

September 8, 2011 Minutes

REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, SEPTEMBER 8, 2011

1. 6:30 p.m. Commencement.

Present: Mayor Carla Small; Mayor Pro Tempore Rupert Russell; Council Member Scot Hunter; Council Member Chris Martin; Council Member Rick Strauss and Town Attorney Greg Stepanicich

2. Posting of agenda.

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

3. Minutes - August 11 and 18

Mayor Small asked for a motion.

Council Member Martin moved and Mayor Pro Tempore Russell seconded, to approve the minutes of the Town Council meeting on August 11, 2011 as amended. Motion carried 3:0. Hunter/Strauss abstained.

Council Member Hunter moved and Council Member Martin seconded, to approve the minutes of the Special Ross Town Council meeting on August 18, 2011 as submitted. Motion carried unanimously. Russell absent.

4. Demands.

The demands were met.

5. Open Time for Public Expression.

Jeff Babcock, Redwood Drive resident, understands that Ross School may be intending to rent out the multipurpose room to outside organizations and the neighborhood desired clarification. The neighborhood was never informed and wondered if Ross School is required to go through the permit process. He also asked if the public will have an opportunity to discuss the negative impacts such as parking, lighting and traffic.

Mayor Pro Tempore Russell joined the Town Council meeting at 6:32 p.m.

Cate Babcock, Redwood Drive resident, asked the Council if the School will be required to acquire a permit as St. Johns Church for the homeless shelter. She further asked if a permit is required from the Town in regard to CYO Basketball renting out the multipurpose building.

Mayor Small agreed to bring the matter to the attention of the School Board and the new Superintendent Scott Mahoney as well as the Town's liaison, which is Bob Dickinson, and ask that they have a discussion at the next School Board meeting.

6. Report from Mayor.

Mayor Small announced that Dorothea Miehle, a 76-year resident of Ross who moved here in May of 1935, is turning 100 on September 29th. She congratulated her becoming a Ross centenarian. Happy Birthday! Council Member Hunter suggested that the Town dedicate the Town Dinner in honor of Dorothea Miehle. The Council agreed.

This coming Saturday, September 10th from noon to 3 p.m. is Ross's 101 Year Fire

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Department anniversary celebration. They are hosting a BBQ lunch, a jump house for the kids and a short presentation. No parking at the firehouse, so walk, bike or park on the Common. A great event and opportunity to meet all fire personnel.

There has been a misperception that the Town of Ross has given Ross Common land to Ross School for the building of the new gym. The Town did authorize a slight lot line adjustment but please know that the Town of Ross actually received a net gain in the exchange. With the fencing and size of the gym, it may look like the Town lost part of the Common but it is being restored. The Common should be completed around the end of September but they will have to keep the newly planted sod fenced off until it takes a firm root.

September 15th is a Special Council Meeting to discuss MEA as well as an initial discussion on shared fire services.

Finally, the Town received a letter from San Rafael Police Chief Jeff Franzini complimenting and thanking Ross Police Chief Erik Masterson for his assistance during the recent two-day ordeal with a gunman who had barricaded himself in a room in the Extended Stay Deluxe Hotel in San Rafael and fired a gunshot out the window toward traffic on Highway 580. Chief Masterson, who previously was the Team Leader and Administrator for San Rafael's Hostage Negotiation Team, assisted in hostage negotiations.

7. Report from Town Manager.

Town Manager Gary Broad had no report. Mayor Small requested an update at the next meeting for how they are going to break down the \$30,000 budget item for the General Plan.

8. Report from Public Works Director/Building Official.

*** Ross Common Restoration/Ross School Project Update**

Public Works Director Bob Hemati reported that Public Works staff continues to meet with Ross School representatives on an as needed basis as the Ross Common restoration project nears completion.

Ross School provided the Town with plans showing impervious and pervious surface areas are within 2% of the original surface areas. Council Member Strauss desired a CAD calculation rather than using a visual. He also questioned the back playing field. He asked staff if Public Works Superintendent Robert Maccario was happy with the irrigation and controls and drainage. Public Works Director Hemati indicated that a new drain will be relocated near Eddie's. Community members may view these plans at Town Hall, and staff will post information on the website.

