

REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, MAY 13, 2010

1. 6:30 P.M. Commencement.

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

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

3. Closed Session

a. Labor Relations - Government Code Section 54957.6 related to negotiations between the Town of Ross (Gary Broad, Town Manager, Richard Strauss and Scot Hunter, Ross Town Council, as Town Representatives) and the Ross Professional Firefighters Association, Local 1775.

b. Labor Relations - Government Code Section 54957.6 related to negotiations between the Town of Ross (Gary Broad, Town Manager, as Town Representative) and the Ross Police Officers Association.

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

The Council returned from closed session and Mayor Strauss announced that there was no reportable action. Then announced that Item Nos. 14, 23 and 25 have been continued to the next Town Council meeting.

Town Attorney Hadden Roth left the Town Council meeting.

5. Posting of Agenda.

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

6. Minutes – April 8th/March 31st

Mayor Strauss asked for a motion.

Council Member Cahill moved and Council Member Martin seconded, to approve the Meeting Minutes of April 8th, 2010 as amended. Motion carried 3-2. Strauss/Hunter abstained.

Mayor Pro Tempore Hunter moved and Council Member Cahill seconded, to approve the Special Meeting Minutes of March 31st, 2010 as amended. Motion carried unanimously.

7. Demands.

The demands were met.

8. Open Time for Public Expression

Barry Taranto, Terra Linda resident, discussed alternative energy and appreciated the Town of Ross's website, which he felt is the best in Marin. He then stated that it is disgusting that a rich Town like Ross, where everybody is gated and has lots of money, cannot afford to participate in the Marin Energy Authority (MEA) and asked the Town to reconsider.

Rupert Russell, Fernhill Drive resident, was asked by a resident why microphones are not used at the Town Council meeting in order for everyone to be audible. Mayor Strauss announced that the Town currently has a new recording device with microphones.

9. Report from Mayor Strauss.

Mayor Strauss thanked Chief of Protocol Roseanna Lourdeaux for organizing the farewell party for Ross Grocery owners Denise and Don Ahrens. It was a wonderful event, and the Town is very thankful for the Ahrens' years of service to the Town.

The Public Works Department recently planted a number of trees on Shady Lane and Lagunitas Road and asked residents to please do their part to regularly water the trees to get them established.

Also, Census workers are currently canvassing Ross neighborhoods and asked residents to take the time to answer the Census questions even if residents previously mailed in a Census form. It is important for everyone in Ross to be counted. He further noted that all Census takers will have the proper identification.

Mayor Strauss thanked the RPOA for hosting Candidates Night. It was a great evening and the Town is looking forward to the election of new Council members.

Mayor Strauss then announced that Ross Recreation Auxiliary will be hosting their annual fundraiser on Saturday, May 22. He asked everyone to join the Town for a scavenger hunt at 5 p.m. followed by cocktails, dinner, dancing and a live auction to benefit Ross Rec.

10. Report from Committee Heads.

Public Works - Council member Martin

• Public Works Committee Update

Council Member Martin reported one month ago that the Lagunitas Bridge replacement project was not in the current Federal Transportation Improvement Program and would not receive the required authorization from Caltrans in time to commence this year. This was essentially a bureaucratic snafu where by Caltrans sorted the Lagunitas Bridge project into the wrong bin. He is pleased to report that Public Safety Director Mel Jarjoura achieved a 20-day miracle. Caltrans staff still does not know how he managed it, but Public Safety Director Jarjoura was able to process a special amendment through the MTC, then through Caltrans and finally hustled the paperwork through the Federal Highway Commission.

The required public advertisement for bids was published in the Marin IJ on Monday, May 3rd. A pre-bid meeting is scheduled for Monday, May 17th at 10:00 a.m. at Town Hall. The bids will be opened on Monday, May 24th at 4:00 p.m. and the project will be awarded at the Special Town Council meeting at the beginning of June. Demolition of the bridge will occur by the third week of June.

MMWD pipe replacement project commenced at the end of April and will be completed by the second week in June. This project involves replacing 100-year old water lines prior to resurfacing of Sir Francis Drake Boulevard. Traffic seems to be flowing with minor delays. There have not been excessive complaints about noise or traffic. There are a series of other public projects that will be underway this summer. These projects include the resurfacing of Sir Francis Drake, which will include the installation of a new pedestrian pathway as well as accommodation of a Class III bike lane, the demolition of Ross School's multipurpose room and construction of its replacement and the Phoenix Lake pipe replacement project commencing June and restricting auto and bike access to the lake.

At the March meeting, the Council approved several signing and pavement improvements at Locust Avenue Bridge on Shady Lane. Today the new stop sign at Locust was installed as well as signs on Shady Lane indicating "*narrow bridge ahead*" have been installed and signs on the pedestrian pathway on the bridge prohibiting bike riding. Less than 10 days ago the Town averted a catastrophic accident when a young biker road across the bridge and was forced out into the roadway hitting an on-going bike rider and not a vehicle.

At the June 1st Public Works Committee meeting, he along with Council Member Cahill will meet a newly formed Tree Committee to present their plan of work and objectives for the fall. The Committee will review the construction completion penalty for 23 Baywood Avenue.

Mayor Strauss asked if the bike path will be two-way. Council Member Martin responded that it is not a dedicated lane and the path must be shared with vehicles.

Community Protection -Council member Skall

- Transportation Authority of Marin

Council Member Skall reported that TAM is in the process of conducting a feasibility study for a County vehicle registration fee to be placed on the November ballot. The suggested fee is \$10. An initial survey was conducted in February and the second survey will be conducted in June. Based on the survey, 18 different areas will be presented to the County including: fixing pot holes and maintaining major streets and roads; provide senior and disabled transportation options; reduce congestion by improving existing intersections and by better timing of traffic signals; expand bus routes to local schools; provide funding to maintain existing pedestrian and bike paths; and improve bus service on local routes.

II. Report from Ross Property Owners Association.

Diane Rudden, RPOA representative, provided candidates and Council Members with all questions submitted for Candidates night, which will be available on their website at www.rpoaross.org or the Town's website. In terms of graffiti, the tennis courts have graffiti and RPOA assumed that it is Ross Rec's responsibility. Public Safety Director Mel Jarjoura agreed to investigate.

RPOA Representative Rudden then discussed the rose near the bridge that has just finished blooming, which seems to be an old rose and asked that the rose be saved. The Public Works Committee agreed to discuss.

12. Flood Control Report.

Council Member Martin reported that the Ross Valley community is still waiting on the ruling from the California Supreme Court concerning the validity of State Proposition 218 and the Ross Valley Flood Fee. Last week, Supervisor Hal Brown organized a meeting of Ross Valley Mayors to discuss the next steps. At Mayor Strauss's request, he attended the meeting on his behalf. The meeting included the County Public Works Director Farhad Mansourian and County Attorney Patrick Faulkner. They discussed the two possible scenarios. Should the Supreme Court uphold the flood fee, the County will immediately implement its flood control program and hydraulic model, which includes a series of water detention ponds. The plan also will include creek bank and base modification to increase capacity. The project will take five years for pre-development work to process working drawings and environmental review. The \$40 million generated by the flood fee will leverage matching Federal and State grants to achieve the estimated \$100 million required to address this problem. This would not eliminate flooding during a 100 or 50-year flood, but it will reduce significantly the damage to properties. Hydraulic models have not been finished and should be released in late August. If the County loses the lawsuit, the County will be repaid the \$1.2 million it advanced the Flood District for the study and other work by retaining \$80,000 out of the Ross Valley Flood District's \$120,000 funding for 20 years. It is anticipated that the towns and County will again initiate the flood fee process and seek approval from homeowners. Depending on the Court ruling, it may require more than a simple majority, possible 66%, which would be difficult. Public Works Director Mansourian expressed support for local flood initiatives, such as stormwater ordinance and the proposed Bolinas Avenue hydraulic program to reduce flooding. Two weeks ago, Larkspur approved the resolution the Town drafted urging Army Corps of Engineers to proceed prompting with the Unit 4 project, including the fish ladder replacement. Public Works Director Mansourian asked that he be the messenger to the Army Corps to ensure that it receives a productive response.

Mayor Strauss announced that a budget meeting is scheduled in June, which he and Council Member Martin will attend.

13. Consent Agenda.

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

- a. Town Council consideration of adoption of Resolution No. 1704 approving the Ross Valley Paramedic Authority tax levy for 2010-11 fiscal year.

Mayor Strauss asked for a motion.

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

- b. Council authorization to execute a professional services agreement with Hanna Group for \$249,286 or construction management services for the Lagunitas Road Bridge Replacement Project.

Mayor Strauss asked for a motion.

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

Council Member Skull noted for the record that he is related to one of the applicants of Item No. 13c, but there is no financial relationship.

- c. Town Council consideration of adoption of Resolution No. 1705 approving the Parcel Map-Lot Merger, Lands of Collins, D.N. 2008-3992, Lands Of Ching, D.N. 2004-107, Lands Of Collins & Ching, D.N. 2008-13010 and authorizing the endorsement, on the face of the map of the certificate which embodies the approval of said map.

Mayor Strauss asked for a motion.

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

- d. Town Council consideration of adoption of Resolution No. 1706 commending Greg Myers for 33 years of service at the Ross School.

Mayor Strauss asked for a motion.

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

- 14. Discussion of alternative energy sources and energy saving programs applicable to the Town of Ross, including presentations by PG&E and others.

Item continued to the next Town Council meeting.

- 15. Town Council consideration of adoption of Resolution No. 1707 temporarily suspending the no left turn requirement from Bolinas Avenue onto Shady Lane during Lagunitas Road Bridge replacement.

Police Chief Jim Reis summarized the staff report and recommended that the Council adopt Resolution No. 1707, temporarily suspending the no left turn requirement from Bolinas Avenue onto Shady Lane during Lagunitas Road Bridge replacement.

Mayor Pro Tempore Hunter asked staff if patrolling will be increased. Chief Reis noted that they would provide a proportionate amount of high visibility of patrol and take stringent enforcement action. Vehicles will be parked strategically, so commuters will see the black and white vehicles.

Mayor Strauss asked staff if consideration was given to installing a stop sign traveling east. Police Chief Reis recommended trying this proposal first, and if it gets out of hand or relatively dangerous, then the Town can adjust as necessary.

