. 3 in regard to the landscape plan. The applicant and neighbor would like to work together to find a solution. Staff recommended a revision of condition 3 from the staff report.

Mayor Pro Tempore Cahill opened the public hearing on this item

Sharon MacCabe, 1 Fern Hill resident, expressed concern for her privacy and trees impacting her sunlight. She noted that the applicant agreed to work with her, but desired Council's help. She requested that mature planting go in prior to any construction. She also submitted a letter to Council and invited them all to visit her home to understand the impacts.

Mark Wilson, applicant, agreed to work with Ms. MacCabe to develop an option that would be mutually beneficial. He contacted a landscape architect today who is developing a solution, so he is actively working to resolve this matter. He further noted that he desired privacy as well.

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

Council Member Strauss appreciated the neighbors working together to resolve the issue.

Council Member Skall believed the Wilson's have a right to raise their home to protect from flooding issues and he also appreciated the applicant and neighbors willingness to work together.

Council Member Durst supported the plan as presented, which is the only solution to protect from flooding.

Mayor Pro Tempore Cahill concurred with comments.

Mayor Pro Tempore Cahill asked for a motion.

Council Member Strauss moved and Council Member Skall seconded, to approve Consent Calendar Item "f" as presented with changes made by staff including staff's findings and conditions as outlined in the staff report. Motion carried unanimously.

Conditions of Approval

1. All windows must appear as real wood true divided light and are subject to the review and approval of the Planning Department. Final window details and specifications must be submitted prior to the issuance of a building permit.
2. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
3. With neighbor consent, additional screening landscaping shall be planted in the area between the fence at 1 Fernhill and the driveway at 89 Shady Lane prior to construction. The plan for the additional screening landscaping shall be reviewed and approved by staff in consultation with the owner of 1 Fernhill. The goal shall be plants that provide screening above the level of the existing ivy-covered fence, but not tall enough at mature height to unreasonably shade 1 Fernhill.
4. Plans submitted for a building permit shall detail the required openings in the foundation walls to allow for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A MINIMUM OF TWO OPENINGS HAVING A TOTAL NET AREA OF NOT LESS THAN ONE SQUARE INCH FOR EVERY SQUARE FOOT OF ENCLOSED AREA SUBJECT TO FLOODING SHALL BE PROVIDED. THE BOTTOM OF ALL OPENINGS SHALL BE NO HIGHER THAN ONE FOOT ABOVE GRADE. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. (See FEMA Technical Bulletin 1-93 <http://www.fema.gov/pdf/fima/job2.pdf> for more information)
5. Flood resistant materials shall be used below the finished floor. All structural and non-structural building materials at or below the base flood elevation must be flood resistant. A flood-resistant material is defined as any building material capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. Flood-resistant materials must be used for all building elements subject to exposure to floodwaters, including floor joists, insulation, and ductwork. Any building utility systems within the crawlspace must be elevated above the base flood elevation or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the base flood elevation or sealed from floodwaters. (See FEMA Technical Bulletins 2-93 and 11-01 at <http://www.fema.gov/> for more information)
6. A FEMA elevation certificate shall be submitted to the Town prior to project final.
7. 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.
8. This project shall comply with the following requirements of the Department of Public Safety: 1.) Clear all brush impinging on the access roadway; 2.) A street number must be posted {minimum four inches on contrasting background}; 3.) The property must be cleared of all dead or dying flammable materials; 4.) A local alarm system is required; and 5.) The roadway shall have a vertical clearance of 14 feet.
9. 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.

10. 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.
11. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
12. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY MAY 10, 2008 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
13. 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.
14. 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 Member Durst recused herself from the next agenda item in order to avoid the appearance of a conflict.

17. **24 Upper Road West, After-the-Fact Design Review No. 1642**
Timothy J. Peterson (applicant) and Mohammed Diab (owner), 24 Upper Road West, A.P. No. 73-011-25, R-1:B-A (Single Family Residence, 1 Acre Minimum Lot Size). After-the-fact design review for a new 32 foot by 24-foot water storage tank within 25 feet of a watercourse to serve the applicant's property at 13 Woodhaven Road and the property at 24 Upper Road West.