Staff is also working with PG&E and the Town Arborist to address two remaining issues with two trees on Allen Avenue. One tree will be removed and the other trimmed at a minimal level on a Saturday in October and neighbors would be notified of the power shut down. Council Member Martin clarified with staff that the removal of the trees along Allen Avenue will not cost the Town any funds. He understands that PG&E will only remove the sensitive branches away from the power lines. Public Works Director Hemati explained that Ross School Superintendent Scott Mahoney indicated the school will remove the rest of the tree at no cost to the Town. Staff further noted that Arborist Ed Gurka will be present during the trimming of the tree.

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Mayor Pro Tempore Russell asked staff if there has been any discussion in regard to an extension of the encroachment agreement. Town Manager Gary Broad noted that it runs through the end of September. Town Attorney Greg Stepanicich agreed to look at an extension. Mayor Pro Tempore Russell wanted the Town to know what the School's schedule is in regard to the gym opening and restoring the Common in order to deal with the issues around the asphalt. Public Works Director Hemati agreed to ask for an updated schedule.

Council Member Hunter was surprised and sad to see the replacement tree for the valley oak. Council Member Martin noted that the School rejected the Tree Committee's recommendation.

Cate Babcock, Redwood Drive resident, desired a copy of the drainage plan. The Neighborhood Association is very concerned about potential flooding in the creek. She asked the Council where the drainage and stormwater from the roof of the new multipurpose building and covered lunch area will flow since it is near their homes. Public Works Director Hemati noted that all information will be posted on the website. Also, there is a three page summary letter in regard to drainage distribution. Council Member Hunter pointed out that the absence of a plan is disturbing. He desired a hard copy that can be kept in the conference room for public view.

Barbara Call, Redwood Drive resident, pointed out that the tree that replaced the valley oak appears to be dying.

Dick Bobo, Redwood Drive resident, understands drainage plans, but when he reviewed the drainage drawings he could not determine what was what. Having the drawings available to residents will not be helpful unless someone is present to explain. He further recommended a meeting with the engineering firm to explain the drainage plans to all concerned residents.

*** Town Hall Office Remodel Update**

Public Works Director Bob Hemati worked with the architect and discussed ADA issues. Input is needed from staff and they hope to work with the existing space on an interim basis and then develop a redesign to address the ADA issues as well as staff items in regard to dimensions of the workspace.

Council Member Strauss desired to know what the specific issues are at this time. Public Works Director Hemati explained that there are ADA issues as indicated and that the work relationship is not optimal. Town Manager Gary Broad explained that it is a logistics matter. Staff recommended that Council Member Strauss meet with staff again to help work through these issues. Council Member Strauss agreed to meet with staff to resolve the issues. Council Member Strauss would advise the Public Works Department to move forward with the bidding process.

Mayor Small indicated that in voting for the project she wanted to give the employees the best possible work environment, and if there is a concern that this project will not do that she does not want to force it on them. It is important that they discuss the matter with staff.

Council Member Martin recommended that it be on an agenda and Council Member Strauss meet with staff before it comes back and then report to the Council at the Special Town Council meeting on September 15, 2011. Mayor Small indicated they should meet with staff

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and work it out before they bring it back next week or at the retreat, before it goes out to bid.

*** Laurel Grove Creek Bank Stabilization and Drainage Project**

Public Works Director Bob Hemati reported that the Laurel Grove bank stabilization and drainage project is nearly complete, but a changed condition requires some additional work. Staff is waiting for a price quote for the new work.

*** Sir Francis Drake/Lagunitas Road Intersection Project**

Public Works Director Bob Hemati reported that the project is proceeding according to schedule in regard to the Lagunitas Road/Sir Francis Drake Boulevard intersection improvement project. Staff will meet with Marin Art & Garden Center and will then hold a public outreach meeting for the community, tentatively scheduled for the evening of October 25th.