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

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Cahill seconded, to approve Resolution No. 1707, temporarily suspending the no left turn requirement from Bolinas Avenue onto Shady Lane during Lagunitas Road Bridge replacement. Motion carried unanimously.

16. Town Council, sitting as Planning Commission, consideration of introduction of Ordinance No. 620, amending the Town's hillside development regulations. A summary of the changes proposed: 1.) Hillside lot floor area ratio would become a mandatory development regulation and not a guideline. A variance would be necessary to exceed the maximum permitted floor area for a hillside site; 2.) No change to the method of calculating average lot slope is proposed; 3.) A new hillside lot floor area ratio formula is proposed. The formula levels out the current floor area thresholds and would reduce the maximum permitted floor area for some lots and increase the maximum permitted floor area for other lots; 4.) The hillside lot ordinance would apply to most hillside projects that are currently subject to design review, such as additions that are 200 square feet or greater and certain retaining wall projects; 5.) New guidelines would permit the Town Council to consider the design and privacy impacts of decks and take into consideration aesthetic impacts of tall building walls; 6.) The ordinance reinstates larger setbacks requirements for hillside lots as a strongly recommended guideline. The Council may allow reduced setbacks to protect creeks, trees, or to allow development on a more level area of a site, and 7.) Published notice of a hillside lot hearing would no longer be required. Public notices would be mailed to all property owners within 500 feet of a site and posted at the site and two other locations. The ordinance would regulate all property within the Town of Ross with an average slope of thirty percent (30%) or greater or that is wholly or partially within Hazard Zones 3 or 4 as identified on the town slope stability map. The draft ordinance, a red-line draft of the changes, and other materials are available at the Town website.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council, sitting as the Planning Commission, consider introducing Ordinance No. 620, amending the Town's hillside development regulations. Staff then distributed emails from Dr. Harvey Glasser and Mr. Charlie Sheppard and two case studies illustrating the existing and proposed hillside lot floor areas for two sites.

Mayor Strauss opened the public hearing on this item.

Julie McMillan, Crest Road resident, expressed concern for the discretionary aspect of decks and setbacks. She believed it might provide more clarity to applicants and neighbors as well as Council to limit decks to a percentage of FAR and require variances to exceed the limit. She believed the former setback provisions should be included and should be mandatory. If an applicant wants to veer away from the larger setbacks, then they should be required to seek a variance. She felt this would provide more opportunity for the neighbors to

understand the rationale and provide the Council with more protection. Staff has done a heroic job to couple developers' comments and those that want to protect the character of Town, but the predominant goal is to make items more certain and not be subject to discretion. Excellence of design provides a slippery slope and she finds the deck and setback language to be the same.

Linda Brown, Baywood resident, reminded the Council of a project that went on for years that dealt with all these problems including excessive decks, setback problems, and length of time, money and effort that was spent due to the guidelines not being certain.

Carla Small, Duff Lane resident, believed clarity is the most significant issue. She added that some decisions made in regard to decks, setbacks and ceiling heights had an effect not anticipated.

Steve Wisenbaker, Lagunitas Road resident, believed being more definite would be the best solution in order for everyone to understand the rule.

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

Section 18.12.130 Definition of floor area ratio

Senior Planner Semonian recommended only counting stairs and elevators on one floor to clarify existing Town policy. Concerns were raised by the public about automobile lifts and not having them exempt from floor area on more than one level. Staff suggested counting any stair or elevator area over 50 square feet, which would require the area of vehicle lifts to be included. The Council discussed potential ordinance language that would clarify that car lifts would be counted on each floor. The consensus of the council was to leave the ordinance revisions as proposed. Car lifts would not be considered "elevators".

Section 18.12.080 Building Height

Council Member Cahill desired an explanation from staff in regard to the change proposed. Senior Planner Semonian responded that the definition was changed throughout the code in 2005 to measure height to "existing or finished" grade, but the definition of building height was not changed. The recommended change would make the definition of building height consistent with the rest of the code. Council Member Cahill recommended that staff clarify the language. Senior Planner Semonian stated the intent is to measure the height to natural or finished grade, whichever is lower. Mayor Strauss noted that the intent is from existing grade to follow the contours of the existing hillside.

Section 18.39.010(d) Purpose

Senior Planner Semonian agreed with Ms. McMillan's suggestion of deleting "fragile" from "steep slopes" to read, "Protect steep slopes, creeks, significant native vegetation, wildlife and environmental resources."

Section 18.39.20 Chapter application

Council Member Cahill asked staff if the thresholds for requiring review are viewed cumulatively. Senior Planner Semonian noted that existing language under paragraph (b)(5) required the improvements to be viewed cumulatively.

Section 18.39.090 Hillside lot design regulations and guidelines

Senior Planner Semonian agreed with Ms. McMillan's suggestion and recommended changing the language in the first paragraph read, "*The Town Council may deny any application where there are substantial inconsistencies with one or more guidelines in a manner that is counter to any purpose of this ordinance.*"

Ms. Semonian recommended maintaining the proposed language under 18.39.090(a) and that no clarification was necessary that lots with slopes over 55% may be developed.

Mayor Pro Tempore Hunter noted that ADR liked the contour method of calculating slope. He questioned the costs associated with the contour method of calculating slope. Senior Planner Semonian indicated that both straight line and contour methods of calculating slope require topographic information in order to know the high and low points on the site. It is not a large cost difference. The majority of the expense is in getting the topographic map itself. Mayor Pro Tempore Hunter asked the Council if the contour method is more accurate to measure slope. Mayor Strauss indicated that the general feeling was that it was more complicated and more costly. The standard method provided a fairly accurate read if the contours of a site are regular. Senior Planner Semonian added that the Council could consider the slope of a site during design review.

Mayor Pro Tempore Hunter shares the concern of Ms. McMillan that the more items taken out of the subjective realm the better for staff, the Council and applicants. Senior Planner Semonian noted that ADR desired more thought and examples before adopting changes to the hillside lot ordinance and suggested that the Town potentially increase the hillside FAR if a contour method of slope calculation is used. Staff added that the Council could direct staff to review the contour method more closely in the future.

Council Member Cahill stated that one issue is existing homes that have already calculated their slope with a house constructed based on the old ordinance will have to go back and redraw it as a result. Council Member Skall believed this is when the process has to slow down. It is not fair to stamp in a new method because it is more accurate. They need more time to move in this direction, particularly around the slope. They need more examples. There must be some leeway and suggested using the modified method, but continue discussion and review.

Council Member Martin pointed out that between the thresholds there seems to be a big jump in terms of a 30 to 35% slope. He wondered if an alternative method could be considered to break up that chart further to state, "30 to 32%." Senior Planner Semonian pointed out that the formula proposed could be adjusted. What is proposed seemed fair. Staff agreed to provide the Council with the examples of the FAR permitted on sites using the current and proposed methods of calculating slope before the next meeting.

18.39.090 (b) Building setbacks

Senior Planner Semonian noted that the larger setbacks that were removed from the hillside ordinance are equal to what the zoning district requires for newly developed lots in the larger lot zoning districts. The setbacks become an issue on smaller sites with limited area to develop. Staff added that applicants cannot go any lower than the base zoning district requirement. If one could not meet the standard, then a variance would be required.

Council Member Skall desired flexibility to require more or less of a setback based on specific site circumstances. Senior Planner Semonian noted that the language would allow less flexibility. Mayor Pro Tempore Hunter suggested ending the sentence at “*privacy*” and remove the last sentence since it gives a roadmap to come in with an exception. Mayor Strauss asked staff how many vacant hillside lots are left in Town to be developed. Senior Planner Semonian believed around 30. Mayor Pro Tempore Hunter noted that on page 11 under Section 18.39.120 in regard to variances states, “*apply for a variance against anything in the chapter.*” Senior Planner Semonian stated if the Council wanted to amend the section to be mandatory they would change the “*should*” to “*shall*” and delete the rest of the language.

Council Member Cahill agreed with the language as written by staff as a guideline. He noted that the Council has the ability to regulate if there are concerns with privacy. Senior Planner Semonian noted that the language could be modified next month. Mayor Pro Tempore Hunter requested that staff provide the Council with examples. Senior Planner Semonian responded in the affirmative.

18.39.090 (d) Architecture

Senior Planner Semonian pointed out that several “*shalls*” were changed to “*shoulds.*”

- Architectural style *should* complement the form of the natural landscape
- Designs *should* be well-articulated to minimize the appearance of bulk
- Materials and colors *should* be of subdued tones to blend with natural landscape

18.39.090 (d)(4)

Senior Planner Semonian noted that Ms. McMillan’s suggested making retaining the mandatory language of the provision as “*Building design and the placement of the driveways shall conform to the natural contours of the site.*” Staff felt it would be too difficult to determine when an applicant was in compliance with the section if it were mandatory and recommended that it be a guideline.

18.39.090(d)(5)

Senior Planner Semonian agreed with Ms McMillan’s suggestion of deleting “*A building should be in scale with its surroundings*” as it could be interpreted that the Council may allow additional floor area to allow a building in scale with neighbors, which is not the intent of the provision.

18.39.090(d)(6)

Council Member Cahill pointed out that the first sentence is a statement that is not consistent with the rest of the chapter and suggested deleting. Senior Planner Semonian responded in the affirmative.

Staff was not in favor of adding a specific limit to deck area without additional research and consideration of the change and its impacts. Council Member Martin suggested a not-to-exceed percentage. Council Member Cahill believed there should be a distinction. Senior Planner Semonian noted that, other than the Parmenter site on Baywood, decks have not been a major issue.

Mayor Strauss felt 10% could be too small in some cases. Senior Planner Semonian suggested the Council consider limiting total lot coverage. Mayor Strauss stated, as worded, it provides the Council with discretion to reduce the decks. Mayor Pro Tempore Hunter recommended deleting the first sentence. Council Member Martin recommended leaving it open-ended and then revisit.

18.39.090(f)(1)

Senior Planner Semonian recommended against creating a mandatory view provision. The sentence could be clarified and staff suggested deleting, “to the site” and state, “*Hillside design should protect views and those views of neighboring property owners.*” Council Member Martin recommended that staff review San Francisco’s code language. Senior Planner Semonian agreed to review San Francisco as well as Sausalito’s code language as recommended by Linda Brown.