Lot area	43,560 square feet	
Existing Floor Area Ratio	7.0%	
Proposed Floor Area Ratio	7.0%	(15% permitted)
Existing Lot Coverage	4.1%	
Proposed Lot Coverage	5.8%	(15% permitted)

Elise Semonian, Senior Planner, summarized the staff report and recommended approval of the application subject to the findings and conditions. Staff also noted that information is available from the applicant for Council's review.

Council Member Strauss indicated that he wanted to review a survey prior to the meeting as well as review alternate locations, so he cannot act on a matter when the requested information is being provided to Council at the time of the hearing, so he will abstain.

Mayor Pro Tempore Cahill suggested continuing the item, so the applicant has an opportunity to provide the materials that were previously requested by Council to staff in order for Council to adequately review.

Mayor Pro Tempore Cahill 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 Pro Tempore Cahill asked for a motion.

Council Member Strauss moved and Council Member Skall seconded, to continue this matter and asked staff to make sure all items are properly submitted for adequate review. Motion carried unanimously.

Council Member Strauss recommended that the applicant submit all the necessary information to staff tomorrow for review and then direct staff to add the item to the June 14th Council meeting.

Council Member Durst reconvened her position on the Town Council.

18. **16 Walters Road, Amendment to Hazard Zone, Hillside Lot and Design Review No. 1641**
Rocky Stich, 16 Walters Road, A.P. No. 72-171-06, R-1:B-A (Single Family Residence, One Acre Minimum Lot Size). Amendment of hazard zone 3 use permit, hillside lot and design review application approved on January 9, 2003, to allow a 637 square foot addition to the existing residence. The addition to the east side of the residence would add 106 square feet to the main level in the area of an existing patio and 531 square feet to the upper level, increasing the size of the residence from 2,783 square feet to 3,420 square feet.

Lot area	65,675 square feet
Existing Floor Area Ratio	4.9%
Proposed Floor Area Ratio	5.9% (15% permitted*)
Existing Lot Coverage	3.5%
Proposed Lot Coverage	3.6% (15% permitted)

**The lot slope is 39%. The Hillside Lot Ordinance guidelines would recommend a maximum floor area ratio of 6.6%, or 4,334 square feet.*

Town Manager Broad summarized the staff report and recommended that Council approve this project that adds 106 square feet to the lower level addition and 531 square feet to the upper level structure with the necessary findings to approve the addition including conditions in the staff report.

Mayor Pro Tempore Cahill noticed this project came in differently and then modified. Town Manager Broad noted that there is a 12 square foot change from last month. Plans submitted last month were in error as the story poles were incorrectly shown as extending beyond retaining wall section. The current plan shows them located within the existing retaining wall terraced area.

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Mayor Pro Tempore Cahill asked staff if the expansion is within the hillside protection zone. Town Manager Broad responded that it is to the east of the residence, but within the area already disturbed by the existing retaining walls. Typically, the hillside protection zone is written to confine development already disturbed areas.

Mayor Pro Tempore Cahill discussed a letter indicating tree pruning and tree removal onsite and there is a condition that disallowed tree pruning or removal without Town approval and asked if that has occurred, and if so, was it with Town approval. Town Manager Broad checked the records and they could not find any data in them to show approval for tree removal or tree pruning.

Rocky Stitch, applicant, indicated that story poles were erected in error last month. He then provided a model for Council's review. There is a deck that goes around the north side of the family room and the deck will be eliminated. They will move the addition out 6 feet in order to sit where the deck currently existed. They would not extend the patio. The lower floor moved out, so there will be some architectural relief to the upper story. Story poles were in error and they corrected that error and came back for re-submittal. Regarding trees, one was removed that fell last winter into the house, so a tree company came out and removed the tree. He sent staff a notice along with pictures of the tree leaning against the house. The tree was removed that was above the spa. They have not trimmed any trees on the site. There are no views. It is a very woody area and no reason to trim trees. They are not adding any retaining walls, no excavation, no removal of trees, just encroaching on the lawn and removing the existing stone patio around the east side of the house.

