

REGULAR MEETING of the ROSS TOWN COUNCIL  
on the SPECIAL DATE OF THURSDAY, OCTOBER 16, 2008

**1. 6:30 P.M. Commencement.**

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

**2. Posting of Agenda.**

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

**3. Minutes-September 11, 2008**

Mayor Cahill asked for a motion.

Council Member Hunter moved and Council Member Skall seconded, to approve the September 11, 2008 Town Council minutes as amended. Motion carried unanimously.

**4. Demands.**

The demands were met.

**5. Open Time for Public Expression**

Ken Fineman, President of School Board, requested a joint session between Town Council and the School Board at the last meeting, which occurred last week and the Board expressed their gratitude to the Council. The purpose of the meeting was to discuss issues related to the construction of the lower school and the new gym and their main goal was to communicate. Now, they are on the same page and the Board is very grateful for Town Council participation. He then reported that a new soaker hose for the redwood trees near the school project was installed and the arborist indicated that the trees look good, so there is no damage. Also, a second soaker hose with mulch will be installed next week. He then noted that minutes were taken at the joint meeting and will be available shortly. He further discussed the desire of the Board to have a SFG (School Facilities Group) member, and the Town Council recommended Chris Martin, so that matter will be added to the next School Board agenda.

Mayor Cahill asked President Fineman if the School Board would like to be placed on the agenda each month in order to provide a monthly report. President Fineman stated that conceptually it makes sense, but asked the Mayor to discuss the matter off line.

**6. Report from Mayor Cahill.**

Mayor Cahill congratulated the Town on the Centennial Celebration held on September 19 and 20. He stated that it was a most memorable and joyful two-day celebration unlike any other the Town had ever seen. He is very proud to be part of a Town with such talent and community-minded spirit. He then reported on phase one of the Shady Lane safe pathway to school project that was completed last week. He is very pleased with the way it all turned out and has received positive reviews. Also, the Farmers Market completed its first year in downtown Ross. Again, he heard positive reports. If members of the public would like to see the Farmers Market continue next year, please let him or Town Manager Broad know.

In terms of the October 6 first ever joint Town Council and School Board meeting, he agreed with President Fineman, it was very productive.

Mayor Cahill was pleased to report that on Tuesday the Town received a funding commitment for a \$67,000 2009 FEMA grant. The grant is under flood mitigation assistance program and \$50,000 will provide funds for the Town to hire a consultant to prepare a disaster mitigation plan. The remaining \$17,000 is reimbursement to the Town for soft cost, such as staff time. He further noted that an approved disaster mitigation plan is not only prudent, but also mandatory.

7. Report from Committee Heads.

Community Protection - Council Member Hunter

- Fire Department contract

Council Member Hunter reported that the Council held a closed session last month to discuss a two-year contract with the Ross Firefighters' Association and he is pleased to report that the Association has accepted the offer and the final language is being worked out.

Public Works - Council Member Strauss

- Committee meetings summary

Mayor Pro Tempore Strauss reported that they are still on schedule with URS consultants in regard to a critical path that will dovetail with the rest of the development going on in the community. Tentatively, they are still scheduled for construction to start in June 2009. In regard to the Shady Lane pathway, it has been completed. Public Works will work on transitions with driveways through winter in order to complete the pathway. The downtown plan will be discussed under goals. Also, tree canopy discussions are occurring with the Tree Committee and that matter will be brought to the Council in regard to a master plan for the interface right-of-ways with the community to be developed with a tree planting plan for the major streets in Town.

General Government - Council Member Skall

- Transportation Authority of Marin update

Council Member Hunter Skall noted that TAM had no significant actions to report.