18.39.090(f)(6)

Senior Planner Semonian agreed with Ms McMillan that the provision should be reworded so that development “shall” adhere to the wildland urban interface building standards in Chapter 7A of the California Building Code.

18.39.090(h)(2)

Senior Planner Semonian recommended the provision as drafted by staff.

18.39.090(h)(5)

Council Member Cahill asked staff if “Best Management Practices” should be defined. Senior Planner Semonian agreed that it may not be a term that everyone understands and would modify the language.

18.39.090(i)(2)

Senior Planner Semonian recommended changing “should” to “shall” to comply with design review criteria and believed making it mandatory makes sense. Council Member Cahill recommended keeping that open because the design review provisions are guidelines as opposed to mandatory. It must be consistent. When mandatory they “shall” comply and when a guideline they “should” comply. Mayor Pro Tempore Hunter recommended incorporating Chapter 15.54 regulations as well.

Senior Planner Semonian agreed to provide a revised ordinance on the website under the HLO materials.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, sitting as a Planning Commission, recommended that the Town Council consider introducing Ordinance No. 620, amending the Town’s hillside development regulations and the changes as discussed. Motion carried unanimously.

17. Town Council consideration of introduction of Ordinance No. 619 adding Chapter 15.54 to Title 15, Buildings and Construction, to establish requirements for drainage plans and stormwater runoff, and modifications and additions to Title 18, Chapter 18.41, Design Review, to add new purpose and design review

criteria related to low impact development and management of stormwater runoff.

Senior Planner Elise Semonian summarized the staff report and asked the Council to consider introducing Ordinance No. 619, adding Chapter 15.54 to Title 15, Buildings and Construction, to establish requirements for drainage plans and stormwater runoff, and modifications and additions to Title 18, Chapter 18.41, Design Review, to add new purpose and design review criteria related to low impact development and management of stormwater runoff. Staff then provided the Council with an additional condition for their consideration.

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

Mayor Strauss hopes it is adhered too other than a recommendation. Council Member Cahill suggested a change that was made in the first paragraph of the HLO design regulations and guidelines that is effective language. Senior Planner Semonian had considered that language but noted that the creek development regulations use the word “*shall*,” which would make creek setbacks mandatory and not guidelines, which would be a significant change that would need to be noticed.

Council Member Cahill discussed Section 18.41.100 in regard “*design review projects shall be in substantial compliance*” and the intent is that some are guidelines and some are mandatory. The top states, “*shall*” so it implies that all are mandatory. It was solved by using alternative language describing what the words shall and should mean. He felt that is a superior way to draft the ordinance, but understands that there is a problem for noticing. Senior Planner Semonian indicated that one option is to remove the first provision and only use the second provision that should state, “*This section provides guidelines for development, compliance is not mandatory, but strongly recommended and Town Council may deny an application for failure to conform to any purpose of this ordinance.*” Staff explained that they are deleting the first sentence of Section 18.41.100 and removing the other edits proposed by staff, and introducing the rest of the ordinance as proposed.

Council Member Cahill discussed the provisions related to fire safety and questioned if they were consistent. Senior Planner Semonian responded that both sections do include provisions that require defensible spaces and fire protection.

Council Member Cahill discussed page 7 in regard to Item t, “*An applicant shall provide a full justification and demonstrate why the use of low impact development (LID) design approach is not possible*” and asked staff if there are circumstances that would not require this provision. Senior Planner Semonian indicated that there could be sites where LID techniques cannot be used due to slopes or downhill neighbors. Council Member Cahill suggested rather than stating, “*shall*” to state, “*An applicant may be required to provide a full justification and demonstrate why the use of LID design approach is not possible.*”

Mayor Strauss asked for a motion.

Council Member Cahill moved and Council Member Martin seconded that the Town Council waive the first reading and introduce Ordinance No. 619, adding Chapter 15.54 to Title 15, Buildings and Construction, to establish requirements for drainage plans and stormwater runoff, and modifications and additions to Title 18, Chapter 18.41, Design Review, to add new purpose and design review criteria related to low impact development and management of stormwater runoff, including the amendments as discussed. Motion carried unanimously.

The Council took a short recess at 9:07 p.m. and then reconvened to discuss the next agenda item at 9:18 p.m.

18. Presentation and public input on the draft Town of Ross Bicycle Plan.

Project Planner Christine O'Rourke presented the Council with the Ross Bicycle Plan for existing and proposed bikeways for their consideration that included the following:

- Class I Bikeway – paved path separated from roadways
- Class II Bikeway – striped and stenciled on a roadway (SFD)
- Class III Bikeway - routes along roadways identified with signage
- MCBC Marin Bicycle Map 2008
- Possibly adding Fernhill Ave. and Bolinas Ave. as Class III
- Recommended programs:
 - Increase bicycle parking
 - Provide bike valet parking at specific Town events
 - Encourage changing facilities
 - Bicycle and safety programs (SR2S)
 - Install bicycle calibrated loop detectors

Planner O'Rourke explained that a Class II bikeway, which is a striped and stenciled bike lane at least 4' wide, is proposed for Sir Francis Drake Boulevard, although the existing roadway could not accommodate bike lanes in both directions due to physical limitations and open drainageways. Class III bikeways are bike routes along existing roadways. Bike routes along Poplar Avenue, Ross Common, Lagunitas Road, and Shady Lane, have already been signed as part of a County of Marin bicycle route signage program. The plan also proposes new bike routes along Laurel Grove Avenue, Lagunitas Road between Shady Lane and Natalie Coffin Greene Park, Glenwood Avenue and Bolinas Avenue. These routes would be established by placing bike route signs, and possibly "Share the Road" signs, along the roadways.

Planner O'Rourke desired input from the Council and public and then staff would make modifications and bring the matter back to the Council for further input and adoption at the July meeting.

Mayor Strauss expressed concern for bicyclists conflicting with oncoming traffic in regard to turning into the parking lot heading downtown south as well as traveling north through the southern part of the post office or all the way down to Lagunitas. Police Chief Reis agreed and noted that signage has been installed to identify different bike routes.

Mayor Pro Tempore Hunter wanted to enhance and encourage walking and/or biking and discussed the activities that go on at Marin Art & Garden Center, especially the concerts. He believed organizations in Town should encourage attendees to either walk or ride their bikes to events. Planner O'Rourke agreed to add another program.

Mayor Strauss believed the Town should encouraged Fernhill Avenue and Bolinas Avenue as bicycle routes. He also appreciated the loop detectors at intersections for bicyclist. He also suggested Laurel Grove. Public Safety Director Jarjoura approved new detectors within the intersection improvements.

Mayor Strauss recommended providing bike racks at Ross Common and Town Hall. Council Member Skall agreed and suggested looking into bike lockers as well. Council Member Martin noted that this report needs additional review and update. Ross School is mentioned, but Branson School is not and Branson School is a major destination for several in the community. Also, he suggested that the Town entertain the possibility of overlaying parking around the Post Office and merchant community, which is an area with a lot of confusion. As long as they are giving clarity to pedestrian and bicycle movement, the Town will have a good way of folding in parking policies to access mail, going to shops and cafés, dropping off children at school and teacher parking.

Council Member Cahill discussed funding sources for improvements and asked staff to describe the funding sources and to what extent implementation of this plan will cost the Town. Planner O'Rourke noted that there is a list of funding sources outlined in the staff report as well as the cost associated. Staff further noted that Marin County can provide bike racks for free and there are grant program for the loop detectors.

Council Member Martin pointed out that the bike path along the creek, which is maintained by the County, needs attention and this may be an opportunity to revisit to make it a multi functioning path.

Mayor Strauss opened the public hearing on this item.

Phil Paisley, Baywood resident, explained that there are several sources in terms of funding. The key to all of this is getting a bike plan in order to have a basis for funding. He thanked the Council for moving this along. In terms of Sir Francis Drake, he would like the Council to consider hiring a consultant to look at the possibility of a Class II on Sir Francis Drake. The County bikeways will be looking at routing Sir Francis Drake and this might be an opportunity to have Sir Francis Drake a designated Class II bikeway.

Rupert Russell, Fernhill Drive resident, suggested having a bike lane for downtown as well. Planner O'Rourke responded that the bike lane is only for Sir Francis Drake in terms of this proposal, but it can be considered.

Andy Peri, Outreach Coordinator for MCBC, noted that today is "*Bike to Work Day*." Also, this is a major corridor and appreciated the conversation. He added that Consultant Dave Parisi has done a lot of work on several projects and someone with his expertise would be great to look at these areas for having a Class II, if not all the way, then part of the way because a segment is better than nothing. He urged the Council to make room for bike lanes wherever possible on Sir Francis Drake Boulevard explaining that a Class II bike lane does not need to be continuous the entire length of the roadway. The General Plan has wonderful bike language. He noted that bike lockers are in the plan and if the Council is interested he would be happy to provide equipment for their consideration. In terms of behind the Post Office, he asked to be included in the dialogue. The County has funding for both video detection and

loop detection. In terms of the pilot program money, the transportation bill has provided \$7.8 million in additional funding to Marin County. Regarding bike parking, staff should walk and determine the location of bike parking as well as talk to merchants to see if they want bike racks. There has been talk about increasing parking at Natalie Coffin Greene Park, the Post Office, and the tennis courts and near the garage downtown. Branson School is another route that should be considered. He believed “*Share the Road*” signage can work. County of Marin has a goal of 20% walking and biking by the year 2020 and that should be part of the plan as well as “*complete streets*” language, which is making all road projects consider the needs for bicycles, pedestrians, wheelchairs and transit users. He further agreed to submit his comments to staff for the next draft.

Mr. Paisley noted that the bike path discussed is part of the creek side park development, so there may be funds available and a plan to repave that path, which he agreed to investigate.

Tom Mulley, Director of MCBC, noted his support for moving this plan forward and appreciated the Council’s consideration.

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

Council Member Martin heard the suggestion from the public of having Consultant Parisi analyze whether a Class II bike path is feasible as well as look at parking and this may be an opportunity to address the conflicts downtown. Mayor Strauss noted that San Anselmo has a great plan that should be reviewed as well.