*** Corte Madera Creek Left Bank Erosion Protection Project**

Public Works Director Bob Hemati reported that the Corte Madera Creek left bank erosion protection project will start on Friday and should be completed within two weeks.

9. Report from Committee Heads.

Public Works - Council member Strauss

*** Overview of Public Works projects**

Council Member Strauss announced that a Public Works meeting will occur in October or November.

Community Protection - Council member Hunter

*** Public Safety update**

Council Member Hunter reiterated that there is a meeting on shared fire services next week, which is a result of numerous small meetings that have occurred.

*** Fire Department 101 Year Anniversary Celebration**

Council Member Hunter announced that the Fire Department's 101 anniversary celebration will occur on Saturday, September 10th from noon to 3 p.m.

Fire Captain Jack Peterson thanked Mayor Small for participating in Fire Ops 101, which is an opportunity for elected officials to experience some of the challenges first responders face on a daily basis. He then presented Mayor Small with a collage of all her action photos.

10. Report from Ross Property Owners Association.

Frank Doodha, RPOA representative, announced that RPOA donated two teak benches that were placed along the tennis courts about 10 years ago and the RPOA is offering to repair or replace those benches. RPOA asked Town staff to analyze the benches to see if they are repairable. Also, along Sir Francis Drake Boulevard/Bolinas there is an empty area and RPOA wanted to donate daffodils to be planted in that area. In terms of street trees, the RPOA called attention to three specific trees in trouble as follows: 1) in front of Lagunitas Tennis Club; 2) Eddie's memorial tree; and 3) Sir Francis Drake near what use to be the Town House.

11. Flood Control Report.

Council Member Martin reported that as it has been previously reported, the County of Marin submitted a grant proposal to the California Department of Water Resources for the

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Phoenix Lake detention basin project. Water Resources staff will announce their recommendations for awarding the grants on September 21st. It is expected that Phoenix Lake will receive its recommendation. The State Water Board will take official action at the end of October. This grant will require 50% local participation, which is available through Flood Zone 9 flood control parcel assessments. The Ross Valley Watershed Program of work hinges on a system of detention basins to retain large volumes of stormwater from the Corte Madera Creek basin during wet storms. Phoenix Lake has the largest storage capacity of any stormwater detention basin considered and would offer significant benefits to the flood control program. The cost of this project is estimated to be \$20 million. He will keep the public informed. A public meeting in Town Hall will be scheduled as soon as they know the status of that funding to better inform citizens in Ross.

Related to flood control in Ross Valley, the County is working with Ross Valley jurisdictions to replace at least seven bridges. In Ross, this includes Shady Lane Bridge at Locust, the Winship Bridge, and the Sir Francis Drake Boulevard Bridge. Caltrans is providing 88% of funding, as it did with the Lagunitas Bridge. The Flood Control Board will meet with Ross and other jurisdictions to discuss the other 12%. The County is willing to negotiate that figure.

The County is also working with the Town's Public Works staff to help fund debris removal and creek maintenance prior to this year's rainy season. The County will also consider funding special needs for merchants, including floodgates. The County would also like to provide the Town's Public Works Department with training and inflatable flood bladders, which are an alternative to sandbags. It is important to remember that as the watershed is currently configured, there is a one-in-five chance of flooding on any given year.

Dick Bobo, Redwood Drive resident, asked the Council the status on the fish ladder. Council Member Martin responded that the fish ladder is part of the Army Corps of Engineers Unit 1-4 project, and no money was allocated in this year's budget. The Army Corps is pulling funds from other projects to continue with required environmental structural reports. Last month the County had a briefing with the district commanders of the Army Corps, which was very positive. The Army Corps will pull from reserves to continue work. He further noted that the removal of the fish ladder is a big and tedious project. He hopes to see the fish ladder implemented within the next five to ten years.