Finance Committee update - Mayor Cahill for Council Member Martin

- Flood Prevention Committee update

This item will be discussed during the "*Flood Control Report.*"

- Joint Powers Oversight Committee update

Mayor Cahill reported that MCMCT (*Marin County Major Crimes Taskforce*) Commander Douglas Endy provided a report of activities to the Oversight Committee. The MCMCT was formed in 1977. The Taskforce is a cooperative effort of 10 out of 11 Marin cities and county to provide a central investigative unit responsible for all jurisdictions within Marin County. The unit is intended to supplement efforts to existing enforcement agencies to better

address major criminal and drug related criminal activity. The County of Marin and Marin towns and cities, including Ross, contribute their proportionate share to the taskforce \$1.3 million annual operating budget. In 2003, the City of San Rafael opted not to participate in the funding of the taskforce. Since then the County and active participating cities assumed higher assessed costs to maintain the taskforce's optimal operating budget. At the October 2, 2008 Oversight Committee meeting, Novato announced that it may also opt out of the taskforce because it is facing serious fiscal challenges and cannot afford the higher assessed costs because of San Rafael's non-participation. If the two largest cities in Marin no longer participate and contribute to the Major Crimes Taskforce, it will at least lead to a scaled down, less effective unit at a time when increased gang activity is evident in Marin. The Oversight Committee recommended that this issue should be reviewed and discussed by the full assembly of the Marin County Council of Mayors and Council members as well as individual city and town councils.

Town Manager Broad noted that Ross's contribution is modest in the few thousand-dollar range. There has not been any reimbursement from any of the asset forfeiture seizures. It would be a major loss for the smaller communities and an effort to keep it going is needed. San Rafael is getting closer than before, but they need a third Council vote in support.

- Ross Recreation – Mayor Cahill for Council Member Martin

Mayor Cahill reported that Ross Rec voted to change a provision in their bylaws, which needs concurrence by the Ross Town Council. Currently, the Ross Rec bylaws provide that members of committees and boards must reside within the boundary of the Ross School District. Recognizing that an expanding base of Ross Rec participants reside in Kentfield, San Anselmo, Greenbrae, and Larkspur, the Ross Rec Board proposes that the bylaws be changed to provide that committee/board members reside within the Ross Valley community. Director Pam Riley will report to the Council at the November meeting, which may be the appropriate time to discuss this bylaw change. Also, the other Ross Rec matter that the Council and the community should be aware of is the Halloween Storefront Window Competition. Ross Rec is rekindling an Old Ross tradition of organizing Ross School students to paint Ross business storefront windows with Halloween-themed images. There are potentially 80 windows segment opportunities for young artist to secure sponsors. Proceeds will benefit the Ross School fine arts program. The merchant community has expressed enthusiastic support of this effort. Council members will be asked to judge and award the windows.

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

Lesley Reidy, RPOA representative, discussed the taskforce and noted that there has been an increase in bike thefts and believed there is an advantage to informing citizens to lock their garages and remove keys from their vehicles. She believed that gentle reminders could be helpful. She suggested sending out a townwide email to inform residents. Chief Jim Reis noted that there have been a modest increase and most thefts occur from Ross School because locks are not being used. There have been several incidents where people leave bicycles unlocked in carports and in open garages. Every month there are bicycle thefts due to unlocked bicycles. Problems can be avoided if garage doors are closed, bicycles are properly locked and keys are removed from vehicles. He agreed that communicating with the community at large would be beneficial in order to remind everyone of these few safety tips.

Mayor Cahill asked Chief Reis to communicate with the School Board. Chief Reis agreed and is suggested the Town could consider installing closed circuit video in the location where bicycles are stored to solve problems. He further noted that other juveniles commit most thefts.

Ms. Reidy wanted to continue all the great work started with the disaster preparedness and asked if any "Get Rready" classes are being scheduled for 2009. Fire Chief Tom Vallee responded that one of his goals is to get people involved in CERT training as well as continue to work with seniors on emergency preparedness.

Ms. Reidy is hearing the need for some sort of public restroom in the downtown arena with soccer games and wanted to call that matter to the Town's attention as the downtown plan is being formulated. She further noted that RPOA understands the security and maintenance issues. Mayor Pro Tempore Strauss indicated that discussions are occurring with the school and they hope to work out that issue. He further noted that all the soccer and baseball coaches have keys, but it is a management issue.