The Public Works Committee will discuss the plan further and staff will bring back a revised draft plan for Town Council review in July.

19. Town Council discussion/action on hiring a staff Town Engineer for FY2010-2011 and for Town Public Works Director succession planning.

Town Manager Gary Broad summarized the staff report and urged the Council to consider hiring a Town Engineer to assist with current important public works projects, including the Sir Francis Drake Boulevard overlay and pathway projects. The Town Engineer would also work on future projects such as the Sir Francis Drake Boulevard and Lagunitas Road intersection improvement project and Bolinas Avenue drainage, traffic and overlay improvements.

Mayor Strauss agreed with the staff, citing a backlog of public work projects that could not adequately be addressed by existing staff.

Council Member Martin pointed out that this past year the Town has had a number of projects and spent more on Contract Engineer John Moe than in past. He asked staff what is anticipated over the next two years in terms of future projects. Town Manager Broad noted that with a Town Engineer, the Town will move ahead on the intersection improvements on Sir Francis Drake, Lagunitas Road, and San Anselmo, drainage work on Bolinas Avenue as well as road improvement work. The Town has a great formula to get grant applications successfully and can compete for funds if they have the staff resources.

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Council Member Martin clarified that the proposal also has to do with succession due to Public Safety Director Jarjoura's retirement in 2011. Town Manager Broad responded in the affirmative. Council Member Martin asked staff if the candidates have comparable experience as well as ability to someone as Town Hydrologist Matt Smeltzer. Town Manager Broad did not suggest that the Town Engineer would have the hydrologic strength as Town Hydrologist Smeltzer, but the engineer would be involved in the design and bidding process. Contract Engineer Moe is used for bids because no one on staff has the available free time to add that onto their workload.

Mayor Pro Tempore Hunter was amazed how much the Shady Lane pathway cost for a sidewalk and drainage improvements.

Mayor Strauss opened the public hearing on this item,

Elizabeth Brekhus, Sir Francis Drake Boulevard resident, stated the numbers presented, \$88,000 per year is not representing the cost of an outside engineer. In 2007, outside engineering fees were between \$12,000 to \$13,000. In 2008, engineer fees were \$62,000 and last year engineering fees were \$180,000. It is within reason that the Town will get back down to the 2007 numbers. Also, adding a staff member at a time when the Town is a fiscal crisis, questioned this as being a cost saving to the Town. Mayor Strauss stated that there would be a savings because the Town has a backlog of projects. With succession planning, the timing is right to have succession planning as well as get projects through the pipeline.

Ms. Brekhus expressed concern for the 18-month overlap and the suggestion of eliminating Bob Haggett's position as Building Inspector. A shorter timeframe would be preferable as well as continuity with inspections and Building Inspector Haggett should continue on with the inspection process. She further believed Building Inspector Haggett has been a wonderful addition to the community and would hate to see his position eliminated.

Bob Haggett, Building Inspector, was told to hang in there, keep the cost down, and get certified, so eliminating his position was shocking to read. He reflected on his past experiences in the Town of Ross and read a letter from Claire James, a Ross resident, who felt he is a valuable asset to the Ross community. Mayor Strauss stated this is a personnel issue and the Council is deciding on whether or not to hire a Town Engineer. Several in Town feel Building Inspector Haggett has done a wonderful job. Building Inspector Haggett asked the Council to continue this matter in order to give more thought into eliminating his position. The Building Department creates its income and it has nothing to do with the building inspector. He likes the community and would appreciate the Council discussing personnel. He then submitted a letter from CDK Builders President Gary Suhrke noting appreciation for his extensive knowledge with building codes, town requirements and attention to detail along with his pro-active attitude that allows builders to complete projects in time. He cannot think of one problem or person he has had issues with in regard to working with the Town for eight plus years. He then asked the Council to consider his eight plus years of continuous, outstanding, and professional work before making such a decision.

Carla Small, Duff Lane resident, agreed with the financial assessment. More money will be spent doing the 18 month overlap. She reviewed the budget and under engineering \$11,000 was spent so far. Last year was a very unique year. Also, she agreed that the Public Safety

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Director should be replaced with an engineer, which is wise thinking. An engineer is not one size fits all. The Town will hire certain specialist for Bolinas Avenue, not done by an engineer. She added that if the Council moves forward with hiring an engineer, she wanted to know what all the employees are doing in terms of job descriptions. She was told they are all in draft form, but they will have to be revised because jobs have changed. She further asked for completed job descriptions for all staff before hiring an engineer.

Town Manager Broad noted that the Council finalized the job descriptions in a meeting back in May of 2008. Mayor Strauss noted that a lot of analysis was conducted and anyone interested should be able to review them. Ms. Small agreed to come in tomorrow morning to obtain the descriptions. She also noted that one employee indicated that her job has changed and now has additional responsibilities. Mayor Strauss asked that all employees get their job description as well.

Kay Lee, Ivy Drive resident, noted that Building Inspector Haggett was very helpful during her remodel. She is a member of St. John's congregation and many years ago Building Inspector Haggett was extraordinarily helpful, which is a special way the Town was supportive of the community.

Rupert Russell, Fernhill Drive resident, asked the Council why the interview process started when the actual decision has not been made. Mayor Strauss responded that the Town wanted to see if there were any candidates available during this down economy. The Town has a huge backup in public works projects and they must move projects along.

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

Council Member Martin did not see a lot of new public works projects or grant funding on the horizon to justify the expense. He is very uncomfortable with this proposal and did not see how it benefits the Town. He believed it is extravagant, as contract Engineer Moe already provides excellent, on-demand, fee-based engineering services for the Town. They are also talking about rebuilding a firehouse and police station that will cost \$6 to \$7 million to replace. This report is disturbing because it does talk about eliminating Building Inspector Haggett's position. He is very uncomfortable with the personnel issues discussed and would not move forward on this issue tonight.

Council Member Cahill is very uncomfortable with the personnel issues relating to Building Inspector Haggett as well. The real issue is not whether to hire a Town Engineer, but when. He wondered if there is some way, or justification to relook at Building Inspector Haggett's circumstance and also hire an engineer. Instead of hiring a Town Engineer immediately, hire in three to six months to cut the cost. They have had a great difficulty in public works in getting projects completed and in a large part that would be alleviated if they had a Town Engineer on staff.

Mayor Pro Tempore Hunter has never served on Public Works so he would defer to those who have experience with public works, but has heard continuously and wondered why certain projects take so long to get complete. With the Public Works Director's planned retirement approaching, it makes sense to take advantage of the overlap. He is also extremely uncomfortable with what occurred with Building Inspector Haggett, who has been a

contract employee to the Town for a long period of time. It is unfortunate for everyone what occurred this evening. From what he sees, there is justification for hiring a Town Engineer relatively quickly. Some compromises could extend Building Inspector Haggett's tenure. The discussion this evening should be continued because they have lost track of what they are looking at. Right now they have a very highly qualified individual, if they put that off, the question is will that individual be available in the next three to six months. For this evening, he wanted to continue the matter.

Council Member Skull agreed with a succession plan and is amazed how fast Public Works went through this process. Considering how much money this Town has received in the past couple of years, he would think they have been given as much as they can get and did not see a lot more money coming in. The communication issue is very disturbing. This is an issue that involves not only the Council, but also public input. He felt that the Town would still be able to find good candidates a few months from now and suggested that the Council slow down the hiring process and take its time in making a decision.

Mayor Strauss agreed how this was handled with Building Inspector Haggett was unfortunate. There are plenty of projects in the pipeline and the Town must look at the future, and if not, they would be short changing themselves. He suggested going into closed session as soon as possible to discuss personnel and succession planning and then report back to the community. He has been working with Council Member Cahill on the succession planning and to keep continuing would be a huge mistake. He is ready to hire a Town Engineer and would move forward tonight, but since the rest of the Council desired more time, he agreed to a continuance.

Council Member Martin did not want to go underground on this issue in terms of transparency. Mayor Strauss agreed to discuss the matter with Town Attorney Hadden Roth.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Cahill seconded, to continue hiring a staff Town Engineer for FY2010-2011 and for Town Public Works Director succession planning. Motion carried unanimously.

20. **Town Council discussion of its five Town Council goals for 2009-2010. The Council identified the following five potential goals at its August 2009 Town Council workshop.**

a. Downtown plan

Mayor Strauss reported that the downtown plan has been placed on hold until completion of the bridge. He further noted that there is funding to adjust the curb lines and install curb cuts.

b. Public facilities

Council Member Cahill will make a presentation to the Council at the June meeting that will involve broad based plans and cost information to help the Council make an educated decision to address deteriorated facilities.

c. Flood control

Council Member Martin had nothing further to report.

d. Hillside lot ordinance review

Council Member Skull had nothing further to report.

e. Unfunded mandates/pensions

Mayor Pro Tempore Hunter reported that the final decision would be delayed until June in order to receive input on other projects before making a decision. Going forward, they will incorporate concerns of runaway cost into all employment practices and negotiations.

21. 20 Ross Common, Commercial Use Permit No. 1780

John Levinsohn, Property Owner, Mike Fowler, Applicant, 20 Ross Common, A.P. No. 73-272-10, Local Service Commercial District (C-L), Zone A (area of 100 year flood). A Local Service Commercial District use permit application for a law office using approximately 500 square feet of office space. The office would have two employees and minimal client traffic. The office would be open Monday through Friday from 8:00 a.m. to 5:00 p.m.

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

Council Member Cahill asked staff to discuss the lease. Senior Planner Semonian responded that use permits run with the land. Council Member Cahill asked staff if a condition could be added to limit the duration of the permit. Senior Planner Semonian noted that the Town cannot limit the duration of a use permit. Mayor Pro Tempore Hunter asked staff if this could be an exception to the conditional use permit that is in place. Senior Planner Semonian responded that the town attorney advised that this use could be considered a new and different use at the site and not covered by the existing use permit.

John Levinsohn, owner, indicated that this is an unusual period and he has never seen so many vacancies downtown. He tried to secure a retail tenant. This is an ideal tenant who lives in Kent Woodlands and would not create a parking problem. He believed this tenant would be an excellent addition to the downtown.

Mike Fowler, applicant, thanked the Council for consideration. He fully respects the desire to have retail in the downtown. He indicated that he has a two-year lease with a two-year option.