Council Member Durst discussed Condition No. 4 and stated that any live tree needed to be replanted at a 2:1 ratio. Mr. Stitch responded that the adjacent neighbor had concerns about screening to his property, so they planted a series of trees along that rock wall about six or eight 24-inch box trees. About half a dozen redwoods were planted as well. His arborist along with the Town's Arborist reviewed the landscaping and they replaced what was required, around 20 plus trees. Town Manager Broad concurred that the Town Arborist reviewed the landscaping.

Town Manager Broad pointed out to Council that a tree permit is not needed to remove a tree that has fallen.

Mayor Pro Tempore Cahill 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 visited the site in April and reviewed the plans and did not think this addition improved the building, but added bulk and mass on the northern side as presented. The main issue is the north elevation being disorganized. She viewed the site from the neighbor's house and she did not like the roof mass presented from that angle. In the original approval in 2002, Council worked hard to find excellence in design and she wanted to respect that decision. The main problem with the house is that from its elevation and presentation, she did not like how the bulk and mass is presented and did not want to see this house with an addition.

Council Member Skall is fairly comfortable with the staff findings. He is concerned that it seems this project continues to grow overtime and believed if this moves forward tonight that this would be the last improvement for this owner in terms of additions.

Council Member Strauss feels that in 2002 Council struggled and agreed they should respect the decision because it will have a different effect. The light, air, bulk and mass are impacted. He is not in favor of this addition.

Mayor Pro Tempore Cahill believed the house design, particularly given its location, the bulk and mass is not affecting other neighbors. The design matches the existing design that was approved. He did not find the bulk and mass a problem. He further believed this is the kind of project Council should allow.

Town Manager Broad noted that a 2:2 vote by the Council would be “no action.” Staff then asked the applicant to take another look at Council’s concerns and then agree to a continuance to a meeting with full Council. Mr. Stitch responded that an alternate plan would require retaining walls, vegetation disturbance and tree removal. The proposal before Council took a considerable amount of thought. They can go back and tell the architect to reduce the bulk and mass or develop a different design, but in his view it did not make any sense. Mayor Pro Tempore Cahill stated that expanding the retaining walls and removing trees is not recommended and will not be approved. He further recommended that the applicant accomplish his goals within the footprint of the site.

Town Manager Broad recommended that the square-footage of the second story be shaved down to address the concerns that two Council Members have in terms of bulk and mass.

Mayor Pro Tempore Cahill asked for a motion.

Mayor Pro Tempore Cahill moved Council Member Durst seconded, to continue the matter and request that the applicant work with staff on a design that is in conformance with comments from Council Members Durst and Strauss.

Council took a short recess at 8:35pm.

19. 195 Lagunitas, Amendment to Demolition Permit, Variance and Design Review No. 1491

Douglas Penman and Samantha Lyman, 195 Lagunitas Road, A.P. No. 73-222-02, R-1:B-A (Single Family Residence, One acre minimum lot size). Amendment to demolition permit, variance and design review application approved on October 9, 2003 (extended on October 14, 2004 and October 19, 2005) to allow site modifications, including demolition of approximately 1,300 square feet of the residence, construction of an approximately 1,300 square foot addition and a 570 square foot rear garage with upper level storage. The amendment is requested to permit a change in the garage exterior materials from wood shingles to a stucco finish with a beige integral color.

Lot area (excluding vehicular easement)	23,267 square feet
Approved Floor Area Ratio	15.0%
Proposed Floor Area Ratio	15.0% (15% permitted)
Approved Lot Coverage	12.3%
Proposed Lot Coverage	12.3% (15% permitted)

The existing residence is nonconforming in setbacks.