A School Board representative indicated that there are two restrooms close to the field that would be the best candidates for both during school hours and after hours, so that is currently being discussed.

#### 9. Flood Control Report.

Mayor Pro Tempore Strauss reported on the following matters on behalf of Council Member Martin:

- Creek Clean Out, October 4, 2008

Just over 26 people volunteered in creek clean up effort on October 4. Nearly two large debris boxes were filled with litter, discarded garden furniture, branches and other rubbish. There are many to thank for this successful collective effort, including outstanding participation from Ross School and Branson School students, Sophia Russell, Calum McCarty, Will Gates, Ben Abouchar, Rachael Miller, Allison Galuszka, Liam Bourke, Zachary Baum, Jackson Baum, and Peter Mascheroni. There was incredible participation from residents of both Ross and neighboring communities, including George Russell, Sheila O'Shea, Rupert Russell, Frank Malin, Sara Niccolls, Michael Baum, Tom Woolley, and B.J. Martin. The Town of Ross also had a strong showing of volunteers, including Council Member Michael Skall, Council Member Scot Hunter, Town Manager Gary Broad, Public Works Director Mel Jarjoura, and Firefighters Jake Peterson, Mario Juarez, and Rick Rosecrans. And a special thanks to Public Works Superintendent Robert Maccario, who directed efforts and provided a better understanding of the sensitive creek environment.

- Work Needed

Three dead trees along Corte Madera Creek need to be removed by the Town or responsible property owners prior to the rainy season. Several residents living along the creek need to be advised that the creek is not the proper place to deposit garden waste. It is recommended that the Town install plaques along the Ross Creek and the Ross section of the Corte Madera Creek identifying the street address of each property owner. This will assist maintenance efforts along the creek.

- Proposition 84 Funding

Availability of Proposition 84 grant funding was discussed at a recent MCSTOPPP meeting. The Town of Ross is considering applying for a collaborative grant with San Anselmo to address floodwater improvements along the Bolinas Avenue corridor.

10. **Town Council consideration of adoption of Resolution No. 1657 commending Chief of Protocol Molly Gamble and Centennial Committee Chairs for their efforts on the Town's 100-year Centennial celebration.**

Mayor Cahill again congratulated everyone involved in the Centennial effort and read Resolution No. 1657, commending Chief of Protocol Molly Gamble and Centennial Committee Chair for their efforts on the Town's 100-year centennial celebration.

The Centennial Committee consisted of:

- Molly Gamble- Chair
- Kirsten Polsky – Co-Chair
- Lesley Reidy – Activities Chair
- Dianne Fruin – Dinner Chair
- Marianne Jacobson –Controller Chair
- Janey Kuhl/Betty Zampa – Entertainment Co-Chairs
- Cindy Livermore – Honorary Residents Chair
- Anne Flemming – Honorary Mayors and Council Members Chair
- Diane Doodha – Marin Art & Garden Center Liaison & Communications Chair
- Nicole Duncan – Merchandise Chair
- Joohee Muromcew – Publicity Chair
- Ruth Krueger – Newsletter Chair
- Roseanna Lourdeaux / Wendy Battey– Parade Co-Chairs
- Libby Tracy – Ross School Chair
- Elizabeth Robbins- Ross School Alumni Chair
- Ann Sutro – Ticket Sales Chair
- Beth Allen – Town Cake Chair
- Linda Lopez- Town Liaison Chair

Mayor Cahill 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 Cahill asked for a motion.

**Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to adopt Resolution No. 1657, commending Chief of Protocol Molly Gamble and Centennial Committee Chair for their efforts on the Town's 100-year centennial celebration. Motion carried unanimously.**

11. **Town Council discussion of a lot line adjustment between the Town of Ross and the Ross School District to transfer approximately equal land areas between the Ross Common and the Ross School properties.**

Mark Quattrocchi, architect, thanked Town Manager Broad and Town Council for waiving the fee for this lot line adjustment. He noted that the School Board is very grateful. He then

indicated that they are modernizing and lifting the school. The Master Plan occurred one year ago for the gym and multipurpose room used by the school and community, but the width of the building is large enough that they are right up against the current property line. The stage could be used for Town events that require an opening, so either they make the gym shorter or move the property line 5 feet over. They are taking 5 feet from the Town Common and would give up a piece of property from the school to the Town. Other issues are easements. There will be a stage, stairs and access opportunities that they would like to discuss at a future meeting. This would allow them to build the proper size gym, stage and opening for this building. It becomes a 1-foot difference between the two. He then showed the area of the Common and School Board before alterations and after, but the amount of square footage would be the 1-foot difference.

Mayor Cahill 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.

The Council supported the lot line adjustment and indicated that the item will come back at the November Council meeting for approval.

Mayor Cahill indicated that the lot line adjustment must be documented and an attorney must draft up a legal description. Mr. Quattrocchi noted that their civil engineer would prepare the legal description. He added that an application was completed for the Town and School District separately and both legal descriptions must be created.

Town Attorney Hadden Roth agreed to review.

12. **Follow-up discussion of the five Town Council goals for 2008-2009 and the implementation of these goals.**
  - a. Staff job description updates and performance reviews
  - b. On-going emergency preparedness, with a focus on seniors
  - c. Town and Ross Valley flood control
  - d. Downtown plan
  - e. Police and Fire Department reorganization

Mayor Cahill discussed implementation of the five goals for the 2008-2009 fiscal year as follows:

**Goal A - Staff job description updates and performance reviews**

Mayor Cahill reported that they selected PDV Consulting to assist in updating job descriptions and formalizing a process for performance reviews. The first step of the consultant will be interviewing administrative staff and Town Council members this month. Also, two different consulting firms were reviewed and PDV Consulting was well recommended.

**Goal B - On-going emergency preparedness, with a focus on seniors**

Council Member Skull will continue to work with seniors on emergency preparedness as reported earlier by Fire Chief Vallee.

**Goal C - Town and Ross Valley flood control**

Nothing further to report.

**Goal D - Downtown plan**

Mayor Pro Tempore Strauss noted that the Public Works Subcommittee recommended that the Council retain SWA Group from Sausalito to help develop a downtown plan. A survey has been completed, so this will start to move quickly. In December or January ideas will be discussed, but it all must be dovetailed with the school and interface. One of the big issues is placing fill in the flood plain, so that must be addressed. He desired alternative solutions to be explored. Also, ramping and stairs was another issue, so the architect has been directed to provide other solutions. In terms of the timeline, they need to know the School Board's timetable in order to dovetail their schedule to phase the projects downtown.

Mayor Cahill talked to the President of the School Board and the Council should be provided the schedule by next week in order to anticipate problems and keep moving forward.

Mayor Pro Tempore Strauss is not sure of the best location for the soccer fields and baseball backstop, so they must work that out. The dollar difference between restoring the fields to prior condition or modifications, must be worked out with the school. The whole implementation plan and schedule must be discussed.

**Goal E - Police and Fire Department reorganization**

Council Member Hunter announced that Ross Professional Firefighters' Association has agreed on terms for a new two-year contract. He along with Town Manager Broad will meet with the Chief of Police on Wednesday to continue talking about reorganization of the police department. Today he received the finalized goals and objectives from both chiefs that he will review and present to the Council next month.

Mayor Pro Tempore Strauss recommended adding "Goals" as a regular agenda item each month in order to provide updates.

**13. Consent Agenda- Item D was removed from the Consent Agenda**

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

- a. **Town Council modification to the Encroachment Permit from the Town of Ross to the Ross School District to extend the use of the Ross Common by the school for a temporary campus and construction staging area from February 28, 2010 until July 31, 2010.**

Mayor Cahill asked for a motion.

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

- b. **92 Shady Lane, Extension of Time for Variance, Design Review, and Demolition No. 1603**

Steve and Valerie McKinney, 92 Shady Lane, A.P. No. 073-052-26, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). An application for

approval of a final, one-year time extension to September 14, 2009 for a variance and design review application approved on September 14, 2006 for the following project: a variance and design review application to allow the existing residence to be remodeled, raised approximately 3 feet, and an addition of 400 square feet of living space.