12. Report from the Ross School and introduction of new School Superintendent Scott Mahoney.

School Board Member Bob Dickinson introduced new Ross School Superintendent/Principal Dr. Scott Mahoney. Dr. Mahoney comes from the Petaluma school district, where he served as a K-8 principal and superintendent. School Board Member Dickinson thanked Mayor Small for her leadership and the Town Council for help to work through issues. He then announced that Ross School District is hosting a community celebration later this fall after completion of major construction to thank residents for their support and patience. In addition, the PTA will provide all desserts at the Ross Town Dinner. He invited thoughts and suggestions on how to conduct such event.

Robert Orr, Allen Avenue resident, asked Dr. Mahoney if the school was intending to make the new multipurpose room available to groups other than Ross Recreation, such as CYO basketball. Dr. Mahoney explained that public schools are required by law to make their spaces available to community organizations, but the Ross School Board is aware of the

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community's desire to prioritize the multipurpose room for Ross School and Ross Recreation use. For now, the multipurpose room will not be made available to other groups.

School Board Member Dickinson stated that they must be clear as a community on what the policy and procedures are for the use of the multipurpose room. Dr. Mahoney noted that it is a sensitive matter and the Board is working hard to develop a plan that is good for a community. Mayor Small indicated that the Town would look into any authority it may have over the matter, such as issuing use permits. Town Attorney Stepanicich agreed to review the permit process.

13. Consent Agenda.

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

- a. **Town Council adoption of Ordinance No. 626 amending Municipal Code Section 10.28.070, Parking Prohibited on Certain Streets, to prohibit parking on the west side of Woodside Way at the intersection with Madrona Avenue.**

Mayor Small asked for a motion.

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

- b. **Town Council consideration/adoption of Resolution No. 1750 enacting a temporary closure of Shady Lane annually to improve the safety of pedestrians on Halloween.**

Mayor Small asked for a motion.

Council Member Hunter moved and Council Member Martin seconded, to approve Consent Calendar Item "b" as submitted by staff. Motion carried unanimously.
End of Consent agenda.

14. Town Council discussion of the acoustical study prepared for the Initial Study for the relocation of a rookie baseball field on the Ross Common to the southwest corner of the Common.

Town Manager Gary Broad presented the Council with a noise study prepared for the Initial Study for relocation of the existing rookie ball field to a proposed site in the southwest corner of the Commons. Acoustical consultant Harold Goldberg from Rosen, Goldberg, Der and Lewitz, Inc. explained the parameters and conclusions of the study. To assess the noise effects of the project, the noise generated during a normal Saturday during the Little League season was examined. The noise levels expected at nearby residences were compared with the Town's standards as well as the existing noise levels to assess the potential increase in noise associated with the project.

The Town's General Plan indicates that the noise standard for exterior use areas, such as backyards, in residential neighborhoods is 55 decibels Ldn. The acoustical study showed noise from the existing rookie field in the southeast corner meets the General Plan standard, but relocating the field to the southwest corner would increase noise levels above the standard in two locations, at the 3 Allen Lane backyard and the 19 Allen Lane side yard, indicated as locations LT-3 and 4A. The study also determined that the relocation of the ball field would cause a significant increase in noise, measured as an increase of at least 5 decibels, at two locations – the 8 Redwood Drive back porch and the 3 Allen Lane backyard,

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shown as locations LT-2 and LT-3. In order to reduce future noise levels to meet the Town's exterior noise goals and limit the potential increase in noise to a less than significant level, a solid 8-foot tall noise barrier could be constructed near the property lines separating the field from the nearest residences.