Elise Semonian, Senior Planner, summarized the staff report and recommended that Council approve the garage roof modifications for the entry overhang with findings and conditions. Staff noted that stucco material is not compatible with the design review criteria for materials or the existing or approved residence for this site or adjacent sites.

Samantha Lyman, applicant, discussed the slight change in roof structure that did not require a variance. They want to change the material to a stucco finish and provided examples of garages for Council's consideration. She liked the traditional carriage style doors that open rather than roll up. It is about 20% to 25% visible surface area. Primarily shingle roof and wooden doors. They are building into the hillside and more than 8 feet is underground. It is not appropriate to have shingles growing up under the ground, which could rot. Maintenance would be extensive on such material. The architect did not specify which material to match and there are four different unapproved modifications that happened through the 1960s to 1980s and it has long-term redeeming value. They planned on redoing the back of the house and realized that that it made sense to the lot to place the garage and parking in the rear. Neighbors agreed the garage should be located to the rear of the property. There is no direct sunlight on that structure and stucco is an appropriate material for a building that receives no sunlight and is more than 8 feet underground. Also, they are trying to change it to a more earthtone color.

Mayor Pro Tempore Cahill 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 Strauss is comfortable with the staff report.

Council Member Durst concurred with staff's findings about the roof overhang, but she would also support staff's recommendation to deny the change of materials.

Ms. Lyman noted that the main house will be natural material and they are not sure which material to match at this time. She feels the stucco makes the garage disappear. The only visible part is the front that faces their house and the sides are built in the ground. Extensive green landscaping around the back is required as a condition, so the neighbor has no visual impacts. She believed that is a reasonable request, but if they are being required to landscape to cover, then why cover rotting materials such as shingles when stucco is more appropriate. If stucco is not desired, then why landscape. Town Manager Broad noted that it is standard requirement for buildings to have "nice looking" improvements.

Council Member Skall noted that over 20 homes are stucco in the area, so he is confused as to why stucco is not allowed. Council Member Strauss noted that they have an approval for shingles and given the other concerns, he cannot make a shift to another material. Wood works very well in a damp location, stucco traps moisture.

Mayor Pro Tempore Cahill desired excellence in design and if they are approving stucco in other areas he did not think they should necessarily approve what was approved initially, if stucco is excellence in design. He asked if stone could be used rather than stucco. Ms. Lyman responded that there is a tremendous amount of brickwork and they intend to cap all retaining walls with the brick. Some walls are curved and a stone or brick capped wall would be an appropriate material. They did not want to use stone or brick on the garage now because they do not know

what will occur with the residence. Stucco allows flexibility and preserves the options until the house is properly rebuilt. Their intention is not to build a stucco house.

Council Member Durst noted that they must try to use natural material. The garage is part of the property. She desired a well-planned site with coordinated material. She does not see this garage in stucco being the fit for the property.

Mayor Pro Tempore Cahill recommended that the applicant review the different sidings or propose a different wood based material as an alternative, if shingles are not desired. He agreed that this is a whole property and to have a stucco-designed garage next to a wood house is not appropriate. He agreed to require some sort of natural wood material on the garage.

Council Member Skall asked if there are other alternatives that could be considered. Council Member Durst noted that if there is proper foundation, wood is not a concern.

Mayor Pro Tempore Cahill asked for a motion.

Council Member Durst moved and Council Member Strauss seconded, to approve the garage roof modification for the entry overhang with staff findings and deny the applicants request to change the siding material to stucco including all other findings and conditions. Motion carried 3:1. Skall opposed.

Conditions of Approval

1. The garage siding material change from shingles to stucco is not approved. The proposed garage roof modification for a covered entry over the east side door is approved.
2. This project shall be subject to the conditions of the October 9, 2003, Town Council approval.
3. After removing the tarps in the garage area that are covering exposed soil, the applicants shall take precautions identified by the town arborist to protect the redwood trees, including application of four inches of tree mulch around the base of the redwood trees and installation of a soaker hose to deeply water the redwood trees at a recommended interval.
4. 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.