Lot area	11,686 square feet
Existing Floor Area Ratio	33.5%
Proposed Floor Area Ratio	34.2% (20% permitted)
Existing Lot Coverage	20.7%
Proposed Lot Coverage	26.0% (20% permitted)

*The property is currently nonconforming in side and rear setbacks.*

Senior Planner Hamilton added an additional condition relative to drainage as follows: *“There is a natural drainage way on the property that carries water from adjacent properties (79 and 81 Sir Francis Drake Boulevard). This natural flow of water shall be maintained and kept functional.”*

Steve McKinney, applicant, concurred and agreed wholeheartedly.

Mayor Cahill asked for a motion.

**Council Member Hunter moved and Mayor Pro Tempore Strauss seconded, to approve Consent Calendar Item “b” as outlined by staff, including the additional condition of approval. Motion carried unanimously.**

**Conditions**

1. The applicants must remove story poles within 30 days of Council action on the request for extension.
2. *“There is a natural drainage way on the property that carries water from adjacent properties (79 and 81 Sir Francis Drake Boulevard). This natural flow of water shall be maintained and kept functional.”*
3. Except as specifically amended here, all conditions of this project’s September 14, 2006 approval shall remain in full force and effect.
4. Failure to secure required building permits and begin construction by September 14, 2009 will cause this approval to lapse without further notice.
5. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense, however, nothing contained in this contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney’s fees and costs and participates in the defense in good faith.

**c. 18 Redwood Drive, Extension of Time for Variance, Design Review, and Demolition No. 1665**

Lisa and Michael Gorham, 18 Redwood Drive, A.P. No. 73-271-05, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). An application for approval of a one-year time extension to October 11, 2009 for a demolition permit, variance and design review application approved on October 11, 2007 for the following project: demolition permit to allow demolition of the existing 1,282 sq. ft. residence. Variance and design review to allow construction of: 1.) new 2,510 sq. ft. residence with a maximum ridge height of 28.75 feet and attached 246 sq. ft. one car garage within the north side yard setback (15 feet required, 8.75 feet proposed), south side yard setback (15 feet required, 7 feet proposed) and watercourse setback (50 feet recommended, 8.5 feet proposed); 2.) deck and bridge over watercourse (25 foot setback recommended, 0 feet proposed) and within north side yard setback (15 feet recommended, 0 feet proposed); 3) 17 by 38 foot pool within watercourse setback (25 feet recommended, 11 feet proposed); and 4.) 10-foot tall wood trellis within front yard setback (25 feet required, 21 feet proposed) and side yard setback (15 feet required, 0 feet proposed).

Lot area	13,792 square feet
Existing Floor Area Ratio	9.3%
Proposed Floor Area Ratio	20.0% (20% permitted)
Existing Lot Coverage	17.2%
Proposed Lot Coverage	18.9% (20% permitted)

*The existing residence is nonconforming in side yard setbacks and covered parking (one required).*

Mayor Cahill asked for a motion.

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

**Conditions**

1. Except as specifically amended here, all conditions of this project’s October 11, 2007 approval shall remain in full force and effect.
2. Failure to secure required building permits and begin construction by October 11, 2009 will cause this approval to lapse without further notice.
3. 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 contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney’s fees and costs and participates in the defense in good faith.

**e. 10 Morrison Road, Design Review No. 1706**

Margaret Haas, 10 Morrison Rd, A.P. No. 72-051-02, R-1:B-5A (Single Family Residence, 5 Acre Minimum Lot Size). Design review to allow a 45' long, 4'6" high retaining wall along Morrison Road and, above that, a 14 foot wide, 13-foot high shotcrete retaining wall finished with field stone to match the lower retaining wall.

Mayor Cahill asked for a motion.