Mayor Pro Tempore Hunter expressed concern for the blinds being dropped and asked if they can operate with the front blinds open for a more welcoming feel. Mr. Fowler welcomed the idea. Showing activity in that area is important, not only to the café, but the feel of the community. He further assured the Council that the blinds would remain open.

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

Mayor Pro Tempore Hunter stated that in these economic times, a tenant in hand is a tenant any landlord would want.

Council Member Martin recognizes that it is a tough economic time to find tenants. Also, they have a potential of a renaissance with the transfer of Ross Grocery with Don Santa and hoped there will be opportunities explored to enhance the retail business aspect. They want the downtown to thrive and be active. He wondered if the owner would entertain the possibility of reverting back to a retail use whenever the tenancy of Mr. Fowler expires. Mr. Levinsohn would certainly make an effort, but he has no control, but would make every effort to produce retail in that space. He talked to the Santa's and believed it will work out nicely for the downtown area for the near future.

Council Member Martin asked staff if they could require that it revert back to retail. Senior Planner Semonian indicated that it could be an issue if it is challenged by someone with an identical business to the one approved. Mayor Strauss would love to see a different type of use, but due to this economy, he noted his support.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Cahill seconded, to approve the Use Permit for 20 Ross Common for use as a *"single practitioner law practice"* with *"one employee"* and *"no client visits"* including the findings and conditions, with the additional condition that the blinds are to remain open. Motion carried unanimously.

20 Ross Common Conditions:

1. The use permitted under this use permit shall be established and conducted in conformity with the description in the use permit application and subject to the following conditions of approval.
2. Window treatments shall remain open during business hours.
3. This use permit shall expire within one year from the date of approval if not exercised.
4. The applicant is responsible for ensuring that all improvements comply with any disabled access regulations, regardless of whether a building permit is required for the work.
5. A sign permit is required from the Town prior to installation of any new signage. Any exterior modifications, including repainting, shall require approval by the Planning Department staff.
6. NO CHANGES FROM THE APPROVED PLANS AND USE SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.
7. A street number must be posted (minimum 4 inches on contrasting background) and a local alarm provided, subject to Public Safety Department approval.
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.
9. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants

and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

22. **2 Glenwood Avenue, Variance, Design Review and Demolition Permit No. 1771** Ed and Betsy McDermott, 2 Glenwood Avenue, A.P. No. 73-131-29, R-1:B-A (Single Family Residential, 1-acre min. lot size), Very Low Density (.1-1 Unit/Acre), Zone A and X (creek is within 100-year floodplain). Design review, demolition permit and variances associated with a significant remodel of and addition to the existing 13,803 square foot residence, built in 1906 for Henry Bothin. The project includes removal of the 3-story wing to the north of the residence, excavation of a new garage below the residence, and addition to the east of the residence partially within the side yard setback (25 feet required, 18.3' proposed). A new 70 by 18 foot pool and 996 square foot detached pool house are proposed. Watercourse design review is requested for a new driveway and garage approach, grading, landscape retaining walls, and first floor addition within 25 feet of Ross Creek. The project includes 1,000 linear feet of retaining walls up to 13 feet in height. The applicants request approval of a tree permit to remove seven significant trees, including five California bay laurel, ranging from 12 to 30 inches in diameter. 3,000 cubic yards of cut and 3,000 cubic yards of fill are proposed. The total floor area of the project would be 17,625 square feet.

Lot area	118,135 sq. ft.	
Existing Floor Area	11.7%	
Proposed Floor Area	14.9%	(15% permitted)
Existing Lot Coverage	5.2%	
Proposed Lot Coverage	7.9%	(15% permitted)

The existing residence is nonconforming in covered parking, setbacks, number of stories and height.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the project with conditions and findings outlined in the staff report, including two changes to address the report received by Matt Smeltzer regarding the creek walls and also to specifically add language to review the site drainage from 200 Lagunitas Road.

Ed McDermott, applicant, thrilled to join the community and very thankful to all the neighbors who have reached out. It is a special old house with a lot of history and they tried to figure out how to take a 104-year-old house and make it work for a modern family. He assembled a great design team to preserve the special qualities of the home and further appreciated the Council's consideration.

Ken Linsteadt, architect, provided the Council with architectural drawings for their consideration. He pointed out that this is an incredible park like setting. They wanted to preserve the facade as well as the great front lawn. They explored several elements and one was a garage. There is no garage. There is a drive court to the east of the property. They briefly looked at the idea of an above gate garage. They were intrigued with the idea of getting vehicles under this house on the west side of the property due to the natural grade.

They want a pool house and pool, so the location of the pool house is to the east nestled into dense screening and in no way visible. To preserve the great resource, the entry porch, living room and dining room are over 3000 sf. When looking at the numbers, this is an extraordinary property and needs an extraordinary solution. The story about this house is how to preserve and breath life into it. The front façade is beautiful, but as one moves around the back of the property it is not correct. The task was to complete the house, remove the servant's wing, which is almost 3000 sf, and provide a proper rear garden and trade the area for a conservatory in keeping with the grace and character of the house.

Mayor Strauss asked if the sheet flow off the driveway would go to a bioswale. Eric Blasen, landscape architect, responded in the affirmative. Senior Planner Semonian noted that there will be impervious surfaces on the driveway and they will not drain to the creek. Landscape Architect Blasen provided the Council with sections and drawings depicting the paving and subject areas. The design strategy was to maintain the park like atmosphere, entry gates and columns, pulling the driveway away from the creek slightly and keeping the porch. There are no walls in the creek setback. 80% of the plantings are low water and most plantings will be natural. In terms of the pool house and pool location, it is within all setbacks and picks up on cross access and does not impact views. Drainage will be improved. It meets the 100-year flood criteria and the new stormwater management ordinance. There is another depressed area in back, so there are two natural depressed areas, one in front and one in back. They are preserving all existing screening. They will add 25 horizontal feet of screening to the end of the adjacent property in front. They are working with Town Hydrologist Smeltzer who submitted recommendations in regard to erosion control fabric and native riparian plantings. The focus is to create a sensitive design that respects the site and ties in the architecture. He further noted that they also balanced their cut and fill.

Mayor Pro Tempore Hunter discussed the impervious and pervious chart and asked if other materials were considered such as stepping-stones. Landscape Architect Blasen agreed to consider setting some of the stone on sand in order to increase the impervious surface.

Council Member Martin asked staff to address a few of the obvious concerns, given the size, there are a few conflicts with existing codes and standards including setback of the creek and rear yard, and the building being 17,000 sf when the limit in design review is 10,000 sf. Senior Planner Semonian responded that a lot of these exceptions are supported due to the historic structure issue. If the site were vacant, it would be easy to provide parking onsite. With an historic structure, it is difficult and it would detract from the character of the structure. Hiding all parking underneath the house is a benefit. Since a long extent of the creek is being preserved in a natural state, it seems to be a minor encroachment into the watercourse setback area. They are items that will improve the riparian habitat. There is a recommend guideline for 10,000 sf and the existing house exceeds that, but the existing historic house has a lot of spaces that would not be designed in that manner today. Interior of the house has historic character such as the grand entry and attic space. It is part of the character of the house. There is a lot of math involved and staff is comfortable that the 10,000 sf limit is being met as well as preservation of a historic Ross estate.

Council Member Martin asked staff why the 10,000 sf limit was established. Town Manager Broad stated believed it was to limit mansions and place a cap on floor area. It was during the period of a lot of development pressure, and the Council started looking at a prohibition on construction development over 10,000 sf in an effort to keep houses from becoming

extremely large in size and a compromise was brokered that become a guideline. In the event the Town would deny a larger size house, this would provide a leg up in litigation by having a standard in place that would put the burden on the property owner to prove that the house was appropriate rather than place the burden on the Town and denying it. He did not recall that there was any analysis on how it would affect existing homes already over 10,000 sf in size.

Mayor Strauss opened the public hearing on this item.

Tom Tusher, Lagunitas Road resident, welcomed the McDermott's to the community. They admire their investment to the property. However, he finds that there are significant areas of concern. He did not believe there are legal hardships that would allow the requested variances to be granted. His major concern is in regard to the pool house location and impact on drainage, and submitted written comments to the Council for consideration. He added that no consideration has been given to the drainage issue on his property. There is a history of serious drainage issues between these properties. He objected to raising the pond by 3 ft. and believes the existing level should be maintained. No structure should be permitted in the general area of the old pond and any structure should require maximum setback. Also, he requested that a peer review be conducted from all drainage sources. He objected to the location, size and addition of the proposed pool house. The existing house exceeds 10,000 sf maximum permitted and is nonconforming. The pool house will be in addition and should not be permitted. The proposal is that the pool house would be used as an occasional guesthouse and that would impact the tranquility of his property. The position of the pool house will be directly in front of his home and provide a solid mass that will block light into his property. This structure is sizable. The pool house structure should not be permitted. The location of a fire pit would impact him as well. He pointed out that the pond area is in a rear yard setback, not a side yard. The staff report raises the question of rear or side yard setback. The address is Glenwood and the Town would consider Glenwood Road as a front yard and argues that the area of the pond is a rear yard and requires a 40 ft. setback. Town guidelines setbacks should be maximized to protect residents from flood hazards and pool construction must be set back further from the setback line. He did not believe 1000 sf of additional construction for a pool house is necessary, or warranted and should not be permitted. The proposal for a fire pit to the south of the pool will have direct noise impact on his master bedroom and any location for any approved fire pit should move somewhere closer to the McDermott's house and away from adjoining their property. He then requested that the Council: 1) not approve any variances to setback requirements; 2) not approve the raising of the ground level in the area of the old pond site; 3) not approve the size and scale of the pool house; and 4) not approve the fire pit location. He further requested that the Town review the drainage issues raised and maximize the setback for flooding considerations and require the property line at the pool house area, which adjoins their front property line, to be defined as rear yard and require a 40-foot setback.