20. **18 Canyon Road, Design Review No. 1649**
Zara Muren (applicant) and Douglas Abrams (owner), 18 Canyon Road, A.P. No. 72-031-27, R-1:B-5A (Single Family Residence, Five Acre Minimum). Design review to allow construction of three detention ponds on a tributary to Kittle Creek, on the east side of Canyon Road, within the guideline watercourse setback, to slow water flow during peak

periods of runoff. The project involves removal of existing concrete channel, re-grading, and construction of retaining walls up to 3.5 feet in height.

Elise Semonian, Senior Planner, summarized the staff report and recommending approving the application as presented with the findings and conditions in the staff report.

Zara Muren, applicant, discussed the flow of the watershed through her property for Council's consideration in order to have a better understanding of what is occurring and the need for the detention ponds.

Mayor Pro Tempore Cahill opened the public hearing on this item.

Douglas Abrams, Canyon Road resident, explained the history of the property and rather than building a large home they created a watershed that will remain a nice piece of green property. He hopes Council supports subsequent lot line adjustments because it all makes sense.

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

The Council commended both Ms. Muren and Mr. Abrams for what they are doing, which is a tremendous benefit to the Town.

Mayor Pro Tempore Cahill asked for a motion.

Council Member Cahill moved and Council Member Skall seconded, to approve Item 20 with findings and conditions as outlined in the staff report. Motion carried unanimously.

Conditions of Approval

1. The project shall comply with the approved project description, project plans, project engineer recommendations, and proposed minimization and avoidance measures. A building permit is required for the work.
2. All work will be performed during the dry season from June 15 to October 15.
3. All existing vegetation outside the project limits will be left undisturbed.
4. Prior to project final the area shall be re-vegetated with native riparian vegetation and invasive plants shall be removed. The plantings will have establishment period watering as required for the first three years.
5. The property owner shall assume responsibility for maintaining the improvements as outlined on Sheet C-4 of the approved plans prepared by LTD Engineering, Inc. and dated March 2007.
6. Prior to the issuance of a building permit, the applicant shall submit evidence that a permit has been issued by the Regional Water Quality Control Board.
7. The applicant shall review the plan with Marin Sonoma Vector Control and incorporate any recommendations that they may have.
8. Prior to the issuance of a building permit, the applicants shall submit a tree protection plan drafted by a certified arborist for the review and approval of the Planning Department and Town Arborist. The submitted plan must be based upon a review of final construction-level plans and should focus on the protection of all on-site trees and upon the ongoing preservation of their health and vigor. The tree protection plan shall

- include specific provisions acceptable to both the Planning Department and the Town Arborist for independent on-site monitoring of the tree protection conditions.
9. 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.
 10. 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.
 11. 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.
 12. **NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.** Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
 13. **FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY MAY 10, 2008 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**
 14. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
 15. The Town Council reserves the right to require additional landscaping 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.
21. **37 Upper Road, Variance and Design Review No. 1650**
Thomas and Susan Reinhart, 37 Upper Road, A.P. Nos. 73-111-02 and 073-111-05, R-1:B-5A (Single Family Residence, 5 Acre Minimum Lot Size). Variance and design review to permit the following: 1.) modifications and additions to the residence and accessory structures resulting in a 756 square foot net increase in floor area; 2.) 256 cubic yards of cut and 122 cubic yards of fill associated with grading the yard behind the residence and lowering a retaining wall within the guideline watercourse setback (25 feet recommended, 2 feet proposed); 3.) demolition of a deck and construction of a new deck, outdoor fireplace and pergola within the guideline watercourse setback (25 feet recommended, 6 feet proposed) and north side setback (25 feet required, 15.75 feet proposed); 4.) construction of a new spa, trellis, patio and retaining walls up to 8 feet tall

within the west side setback (25 feet required, 8.25 feet proposed); and 5.) over 100 linear feet of landscape retaining walls up to six feet in height.