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

**Conditions**

1. The retaining walls shall be designed to the recommendations in the Herzog Geotechnical Report dated September 19, 2005.
2. No work shall be performed between October 15 and April 15<sup>th</sup> of each year.
3. All disturbed areas shall be stabilized by appropriate erosion and/or sediment control measures by October 15 of each year.
4. Landscaping as shown on sheet L.7.2.001 shall be installed within 30 days of retaining wall construction.
5. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
6. ANY PERSON ENGAGING IN BUSINESS WITHIN THE TOWN OF ROSS MUST FIRST OBTAIN A BUSINESS LICENSE FROM THE TOWN AND PAY THE BUSINESS LICENSE FEE. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
7. Any portable toilets shall be placed off of the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
8. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice.
9. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
10. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY OCTOBER 16, 2009 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
11. 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.
12. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the

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

**End of consent agenda.**

**d. 7 Woodside Way, Extension of Time for Variance and Design Review No. 1613**

Stephanie and Lee Notowich, 7 Woodside Way, A.P. No. 73-232-03, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). An application for approval of a final, one-year time extension to November 9, 2009 for a variance and design review application approved on November 9, 2006 for the following project: variance and design review to allow: 1.) remodel and addition to existing residence resulting in 8 square feet of new floor area within the rear setback area (40 feet required, 34.5 feet proposed) and 56 square feet of second floor deck area within the rear setback (40 feet required, 37 feet proposed); 2.) demolition of an existing carport and construction of a new 450 square foot two-car garage; 3.) demolition of a 402 square foot deck and replacement with a 387 square foot terrace, barbecue and outdoor fireplace within the rear setback area (40 feet required, 19 feet proposed); and 4.) new dormer, 76 square foot terrace, and covered entry for the cabaña, located at the rear property line (40-foot setback required, 0 feet proposed).

Lot area	22,294 square feet	
Existing Floor Area Ratio	19.3%	
Proposed Floor Area Ratio	19.9%	(20% permitted)
Existing Lot Coverage	14.0%	
Proposed Lot Coverage	15.7%	(20% permitted)

*The existing residence and cabaña are nonconforming in setbacks.*

Leslie Mueller, Woodside Way resident, expressed concern for drainage. The storms have more impact on her property and she has been speaking with an engineering company who recommended that a curb and gutter be placed in further on Woodside Way. If there is a new driveway, then there should be an interface between the driveway and the street where there is drainage, a gutter and curb and asked the applicant to consider putting in a curb and gutter from 7 to 5 Woodside to improve drainage. Also, the engineer indicated that she should be informed on how drainage is being addressed on 7 Woodside Way and desired a discussion with the neighbors before this matter is approved. She further asked the Council to continue the matter to the next meeting.

Public Works Director Jarjoura visited the site and looked at 3, 5 and 7 Woodside Way. He indicated to Ms. Mueller during his site visit that the Town recently did an overlay on Woodside Way. Staff was not aware of any problems with flooding. The curb and gutter done on 3 Woodside Way was a recommendation many years ago when the house was remodeled and the homeowner provided the curb and gutter. There is no curb and gutter on the south side. Staff indicated that there is no money in the budget this year to install a curb and gutter, so it must be included in next year's budget. The Town did ask 3 Woodside Way

to provide a curb and gutter, and if the Council chooses to add a condition that the owner or applicant on 7 Woodside Way provide an asphalt berm, it might help the situation.

Mayor Cahill has not reviewed the situation and did not want to design a drainage solution tonight. He believed this matter should be handled by Public Works. In terms of this application, he suggested approving the matter with a condition that the applicant work out a drainage solution with staff. Ms. Mueller requested that a drainage solution be extended to the garage and wanted a clear explanation on how runoff from the roof will be addressed.

Town Manager Broad explained that if the Council wants Woodside Way runoff addressed, then another condition specific to that situation would be required. Council Member Hunter recommended continuing the matter in order for the owners, Stephanie and Lee Notowich, to be present for the discussion. The Council agreed.

Mayor Cahill asked for a motion.