Steve Wisenbaker, Lagunitas Road resident, noted that the 10,000 sf rule has been strictly enforced. Town policy has always been entitlements within existing homes and there are tradeoffs. The tradeoffs are legitimate. Siding on the house is terrific and the front yard is terrific. Parking vehicles under the house is terrific. The problem is the pool house. Pre-existing nonconforming tradeoffs are fine, but not more square-footage. There was a large house where an elevator for an elderly member of the family was turned down since it increased the nonconforming space. The addition of a pool house to replace the pool house

that was split by a previous owner is not a hardship. If not treated technically as a rear yard it should be treated practically. Large houses should have adequate setbacks. Asking for a rear yard setback is the least the Council can do to mitigate the impacts. That is the reason there are limits, setbacks and the reason the Council is asked to make findings for hardships. It is clear that the McDermott's needs can be met without adding additional square-footage. Findings cannot be made for a legal hardship. He further noted that drainage and overflow must be addressed as well.

Kay Lee, Ivy Drive resident, finds the plans wonderful. She toured the house and was stunned with the project the McDermott's were taking on. She feels lucky to have this young family buying this historic property. She thanked the McDermott's for purchasing the home and believed they are doing a great job and noted her support.

McDermott's Project Civil Engineer noted that the depressed area is pushed down in order to get specific water out to flow over the road to the creek. The existing driveway is below the pond elevation. The water, in the most catastrophic storm, would be conveyed into the large swale area. There is also an overflow pipe, so drainage has been reviewed. There are several properties above that drain onto the McDermott's and there are three large drainpipes that dead end on the McDermott's that will remain as is and the water is conveyed out to the creek.

Tori Gabrielsen, former resident of 2 Glenwood Avenue, applauded the McDermott's for taking on this project. She agreed that they must bring light in and have family spaces because it was a house built for servants, not a family. It must be made a modern home. Their proposal is very sensitive to the beauty of the home and hoped the Council allows the McDermott's to have a pool house and pool. She is very excited to have the McDermott's in the neighborhood.

Ross resident believed there is an absolute front of the house and clearly the rear yard is in the back of the house.

Glen Sherman, representing 36 Glenwood resident, did extensive reviews of what the McDermott's have done and worked with them early on to share resources. Some engineering effort and money was spent to develop stormwater pollution to create the right effort to handle construction on those sites and to appropriately develop that estate site that is complicated with many different shared issues with neighbors. The McDermott's have been fantastic and the design development with the professionals the McDermott's put together make them very good stewards of this property. They studied the boundaries and setback issues between properties. It is obvious how the property is setup in accordance to the other properties. He hopes the Council will consider approving the project in order to start work and get the dust and dirty work done to get into the winter and be able to work in an enclosed property. He believed they have done a fantastic job and spent a good amount of energy with his team. He further hoped the Council approves the project this evening.

Frank Doodha, Glenwood Avenue resident, visited the site and supported the project. The only concern is all the construction occurring and there will be traffic hell in Ross. He hopes there is traffic management. Mr. Sherman responded that there are rules that address safety and flow of traffic that will keep everyone safe in Town and hopes the McDermott's follow the same construction plan as the Pritzker.

Carla Small, Duff Lane resident, discussed the amount of water that drains from her house, and asked the Council to carefully review the drainage in that area.

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

Council Member Skall is comfortable with the staff report and expects the drainage to be thoroughly reviewed.

Mayor Pro Tempore Hunter agreed it is important to address drainage and suggested that Town Hydrologist Smeltzer peer review the drainage plan. He believed this is a magnificent project and it will be a real credit to the Town and believed all neighbors will find this an asset.

Council Member Cahill agreed it is a fabulous design. The only real issue is the location of the pool house. The area of the pool house should be included in the plan. He then asked Mr. Tusher about the compromise that was attempted to move the pool house 15 ft. to the north. Mr. Tusher appreciated the fact that the project was deferred for one month, which allowed an opportunity to reach a compromise. As of last Sunday, the McDermott's had a plan that moved the pool house 15 ft. to the north, which he was quite happy to agree. The McDermott's asked for an exchange of property so there would be no issues with respect to variances and so forth on the side yard setback, which he volunteered, but the McDermott's wanted more land up on the hill, which he felt was an excessive request. He was prepared to agree to move the pool house to the north. Council Member Cahill asked if it would be acceptable to move the pool house to the north 15 ft. Mr. McDermott responded that the challenge is that it would disrupt the symmetry of that site. It is in a place with minimal impact on the neighbors. Moving it 15 or 16 ft. moves into the triangle area, which is property he does not own. Then there were discussions about a property exchange to exacerbate all setback issues in that area, but they were not able to find a fair exchange.

Architect Linsteadt noted that pushing the pool further from the site is a less desirable option for the historic nature of the house.

Council Member Martin stated this property has a lot of history, which he remembers as a child. He admired the restoration. The approach is done with sensitivity and believed it can be an asset to the Town. He expressed concern for the size. The 10,000 sf limit was derived after extensive public participation and a guideline cannot be ignored. It is 7,000 sf over that limit. Also, he is concerned that they are increasing the lot coverage significantly and he wanted to see some of the issues expressed by Mr. Tusher addressed. He further felt the project needs more fine-tuning and compromise.

Mayor Strauss felt the grandness of the homes deserve the pool house and the architect has done an excellent job in restoring the house, but wanted to see the project adhere to the 10,000 sf limit, but it is not realistic. He requested that Town Hydrologist Smeltzer review this project carefully to make sure all water is contained on the property, and then he would be comfortable with the project as designed.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Skall seconded, to approve the project at 2 Glenwood Avenue subject to the findings and conditions in the staff report, including the hydrologist report dated April 30th; revised Condition No. 9; and add as an additional condition that the drainage plan from the neighbor to the east be peer reviewed by Town Hydrologist Matt Smeltzer. Motion carried 4-1. Martin opposed.

2 Glenwood Avenue Conditions:

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

1. Except as otherwise provided in these conditions, the project shall comply with the plans approved on April 8, 2010, by the Town Council. Plans submitted for the building permit shall reflect modifications required by these conditions.
2. The project floor area shall be limited to 15% of the site area as confirmed by a surveyor.
3. The pool cabana may not be used as a dwelling, as defined by the Ross Zoning Code, without approval of a conditional use permit.
4. All costs for town consultant, such as the town hydrologist, review of the project shall be paid prior to building permit issuance. Any additional costs incurred to inspect or review the project shall be paid as incurred and prior to project final.
5. The applicants shall submit appropriate air quality permits to the building department prior to demolition of the existing structure.
6. The applicant shall prepare a storm water pollution prevention plans (see http://www.swrcb.ca.gov/stormwtr/docs/const_swppp.doc for guidance) and the applicant shall comply with the local, regional and state water quality agencies requirements for discharges of storm water associated with construction activity. The permit requires the filing of a Notice of Intent and development and implementation of a Storm Water Pollution Prevention Plan (SWPPP). Grading is prohibited between October 15 and April 15.
7. The project shall be subject to the following recommendations of the town hydrologist. Costs incurred for town hydrologist review of the project shall be paid prior to building permit issuance.
 - a. The existing non-native vegetation within 25 feet of the creek shall be enhanced with native riparian vegetation and irrigated and maintained for a suitable period as may be necessary to establish self-sustaining vegetation conditions. Invasive plants shall be replaced with more appropriate plantings. The town hydrologist shall review and approve the landscape plan within 25 feet of the top bank of the creek.'
 - b. The property owner shall remove the failed mid-bank retaining wall at the upstream creek bank and restore the bank, as recommended by Matt Smeltzer in a report dated April 30, 2010.
 - c. The Town requests the applicant to voluntarily measure on an approximately monthly basis the depth to groundwater in the well(s) and periodically report the well head elevation and monthly depth to groundwater data to the Friends of Corte Madera Creek or the Marin County Department of Public Works

8. The following conditions relate to protection of the creek during all phases of construction
 - a. The creek shall be protected during construction to ensure no soil, concrete, cement, slurry, or other construction debris is permitted to enter the creek. If any soil, concrete, cement, slurry, or other debris inadvertently enters the creek, the material shall be cleaned up and removed from the channel immediately.
 - b. Staging/storage areas for equipment, materials, fuels, lubricants and solvents, shall be located outside of the creek channel and associated riparian area.
 - c. Spoil sites shall not be located within the stream channel, where spoil may be washed back into the creek. Building materials and construction equipment shall not be stored where materials could fall or be washed into the creek.
 - d. The applicant is responsible for obtaining any Federal, State and local permits necessary for the project. The applicant shall comply with any additional requirements of the agencies.
9. A drainage plan shall be submitted with the building permit application for review and approval by staff and the Town Hydrologist. The plan shall be designed, at a minimum, to produce no net increase in peak runoff from the site compared to pre-project conditions (no net increase standard). As far as practically feasible, the plan shall be designed to produce a net decrease in peak runoff from the site compared to pre-project conditions. Applicants are encouraged to submit a drainage plan designed to produce peak runoff from the site that is the same or less than estimated natural, predevelopment conditions which existed at the site prior to installation of impermeable surfaces and other landscape changes (natural predevelopment rate standard). The drainage plan shall analyze the rate and volume of runoff from 200 Lagunitas Road and shall have sufficient back up measures to ensure no adverse impact to that site. Standards for drainage plans are available from the Town Building Department.
10. The town reserves the right to require additional landscape screening up to three years from project final.
11. Except as otherwise noted in these conditions, landscaping shall be installed in conformance with the approved landscape plan prior to project final. Prior to project final, the applicants shall submit written evidence to planning department staff that confirms the landscaping complies with Marin Municipal Water District's most recent water conserving landscape ordinance, or is exempt from their requirements.
12. The applicant shall take the precautions for accidental discovery of archaeological resources during all phases of construction:
 - a. If archaeological remains are uncovered, work at the place of discovery shall be halted immediately until a qualified archaeologist can evaluate the finds.
 - b. Prehistoric archaeological site indicators include: obsidian and chert flakes and chipped stone tools; grinding and mashing implements (e.g. slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects;

milled and split lumber; and structure and feature remains such as building foundations and discrete trash deposits (e.g. wells, privy pits, dumps).