Lot area	82,439 square feet	
Existing Floor Area Ratio	12.1%	
Proposed Floor Area Ratio	13.0%	(15% permitted)
Existing Lot Coverage	7.8%	
Proposed Lot Coverage	8.4%	(15% permitted)

The existing residence is nonconforming in height (30 feet permitted) and number of stores (2 stories permitted).

Elise Semonian, Senior Planner, summarized the staff report and one concern is that the existing landscaping has not been independently reviewed by an architectural historian and, if it is historic, it would be an impact to demolish it and subject to an environmental impact report. She recommended that Council continue the application in order to gain additional information on the historic landscape, but Council could approve, if so desired.

Tom Reinhart, applicant, provided several architectural drawings for Council's consideration. The house was built in 1905 and needs improvement. They hired BCD and Hans Architects because they have wonderful sensitivity to historic structures. They hired a garden architect out of Berkeley, so with this team they will approach this project in a sensitive manner.

Hans Baldauf, architect, believed it is important to approach the totality of the property. The house began as fixing up pieces, but property deserved a holistic approach. The John White attribution is a word of mouth passed from owner-to-owner and they researched the item and it is incredibly credible that it is John White project given all the work he did in Ross. The church garden is very important and must be given consideration. He appreciated the dialogue with staff and they are working with wonderful set of built elements, but they do not rise to the level of historic monuments. One interesting question regarding the church garden is that it is less than 50 years old and must meet a very high threshold. They tried in both the house and garden, leveraging off the existing design. The pool is the basic concept and they will work with the basic elements and evolve the elements out of that. The house is focused on the rear service wing. To create a gracious rear entrance to the house they reorganized the mudroom to a reorganized family room that has views out to the yard. Main level has a bridge connection to the guesthouse. In regard to fenestration, they tried to organize in a way that plays off the strong character elements such as the dormers and broke up the imposing three-story shingles and helped soften the impression of that wall. A lot of plumbing added to that wall that will be brought back inside. Major change is removing a layer that functions as the pools changing room. They reorganized the fenestration, so new game room is within the gable end and alcove that relates to the family room. The pool changing room functions have been moved to a separate building. They retained the sleeping porch element. They created a gracious staircase with a landing. Taking the shed off will bring passage into the garden more fully into the area of the pool. So it allows one to come into the garden. He argued that the gardens as opposed to being this formal exercise are places meant to be living spaces. They are dealing with the fact that while level changes are interesting, but confusing as well. Bringing a circular form in the middle was brilliant. They embraced that positioning and the whole concept of the changing room and dining terrace was to mirror the trellis structure that was designed originally. They are trying to continue an idea that was set forth. The oak tree, as all oak trees, the drip line is critical and they

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are working with a series of tight tolerances. They have a garden with an idea, but they are in a creek setback. If they are already in a setback zone how do they make the situation better. There is a retaining wall that gets very close to the creek and they propose that the dining terrace be pulled back and respond to how the creek bed works. They hope they are improving the situation from a flow point of view.

Council Member Cahill discussed the existing I-beam coming out partially and asked for an explanation about parts being removed completely. The architect responded that there is a final I-beam and wing that sticks out and has no reason to be there. It is probably 6 feet or so that will come out completely. He then provided a handout showing the structural footings for Council's consideration. There is a 30-inch culvert and if they fill the creek bed up, they are 7 feet 10 inches above at their lowest point. They tried to look at and address that the 25 feet is a guideline and since they cannot meet the 25 feet they looked at the issues at hand and how do they provide comfort that they are acting responsibly. They are in the 25-foot zone, but trying in every way to address that fact. In regard to permeability, they did a calculation and the lot area they have is 22.7% and they would increase that to 24.4%. A significant portion is actually 497 feet in the driveway area creating the turnaround. The rear yard is 668 feet. To balance that they are doing everything possible in terms of landscaping to drain away from the creek and not adding additional flow into the creek. They are draining the paved area and the basic principles of water management are to keep as much as possible onsite and dissipate water onsite. Overall, they are managing that impervious runoff in a way that dissipates onsite and does not just drain into the creek. They are trying to address with sound practices.