**Council Member Hunter moved and Mayor Pro Tempore Strauss seconded, to continue the item to a later date. Motion carried unanimously.**

*Town Attorney Hadden Roth left the Town Council meeting at 7:38 pm.*

14. **58 Ivy Road, After-the-Fact Variance and Design Review No. 1711**  
Susannah Sarlo-Millstein, 58 Ivy Rd, A.P. No. 73-143-16, R-1:B-10 (Single Family Residence, 10,000 square foot minimum lot size). After-the-fact variance and design review approval to allow the following: 1) variance to allow a 9 foot by 15 foot detached accessory structure and surrounding deck to be located within the front yard set back (18 feet proposed, 25 feet required); and 2) design review to allow the remodel of the exterior of the structure.

Lot area	11,000 square feet
Present Floor Area Ratio	20.6%
Proposed Floor Area Ratio	21.8% (20% permitted)
Present Lot Coverage	13.9%
Proposed Lot Coverage	16.6% (20% permitted)

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

Susannah Sarlo-Millstein, applicant, explained that she tried to purchase the home in June of this year and it became clear that there was a structure on the property that was not legal and within setbacks. She informed the seller who is a firm in San Francisco that she needs help making sure that everything is done so that the structure is legal. They informed her that there are no issues, so she desired the documentation. It was explained to her that this was a potting shed on the property for 30 years and when they remodeled the property they just made cosmetic improvements to the structure, so it was not enlarged or modified in any way, just painted and improved. The sale was conditioned that this was legal and all on the up and up.

Mayor Cahill 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 Cahill asked for a motion.

**Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to approve the item with the findings and conditions as outlined by staff. Motion carried unanimously.**

**Conditions**

1. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
  2. A building permit shall be obtained for the remodel of the structure and after-the-fact fees paid.
  3. Failure to secure required building permits and/or begin construction by October 16, 2009 will cause the design review approval to lapse without further notice.
  4. ANY PERSON ENGAGING IN BUSINESS WITHIN THE TOWN OF ROSS MUST FIRST OBTAIN A BUSINESS LICENSE FROM THE TOWN AND PAY THE BUSINESS LICENSE FEE. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
  5. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
  6. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.
15. **54 Baywood Avenue, Variance, Design Review, Hillside Lot/ Hazard Zone 3 Use Permit and Tree Removal No. 1669**  
Ross and Ligia Parmenter, 54 Baywood Avenue, A.P. Nos. 72-072-29 and 72-072-30, R-1:B-20 (Single Family Residence, 20,000 square foot minimum lot size). Variance, design review, hillside lot/hazard zone 3 use permit and tree removal to allow construction of a 2-story, 1,198 square foot residence and 260 square foot 2-car garage with a car lift. The residence proposes rooftop, upper level and lower level decks. 51 cubic yards of cut and 77 cubic yards of fill are proposed. A variance is requested to build a garage bridge within the front yard setback (25 feet required, 0 feet proposed) and to locate one off-street parking space within the right-of-way and

within the front yard setback (25 feet required, 0 feet proposed.) Tree removal is requested to allow the removal of a 14" bay and a 14" oak tree.

Lot area	20,971 square feet
Present Floor Area Ratio	0%
Proposed Floor Area Ratio	7.0% (15% permitted*)
Present Lot Coverage	0%
Proposed Lot Coverage	11.0% (15% permitted)

(\*The slope of this lot is 53%. The hillside lot ordinance would recommend a maximum floor area of 840 square feet.)

*This item has been continued to the November 13, 2008 Council meeting.*

16. Correspondence:

- **Vehicle damage following Centennial**

Town Manager Broad announced that the Centennial Committee has handled this matter.

- **Expansive new storage structure at 4 Southwood Ave.**

Town Manager Broad noted that planning department staff is reviewing the matter and staff will follow up and report back its findings.

17. Other Business - None

18. Adjournment.

By order of Mayor Cahill, the meeting adjourned at 7:46 pm.

\_\_\_\_\_  
William R. Cahill, Mayor

ATTEST:

\_\_\_\_\_  
Gary Broad, Town Manager