- c. If human remains are encountered, excavation or disturbance of the location must be halted in the vicinity of the find, and the Marin County Coroner shall be contacted at (415) 499-6043.
13. A detailed construction and traffic management plan shall be submitted for the review and approval of the building official/director of public works and town planner prior to the issuance of a building permit. The plans shall include details on parking; material, equipment and waste storage; vehicle and equipment maintenance areas; portable restrooms; washout areas; delivery and truck parking; construction scheduling; and other information as required by the town. The town shall provide written notice to interested neighbors at least two weeks prior to approval of the construction management plan to allow for neighbor review and comment on the plan.
14. To minimize noise impacts on neighbors, construction hours shall be limited to 8 am to 5 pm Monday through Friday, excluding holidays. Noise prohibited prior to the authorized start time includes noise associated with activities such as, but not limited to, noise attributed to workers arriving on the job; vehicular noise; radios; assembling, moving or stacking construction materials; and deliveries.
15. No construction vehicles shall be permitted to idle or park on Glenwood Avenue. The applicant shall temporarily modify the entrance gates, if necessary, so that vehicles may pull off Glenwood Avenue to enter the site. Gates shall be open at all times during construction for the free passage of vehicles.
16. A copy of the building permit shall be posted and the emergency contact information shall be up to date at all times.
17. Applicants shall comply with all requirements of the Marin Municipal Water District.
18. Lighting shall be shielded and directed downward. Exterior lighting of landscaping by any means shall not be permitted if it creates glare or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public right-of-ways is prohibited.
19. The project is approved for up to 3,000 cubic yards of cut and 3,000 cubic yards of fill to be balanced on site. Additional planning review shall be required if the project grading significantly exceeds this approval or if import or export of soil is necessary.
20. 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.
21. This project shall comply with all requirements of the Department of Public Safety, as outlined in their ongoing project review, including the following: a) sprinklers are required; b) a 24-hour monitored alarm system is required; c) all dead or dying flammable material shall be cleared and removed per Ross Municipal Code Chapter 12.12 from the subject property; d) the street number must be posted (minimum 4 inches on contrasting background), e.) the access roadway must have a vertical clearance of 14 feet; f.) all brush impinging on the access roadway must be cleared as determined feasible by Public Safety; and g.) a Knox Lock box is required.

22. Any portable toilets shall be placed off of the street and out of public view.
23. The project arborist shall review final construction-level drawings, including grading, drainage and utility plans. All tree protection conditions recommended by the project arborist shall be included on those plans to ensure compliance with the conditions. A certified arborist shall be on site during all trenching and excavation work near protected trees.
24. Prior to the issuance of a building permit, the applicants shall submit a final tree protection plan drafted by a certified arborist for the review and approval of the Planning Department and town arborist. The submitted tree protection plan shall focus on the protection of all on-site trees not hereby approved for removal during construction and upon the ongoing preservation of their health and vigor. The tree protection plan shall include specific provisions acceptable to the Planning Department for independent on-site monitoring of the conditions below. Written reports shall be provided to staff to ensure monitoring is taking place.
25. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
26. Grading is prohibited between October 15 and April 15. No winter grading is authorized for this site and a construction management plan shall be submitted that outlines the scheduling of the site development. This should clearly show completion of all site-grading activities prior to the winter storm season and include implementation of an erosion control plan.
27. Project development shall comply with the requirements of the Ross Valley Sanitary District.
28. Any new indoor or outdoor burning fireplaces shall comply with the Bay Area Air Quality Management District Regulation 6, Rule 3, regarding wood-burning devices and Ross regulations.
29. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice. As provided in Municipal Code Section 15.50.040 construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.
30. Failure to secure required building permits and/or begin construction by April 8, 2011 shall cause the approval to lapse without further notice.
31. 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.
32. The Town Council reserves the right to require additional landscape screening for up to three (3) years from the date of project final.
33. EXCEPT AS OTHERWISE STATED IN THESE CONDITIONS, NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR PLANNING DEPARTMENT APPROVAL. The project construction shall comply with the approved plans. Red-lined plans showing any proposed changes, including changes to materials or colors, shall be submitted to the Town Planner for review and approval prior to making any modifications. CHANGES MADE TO THE DESIGN DURING CONSTRUCTION MAY DELAY

THE COMPLETION OF THE PROJECT AND WILL NOT EXTEND THE PERMITTED CONSTRUCTION PERIOD.

34. FAILURE TO COMPLY IN ANY RESPECT WITH THE CONDITIONS OR APPROVED PLANS CONSTITUTES GROUNDS FOR THE TOWN TO IMMEDIATELY STOP WORK RELATED TO THE NONCOMPLIANCE UNTIL THE MATTER IS RESOLVED. (RMC §18.39.100). THE VIOLATIONS MAY BE SUBJECT TO ADDITIONAL PENALTIES AS PROVIDED IN THE ROSS MUNICIPAL CODE AND STATE LAW.
35. 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.
36. 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.

The Council took a short recess at 11:52 p.m. and reconvened at 12:01 a.m. with the next agenda item.

23. **5 Fernhill Avenue, Amendment to Design Review No. 1777**
Tahlia Van, 5 Fernhill Avenue, A.P. No. 73-091-04, R-1:B-20 (Single Family Residential, 20,000 acre min. lot size), Low Density (1-3 Units/Acre), Zone A (100-year floodplain). Request to amend an April 17, 2006, Town Council design review approval, which permitted construction of a new 3,869 square foot two story residence, attached 414 square foot two-car garage, and accessory structures. The applicant requests the Council to rescind a condition of approval that requires the entry drive to be surfaced with decomposed granite to allow the owner to pave the driveway with asphalt.

Lot area	25,958 square feet	
Approved Floor Area Ratio	14.9%	
Proposed Floor Area Ratio	14.9%	(15% permitted)
Approved Lot Coverage	14.2%	
Proposed Lot Coverage	14.2%	(15% permitted)

Item was continued at the applicant's request.

24. **90 Laurel Grove Avenue, Variance and Design Review No. 1778**
Steve and Kirsten Polsky, 90 Laurel Grove, A.P. No. 72-201-12, R-1:B-A (Single Family Residential, 1-acre min. lot size), Very Low Density (.1-1 Unit/Acre). Design review

and variances associated with converting the existing basement area to a family room, which would add 635 square feet of floor area to the residence. The project would involve 56 cubic yards of cut to lower the floor of the basement area. Total floor area of 4,026 square feet is proposed.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council provide comments to the applicant, but continue the matter for renoticing with accurate lot size, floor area and lot coverage numbers.

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

Council Member Skall noted that he is comfortable with the project.

Mayor Pro Tempore Hunter pointed out that this project is an example of what the Council has discussed which is, if it does not go outside the envelope, can basements be converted into living space. He would consider the new information provided on the floor area and lot coverage. He believed it was nicely designed the other way and made the house more useful for the family, so he must think about the additional FAR.

Mayor Strauss noted in general, he is comfortable with the two-story house. Council Member Cahill concurred. Council Member Martin is comfortable, but will defer to the next meeting.

Mayor Strauss asked for a motion.

Mayor Pro Tempore Hunter moved and Council Member Cahill seconded, to continue the project at 90 Laurel Grove to the next Town Council meeting. Motion carried unanimously.

- 25. 33 Sir Francis Drake Boulevard, Commercial Use Permit No. 1784**
Town of Ross, Property Owner, Clearwire US, LLC, Applicant, 33 Sir Francis Drake Boulevard, A.P. No. 73-191-16, C-D (Civic District), Public Service, Zone A (1-percent annual chance floodplain). Use permit to allow modifications to an existing unmanned wireless communication facility consisting of a 40-foot monopole and equipment. Clearwire proposes to utilize the existing monopole to add three panel antennas at 38 feet and two microwave dishes at 34 feet above ground level. Three remote radio units would be located on the pole at 5 and 7 feet above ground level. The applicants would paint all antennas, dishes and connecting equipment to match the existing pole. The equipment cabinet will be located within an existing structure and screened from public view. The proposed facility would be unmanned and operate 24 hours a day seven days a week.

Item continued to the next Town Council meeting at the applicant's request.

- 26. 90 Glenwood Avenue, Variance No. 1779**
Peter Ausnit and Traci McCarty, 90 Glenwood Avenue, A.P. No. 73-041-32, R-1 (Single Family Residence, 5,000 Sq. Ft. Minimum Lot Size), Medium Density (6-10

Units/Acre), Zone X (outside 1-percent annual chance floodplain). Floor area variance associated with the construction of a new 582 square foot second unit in the basement level of the residence. Request to amend the conditions of the October 14, 2004 Town Council approval for the residence, which limited the improvement of the basement and required the basement to have a maximum ceiling height of 6' 6".

Lot area	10,214 sq. ft.	
Existing Floor Area	21.3%	
Proposed Floor Area	27.0%	(20% permitted)
Existing Lot Coverage	18.5%	
Proposed Lot Coverage	18.5%	(20% permitted)

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

Mayor Strauss asked staff if this meets the light and air requirements for a second unit. Public Safety Director Jarjoura responded in the affirmative. Mayor Strauss noted that it is very hard to tell from the drawings and is unable to act on this project since the information was not provided. Originally, this was built with a basement floor. Senior Planner Semonian noted that the basement was limited to 6.5 ft., so finish floor meets the requirement but it must be pulled out to finish off the space. It is currently unfinished.

Council Member Martin asked staff if they are requiring a deed restriction that the unit be affordable housing. Senior Planner Semonian did not recommend a deed restriction on the unit, since it was not well received by the Council for the 19 Brookwood application. Staff had forwarded the deed restriction document to the applicant so that they could consider voluntarily entering into the agreement, but she did not know if the applicant would enter into the document.

Mayor Strauss wanted to have a basement/third story discussion because the Council needs more guidance. The Town must have a policy. Mayor Pro Tempore Hunter concurred. There are three projects tonight on the same issue and desired guidance from staff. He then wondered if projects could be placed on hold until the Council receives such guidance. Senior Planner Semonian noted that there are rules in place. Findings could be made for the last application since their site is unusual. This site is twice as large as others in the zoning district, but the basement level would add no mass to the site and the Town receives a second unit, which would be considered an affordable unit based on its size.

Traci McCarty, applicant, appreciated the Council visiting the site. They are asking for additional FAR, which is a hot topic in Town, but their neighboring houses are at 30%. This is a new house and it conforms to all setbacks required, covered parking and they have space for five vehicles on their driveway. Traffic would not be an issue. She has three kids under six and it would mean a great deal to get the help of an au pair.