Mayor Pro Tempore Cahill asked if that is an area where some sort of catchment will be provided. The architect pointed out that a catch basin exists onsite that catches water coming down the drive as well as on the road. He then provided the elevations of the changing room, dining place and outdoor pavilion to Council for consideration. They tried to unify with building roof forms and differentiate with stone. They looked at a number of options in terms of materials, but stone made sense to the whole garden design.

Mayor Pro Tempore Cahill commended the architect on a great presentation.

Mayor Pro Tempore Cahill 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 Strauss liked what is being done with the house. The yard needs more work. He cannot approve a fireplace in the side yard setback. More must be done with the deck to remove from the watercourse. He asked that they be more respectful of the creek and setbacks. He agreed to separate the two, landscaping and the house. He is happy with the house and would like to see alternatives.

Council Member Durst agreed to separate the two proposals as well. Council Member Strauss agreed to separate the two, but he is not sure if the garden is so significant. This one needs improvement. Council Member Durst concurred. Council Member Strauss believed it is a great project. Council Member Durst liked the house design. She then reminded all that when built in 1905 it was built as a vacation home and never intended to be a home that a family would be living in. She liked the changes to the house and had no problems with the additional square-

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footage because it helps reorganize the space. The restoration of sleeping porches is very much in keeping with the house.

Council Member Skall concurred with comments and noted that the project looks great.

Mayor Pro Tempore Cahill felt the house is terrific and commended the architect on the amount of attention to detail, which fits in with Maybeck School of design. In regard to the garden, he had no objection to altering the garden. They worked hard on the watercourse setbacks and this is an opportunity to do more to move the deck and fireplace out of the watercourse setback. He understands the constraints from the oak tree, but desired more work and some other options.

Mr. Reinhart desired guidance in regard to the setbacks. Council Member Durst suggested rethinking the proposal with regard to landscaping. Take a look at the house and constraints around the watercourse and develop a better notion of garden rooms of how one interface with space outside. Also, they should respect the beautiful view of Mt. Tam. She believed this is an incredible opportunity to rethink the way the landscaping is placed. Think of color, space, use and how to interact. Rethinking with the idea that they must step back from the watercourse.

Council Member Strauss liked the stone structure, but between the arbor, stone and changing room it would be nice to look passed that.

Mayor Pro Tempore Cahill stated that it is hard to provide specific direction, but they have an opportunity to move items out of the watercourse. It is an element of other approvals Council has reviewed. He understands the architect's comment, given the volume of flow in that watercourse that they might want to look at it differently. Maybe a 25-foot setback might be more appropriate, but there are opportunities of moving this out of the setback. He recommended looking at alternatives that might accomplish the goal.

Mr. Reinhart stated that they are 19 feet above any development, which reduces flooding. They would like to comply with the conditions to restore the riparian way. The intent of the watercourse setback is being complied with or eliminated the danger of being close as they are higher above.

Council Member Strauss noted that the side yard setback is a concern as well. Mr. Reinhart noted that side yard setback is to protect the neighbors. The architect then asked if Council is comfortable with the pool house. Mayor Pro Tempore Cahill noted that landscape design might warrant slight alteration and did not suggest pouring concrete. The architect wanted to figure out what Council felt about that building. Council Member Strauss believed the upper corner is out of the setback, but in the watercourse. Possibly take the lawn out of the watercourse or redesign and look at a different alternative.

Mayor Pro Tempore Cahill believed the pool house is very nicely designed.

The architect asked if there are any other issues. Council Member Strauss asked the architect to try and pull the spa out of the side yard setback. Mayor Pro Tempore Cahill added that it is very constrained lot and would be more concerned about the watercourse setback than the spa.

Mayor Pro Tempore Cahill asked for a motion.

Council Member Durst moved and Council Member Strauss seconded, to approve modifications and additions to the residence and accessory pool structure, the floor area ratio increases proposed, based on findings 4 to 7 in the staff report, and continue the remainder of the application with regard to the landscaping, creek setback and variances. Motion carried unanimously with the following conditions.