Acoustical consultant Goldberg responded to emails and explained that the 55 standard comes from the Town's General Plan Policy 5.7 that discusses a standard for residential outdoor use areas. There is also a chart in the General Plan that talks about land use compatibility standards and there is a level of 60 decibels for residential use, which is a more general indication of noise sensitivity of residential use in noisy areas. Since 55 is more restrictive than 60, they felt it was appropriate to use the 55 in their analysis. It specifically addressed backyards in residential areas, which was their focus. Their study looked at the effect of the field relocation on a Saturday with little league games. Baseball occurs in the spring and soccer occurs in the fall, so they focused on the time when little league games occur. CEQA requires that the noise analysis determine whether the project will result in a substantial increase in ambient noise level in the vicinity existing without the project, but does not specifically dictate a methodology to make a determination. The Town's General Plan indicates the use of Ldn descriptor, but it does not give any guidance on how to assess increase in noise. They considered expanding the timeframe of the assessment to look at other activities. One approach would be to take an annual average Ldn and pick up the time periods of other activities including soccer. This approach tends to dilute the effect of little league games by averaging them out over the year. The annual average approach tends to be criticized because of that delusion. Their approach averaged in other activities occurring on Ross Common such as Lacrosse games that occurred as well as playground users throughout the day. The impact assessment on Saturday was the most intensive little league use and showed the greatest effect on relocation and resulted in a conservative analysis. They did measure at other days, but decided not to use those days in the average baseline conditions because during the weekdays a lot of construction was occurring at the school that effected noise measurements. On Sunday, after the game day of Saturday, there was elevated noise levels due to wind in the trees and that elevated the noise levels on that Sunday, so they focused on the Saturday measurements.

Mayor Small clarified that on Sunday, May 22, 2011 some of the average readings are higher than the average for little league games due to the wind on Sunday creating a higher volume than the little league games. Mr. Goldberg responded in the affirmative. He explained that minor sources of noise could have an effect. Sunday was a particularly gusty day in the afternoon and the noise levels increased.

Mayor Small questioned the use of the 55 decibels Ldn threshold for residences located adjacent to a school and neighborhood park. She questioned why 60 decibels was not used. Mr. Goldberg noted that 55 decibels is applied to noise levels in residential areas and 55 decibels is acceptable for an outdoor use area and that is what General Plan Policy 5.7 describes. Mayor Small stated clearly if they registered the soccer games with three or four times the amount of players the sound would be totally different. This is the question of many residents because soccer has many more players and is much louder. Town Attorney Greg Stepanicich indicated that under CEQA standards set forth it is very general. It does not prescribe a methodology. In making this analysis there will be some assumptions made. It is safer to be conservative than make assumptions that can later be questioned. The chosen methodology was deliberately very conservative and would be legally defensible if the environmental report was litigated in court.

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Mayor Small believed the sound from the playground would be more significant once the portables are removed, which is nine months out of the year. Town Attorney Stepanicich explained that playground usage was taken into account, but on Saturday the playground is casually used. Council Member Martin noted that the General Plan makes an exception of 55 on properties located along Sir Francis Drake Boulevard due to the traffic, but it might also be true in the vicinity of Ross School because of playground noise. He added that the General Plan is not providing that acknowledgement of the playground noise. Town Attorney Stepanicich stated due to timing of the study, there was construction activity. The question would be how would it be changed if measured on a weekly basis without unusual construction noise.

Council Member Strauss asked if they took the measurement of the current interim location of the field down by Eddie's and measured it at the concerned street along Redwood what is the decibel reading at that location. Mr. Goldberg stated that existing is under 55 decibels at Eddie's corner and residences vary between 54 and 58 decibels. Relocating the field to the southwest corner there is an increase.

Mayor Small opened the public hearing on this item.

Dan Bernhard, Winding Way resident, stated no measurements were taken from the soccer games in the fall. He questioned if measurements had been taken of soccer games, and if those measurements were 77 decibels, would that change the conclusion or opinion of this report. Mr. Goldberg responded that with the methodology used, which is looking at the time period of the little league season, it would not change the report.

Mayor Small asked if annual or seasonal methodology has been conducted in a similar situation. Mr. Goldberg reviewed the impact on football field lighting and used the Ldn, which tends to reduce the apparent impact of the field uses that can be considered appropriate. It is reduced, but makes sense because it is not happening all the time. An EIR was re-circulated and in that re-circulated EIR they changed the methodology to look at a single day of a football game, which seemed to be a more direct approach.

Mr. Bernhard pointed out that there is a reference to residential neighborhoods, but his understanding since there is a school that they are not talking about residential and it is treated separately, so why apply that standard. Town Attorney Greg Stepanicich explained that the appropriate threshold was 55 Ldn since this is the standard explicitly defined in General Plan Policy 5.7 for exterior residential use areas such as backyards. Even though it is an area with a school site and business use nearby, there are residences nearby, so they must look at impacts of all properties and the residential standard should be applied.