Mayor Strauss opened the public hearing on this item.

Robert Fields, Glenwood Avenue resident, stated when the Council approved the plans in October of 2004 the basement ceiling was limited to comply with the code. He then asked if

8 ft. was not acceptable then, what changed to make it acceptable now. Mrs. McCarty noted that she has twins now, so their living situation has changed and needs room for a care provider in their home.

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

Council Member Cahill indicated that it is important to determine the FAR, but also the design constraints. If the Town approves a project with that building envelope, he believed if there are no impacts on others outside the house, the homeowner should be able to develop the project.

Council Member Martin wanted to review the trend of converting basements. He wondered if it will have an accumulative effect and create a denser neighborhood and begin to change the character. Since it is before the Council tonight, he concurred with Council Member Cahill's comments. He pointed out that they are not increasing the size of the structure on the property and it has minimal impact, and since it is being used for a care provider, he believed it is a valid use.

Mayor Pro Tempore Hunter echoed the combined comments of Council Members Cahill and Martin. He asked staff if they could have a moratorium on basement units in order to have a discussion. Senior Planner Semonian responded in the affirmative.

Council Member Skall favored the project.

Mayor Strauss is not comfortable and indicated that what is proposed is not a proper second unit he envisioned for the Town.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, to approve the project at 90 Glenwood Avenue with the findings and conditions in the staff report, including the additional condition that it meet code requirements for light and air. Motion carried 4-1. Strauss opposed.

90 Glenwood Conditions:

The project shall be subject to the following conditions of approval:

1. A building permit is required. The project shall comply with all light, ventilation and air requirements of the code.
2. The applicants shall comply with any requirements of the Marin Municipal Water District, Ross Valley Sanitary District, PG&E and Ross Public Safety Department for the new second unit use. Evidence that all requirements of MMWD have been complied with shall be presented to staff prior to building permit final.
3. The property owner must comply with all the applicable provisions of the Second Unit Ordinance set forth in Ross Municipal Code Section 18.42 et. seq. One of the two units on the property shall be occupied by an owner of the site.

4. A kitchen shall be installed in the unit, including a refrigerator/freezer, kitchen sink, stove/oven unit, and food storage areas. Town Council approval shall be required to remove the kitchen from the unit.
5. The project shall comply with all requirements of the Marin Municipal Water District and Ross Valley Sanitary District and PG&E, including payment of any connection fees and installation of any separate meters.
6. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. RED-LINED PLANS SHOWING ANY PROPOSED CHANGES SHALL BE SUBMITTED TO THE TOWN PLANNER FOR REVIEW AND APPROVAL PRIOR TO ANY CHANGE.
7. Except as otherwise provided in these conditions, the project shall comply with the approved plans. Plans submitted for the building permit shall reflect any modifications required by the Town Council.
8. All costs for town consultant, such as the town engineer, review of the project shall be paid prior to building permit issuance. Any additional costs incurred to inspect or review the project shall be paid as incurred and prior to project final.
9. This project shall comply with all requirements of the Department of Public Safety, as outlined in their ongoing project review, including the following: a) sprinklers are required; b) a 24-hour monitored alarm system is required; c) all dead or dying flammable material shall be cleared and removed per Ross Municipal Code Chapter 12.12 from the subject property; d) the street number must be posted (minimum 4 inches on contrasting background), e.) the access roadway must have a vertical clearance of 14 feet; f.) all brush impinging on the access roadway must be cleared as determined feasible by Public Safety; and g.) a Knox Lock box is required.
10. Any portable toilets shall be placed off of the street and out of public view.
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 shall be subject to automatic penalties with no further notice. The construction shall not be deemed complete until final sign off is received from representatives of the building/public works, planning and public safety departments.
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. Failure to secure required building permits and/or begin construction by May 13, 2011 will cause the approval to lapse without further notice.
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.
27. 7 Woodside Road, Variance, Design Review and Demolition Permit No. 1774

Stephanie and Lee Notowich, 7 Woodside Way, A.P. No. 73-232-03, R-1:B-10 (Single Family Residence, 10,000 Sq. Ft. Min. Lot Size), Medium Low Density (3-6 Units/Acre). Design review, demolition permit and variances associated with a remodel and addition to the existing residence and accessory structures. The project includes: 1.) removal of the carport and construction of a new 444 square foot garage, attached to the house with an enclosed walkway; 2.) removal of the existing deck to the east of the residence; 3.) removal of the existing pool and construction of a new pool within the rear yard setback (40 feet required, 12 feet existing and proposed); 4.) creation of a new 407 square foot second unit in the existing pool house within the rear yard setback (40 feet required, 7.5 inches existing and proposed, per applicants' survey); 5.) addition of a family room in the basement level of the residence and Council consideration of whether the area should be considered a 3rd story (2 stories permitted); 6.) 40 square foot balcony on the south side of the upper level; and 7.) 60 cubic yards of cut and 60 cubic yards of fill. The applicants request approval of a tree permit to remove one 55-inch diameter *Liquidambar styraciflua* tree. The total floor area proposed is 5,168 square feet, 732 square feet over the maximum permitted floor area for the site.

Lot area	22,183 square feet
Existing Floor Area Ratio	15.2%
Proposed Floor Area Ratio	23.3% (20% permitted)
Existing Lot Coverage	13.3%
Proposed Lot Coverage	15.7% (20% permitted)
Existing Impervious Areas	21.0%
Proposed Impervious Areas	13.3%

The existing residence and cabaña are nonconforming in setbacks.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council consider the items outlined in the staff report, offer the applicant guidance and then continue the matter to the next Town Council meeting.

Greg Johnson, architect, submitted to staff a copy of the record survey, and the surveyor confirmed that the cabana is not on the adjacent owners property line. In conversations, he confirmed that it is not a third story. He used the 25% boundary criteria, which was presented to the ADR back in March that was accepted and to find out now that it is not acceptable he finds interesting. In all conversations, there were three key points: 1) the question of whether the cabana could be a second unit; 2) floor area; and 3) the north elevation. If the cabana is not made a legal second unit that is fine. It is a detached structure and the owner felt it made sense to provide a second unit to the Town. In terms of floor area, this project is enclosed, so it adds 151 sf to the floor area. The rest of the additional square-footage is at the bottom of the basement. In terms of the north elevation, Mayor Strauss and Mayor Pro Tempore Hunter provided a simple solution to have a shed roof that matches the south elevation to completely change the look and feel. It is an easy solution. He then provided a great set of details in terms of responses to the neighbors. He further noted that he was surprised that an independent arborist was brought on without his clients consent.

Mayor Strauss opened the public hearing on this item.

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Stephanie Notowich, owner, explained that they have three children and are very active and involved in the Ross community. While some elements seemed to make sense such as placement of the garage and walkway, the interior changed and the character was lost. They are lacking a family room. The plans, as proposed, are almost identical to what was approved in 2006, except for the additional square-footage for the basement area. They have made an enormous effort to reach out to their neighbors to address concerns to the best of their ability. She further hopes the Council approves their project and that fences can be mended in many different ways.

James Mangan, Thomas Court resident, expressed concern for the use of the cabana as a second unit. Also, the potential to have a rental unit in such close proximity is a concern.

Leslie Mueller, Woodside resident, continues to have concerns. She appreciated the staff report, but it did not mention drainage. Also, in terms of the location of the garage and courtyard walkway, there is a mature growth of redwood trees and whether it is appropriate to have additional construction with that grove of trees. In regard to the storm of December of 2006, she had a tree fall into her lot, so she is very concerned about the health of the redwood trees and root systems. She called an arborist who conducted a field report and wrote a report, which was forwarded to staff and asked that all parties review the arborist report. She further noted that there is a risk to the safety of property owners and surrounding property owners.

Janell Hobart, Thomas Court resident/landscape architect, spoke with Town Arborist Becky Deckles who is very comfortable that hand trenching can occur and would be sufficient. She then clarified that the tree that fell on Ms. Mueller's property was a monetary cypress, not a redwood.

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

Mayor Strauss recommended continuing this matter due to all the uncertainties with regard to the second unit; side yard; the south side elevation; eliminating the closed breezeway to help reduce the effect of that walled feeling; resolving survey issue; both arborist should resolve the tree issue; and consideration of the basement level as third story. If so, then there should be an application for a third story variance. He believed the floor area should be considered 20% and should be part of the house and not a second unit since the second unit is in the side yard. Also, the design of the north elevation should be revised and the applicant should be required to provide confirmation of the location of the boundary line close to the house, which has been done as well as the arborist report.

Council Member Cahill found the design very good, except for the north elevation since it looms and adds additional mass above the existing structure. It seems the applicant will address this issue. He recommended that the new design go to ADR to fully address the north elevation. Also, the garage, since it is a new structure, should be reviewed to see if it could be lowered or moved back to not impact the neighbor next door. In terms of the basement space, he has the same comment as the others, if there is no change to the exterior of a project, then the basement space should be allowed. With regard to the second unit, it is inappropriate to have a second unit on the property line. He suggested that it be remodeled as a pool house as it is currently.

Council Member Skall indicated that he is comfortable and had nothing further to add.

Mayor Pro Tempore Hunter discussed the stair tower in regard to the upper windows facing the neighbors, which should be placed on the side. Also, with the unit on the property line, he asked if there was any consideration to just removing it. Mrs. Notowich responded that their in-laws tend to stay in that area since it is the only other bedroom.

Council Member Martin had nothing further to add.

Architect Johnson believed what he heard tonight along with communication with staff is that the matter could be addressed without having to go back to ADR, which he felt is not necessary. He rather come back to the Council since ADR fully supported the project. The majority of Council agreed that the matter should come back to the Council.

The Council further noted that the FAR is acceptable since it is a basement level, but recommended looking at uncovering the breezeway.

Mayor Strauss asked for a motion.

Council Member Cahill moved and Mayor Pro Tempore Hunter seconded, to continue the project at 7 Woodside Road to the next Town Council meeting. Motion carried unanimously.

28. **Correspondence** - Consider moratorium on basements at the June Town Council meeting.

29. **Other Business** - None

30. **Adjournment**

By order of Mayor Strauss, the meeting adjourned at 12:56 a.m.

Richard Strauss, Mayor

ATTEST:

Gary Broad, Town Manager