Conditions of Approval

1. The approval is for the additions and modifications to the residence and pool house. The landscape plan is not approved as proposed but the applicant may resubmit the plan for Council review and approval.
2. Exterior lighting shall comply with the Town regulations, shall be low wattage, and shall be shielded and directed downward.
3. Prior to project final, the applicant shall file an application for a voluntary merger with the planning department and submit material as required by staff or document this is a single lot of record.
4. The materials shall be as shown on the project plans.
5. A tree removal permit is required prior to removal of any trees subject to the town tree protection ordinance.
6. The applicants shall comply with the recommendations in the Moritz Arboricultural Consulting Arboricultural Assessment to protect the two oak trees to the west of the residence during and after construction. Prior to the issuance of a building permit, the applicants shall submit a tree protection plan drafted by a certified arborist for the review and approval of the Planning Department and Town Arborist. The submitted plan must be based upon a review of final construction-level plans, including drainage and grading plans, and should focus on the protection of all on-site trees and upon the ongoing preservation of their health and vigor. The tree protection plan shall include specific provisions acceptable to both the Planning Department and the Town Arborist for independent on-site monitoring of the following conditions:
 - a. Before the start of any clearing, excavation, construction, or other work on the site, or the issuance of a building permit, every significant and/or protected tree shall be securely fenced-off or otherwise protected at the non-intrusion zone, or other limit as may be delineated in the required tree protection plan. Such fences shall remain continuously in place for the duration of the work undertaken in connection with the development.
 - b. If the proposed development, including any site work, will encroach upon the non-intrusion zone of a significant and/or protected tree, special measures shall be utilized, as approved by the project arborist, to allow the roots to obtain necessary oxygen, water, and nutrients.
 - c. Underground trenching shall avoid the major support and absorbing tree roots of significant and/or protected trees. If avoidance is impractical, hand excavation undertaken under the supervision of the project arborist is required. Trenches shall be consolidated to service as many units as possible.
 - d. Concrete or asphalt paving shall not be placed over the root zones of significant and/or protected trees, unless otherwise permitted by the project arborist.
 - e. Artificial irrigation shall not occur within the root zone of oaks, unless deemed appropriate on a temporary basis by the project arborist to improve tree vigor or mitigate root loss.
 - f. Compaction of the soil within the non-intrusion zone of significant and/or protected trees shall be avoided.

- g. Any excavation, cutting, or filling of the existing ground surface within the non-intrusion zone shall be minimized and subject to such conditions as the project arborist may impose. Retaining walls shall likewise be designed, sited, and constructed so as to minimize their impact on significant and/or protected trees.
 - h. Oil, gas, chemicals, or other substances that may be harmful to trees shall not be stored or dumped within the non-intrusion zone of any significant and/or protected tree, or at any other location on the site from which such substances might enter the non-intrusion zone of a significant and/or protected tree.
 - i. In no case shall construction materials or debris be stored within the non-intrusion zone of a significant and/or protected tree.
7. Basement and attic areas not counted towards floor area shall not be finished and only bare bulb light fixtures are permitted in the area.
 8. 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.
 9. This project shall comply with the following requirements of the Department of Public Safety: 1.) Clear all brush impinging on access roadway; 2.) Roadway must have a vertical clearance of 14 feet; 3.) A street number must be posted {minimum four inches on contrasting background}; 4.) The property must be cleared of all dead or dying flammable materials; and 5.) A local alarm system is required.
 10. 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.
 11. 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.
 12. **NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.** Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits and/or prior to modifications.
 13. **FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY MAY 10, 2008 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**
 14. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
 15. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
 16. 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

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

22. Correspondence - None

23. Other Business - None

24. Adjournment.

By order of the Mayor Pro Tempore, the meeting adjourned at 10:05 p.m.

William Cahill, Mayor Pro Tempore

ATTEST:

Gary Broad, Town Manager