Council Member Hunter asked if CEQA gives guidance in regard to seasonal average. Town Attorney Stepanicich responded that it does not and that is the reason for the assumption. This noise study focused on a baseball field used during the baseball season and did not review the impact of a variety of activities on a surrounding area.

Randy Orr, Allen Avenue resident, stated that it is a residential area. He lived through 14 baseball seasons and there is a big difference between baseball and soccer noise. The soccer noise travels up and down the field and is not locked in noise as baseball. Soccer is not as intense as baseball. He further noted that the original position across from the post office was not as intense or loud as the location near Eddie's.

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Philip Pillsbury, Makin Grade resident, questioned some of the noise measurement results, especially charts that showed noise levels higher on days and times when little league rookie games were not being played. Mr. Goldberg stated that 79 is the maximum and this measurement provides an indication of how the noise varies throughout the day.

Mr. Pillsbury believed that page 7 could be from a single shout and not sustained play. Mr. Goldberg responded in the affirmative because that is the instantaneous noise level for that 5-minute period. Leq represents more sustained noise, so there is a range of noise levels.

Mayor Small discussed page 9 and the Ldn is the average for the day and on page A5 there is an unbelievable shot. It is very interesting because there are several spikes without baseball starting. Mr. Goldberg explained that rookie field games at the current location are not always dominating. From modeling the rookie field location at the proposed location it is dramatically influencing the sound levels.

Mr. Pillsbury discussed the Town's standards on page 3, and it appears the standard is 75 decibels for outdoor spectator sports. He then pointed out that the General Plan chart shows acceptable decibel levels of 60 Ldn for residential land use, schools, playgrounds and neighborhood parks.

Jeff Babcock, Redwood Drive resident, pointed out that no measurements were taken across from the post office at the pre-existing field and noted frustration that the methodology did not take into account soccer games and other uses in the southwest corner at other times. He believed that would have provided a base case to measure the impact. Going back to that location would have the least environmental impact on Allen Avenue and Redwood Drive. Mayor Small explained that they took the location that existed and used calculations to determine the impact in the southwest location.

Council Member Strauss asked prior to the pre-existing location is that the same distance so the sound would fall off. Mr. Goldberg responded that sound decreases at the rate of 6 decibels doubling the distance. Council Member Strauss pointed out that there is really no change in the noise levels for those two locations.

Attorney Paul Smith, representing Barbara Call, believed the public would benefit from the comparison from the original location and the southwest corner, which would provide information that many are interested in knowing. Several want to know the difference between the old location and the southwest corner. The context is the initial study under CEQA of the baseball field location. In their analysis, he clearly determined a significant noise impact by the ball field relocation. The question of what is the impact of relocation of the ball field and Mr. Goldberg reached conclusions specifically answering that question. 55 decibels is the standard in the General Plan because the measurements being taken are being taken in the backyard of residential neighborhoods. Noise is being measured in a residential neighborhood, so 55 decibels is an applicable standard. Two locations showed significant impacts in the residential neighborhood, LT-3 and A4. He then asked if interior noise was considered particularly at those locations when they found excessive noise and was traffic noise considered. CEQA requires mitigation measures to be feasible and asked how feasible is the sound wall. He wondered if this report should address the question whether an 8-foot high wall is a feasible mitigation measure. He further pointed out that in and of itself it may have an impact on the root zones, so then what are the effects of those trees and visual impact.

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Dave Peterson, Upper Toyon Drive resident, stated if the baseball field is moved away from the southwest corner other activities will be filled in and those activities are much louder. There is a point where the Council has to make some decision for the good of the Town and not fear of litigation. The Council must determine what is best for the Town. He asked the Council to protect the Common, the downtown merchants and residents. He further hoped the Council comes to the right decision.

Ken Fineman, Walters Road resident, believed the question of seasonality is important. He wanted to know the impact on Allen Avenue and Redwood Drive for the entire year. It is either soccer or baseball. He questioned why soccer was not included. If just comparing baseball with nothing then the same must be done for soccer. They must compare the existing alternative. He further believed the question should be, what is the impact on Allen Avenue and Redwood Drive.

Henry Wykowski, Allen Avenue resident, stated that many times it was indicated that baseball will be preferable to soccer and that soccer will be louder, but soccer has never been played on the southwest corner. In terms of wind and so forth, wind is a natural noise and is actually pleasant and preferable to cheering or blowing horns. He agreed with Attorney Smith that if they intend to proceed to conduct a study on the noise impact with respect to where the baseball field originally was located and where the Council voted to relocate. He questioned whether it is a good use of taxpayers' money just to placate those to move the diamond. There was a vote and this is waste of time, energy and funds to study the relocation.

Dick Bobo, Redwood Drive resident, submitted a letter to the Council in regard to addressing three objections individuals have voiced about returning the Ross Common little league ball field to its site prior to the construction project as follows: 1) use a removable/roll-up fence; 2) have a non-skinned or partially skinned ball diamond; and 3) viewing the side of the school. He spoke to Architect Bret Long who provided the sports field options to the School Board and Town and he indicated that roll-up or removable fence could be used. Also, he noted in his March 1, 2011 letter that an unskinned field is an option. In the ball field across from Ross Grocery, it was unskinned in 2011, but on February 22 a service removed the grass in small areas around the pitcher's mound, bases and home plate. There is an option of an unskinned diamond or skinning only small areas. In his opinion it would be nice to have a distraction from the roll-up stage door, which makes the multipurpose room look like a small freight terminal. Also, this is only the acoustical study and it will cost more funds. It would be worthwhile to place the field back to its original location. Mayor Small clarified that the soccer field was laid out east to west and in the designs done by Architect Bret Long, if the rookie field was to be in the southwest location then the soccer field was laid out north to south. If the rookie field were placed in the location prior to construction then the soccer field would go back in the corner of east to west.

Town Manager Broad pointed out that the total amount for the acoustical study will be \$18,000 and the total amount budgeted is \$70,000 for all consultants involved in working on a complete initial study.

Jeff Lyons, Upper Toyon Drive resident, discussed Section 5.6 of the Town plan and if the standard for a school, playground and neighborhood parks do not apply, what is that table referring to since there are commercial uses around residential areas. Town Attorney Stepanicich explained that different standards could apply to different uses. They are talking

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about the impact of noise with respect to residences with the use of their properties. Mr. Goldberg noted that 60 decibels is compatible with residential land use.

Mr. Lyons questioned the methodology used since it assumes that baseball would only happen on Saturday, and if it happened on other days, what would be the appropriate baseline. The average noise levels for Monday-Friday in the data gathered by the consultant firm is greater than what it was on Saturday. He finds the idea of drawing all conclusions based on one day to be seriously flawed. Also, if the field is placed back in the location in front of the post office, no conclusions could be drawn without knowing what other noise would be happening at the Eddie's location where the baseball field is presently located.

Barbara Call, Redwood Drive resident, wanted Mr. Goldberg to respond to her attorney's questions. Several do not understand the CEQA process. She is mystified in the process. It bothers her that in 2009 the Council discussed the ball field and discussed her property and recognized a tremendous impact. She is not sure if any members of the Council care about those on Allen Avenue and Redwood Drive. She has lived in this house for 10 years and gone through many little league seasons and never heard noise when the field was located at the original location. There will be a huge impact along Allen Avenue, Allen Lane and Redwood Drive. She wished the Council cared about the residents. She did not understand how the southwest corner could be discussed when there is no design. If they continue to talk about the southwest corner in spite of the fact that there is a problem that cannot be mitigated that decision cannot be made without seeing what will happen with the Common. The ball field will be in the middle of the Common. According to CEQA a sound wall will be necessary and require that mitigation measures are feasible and how feasible is the sound wall going to be. Town Manager Broad stated that the Council must consider if the sound wall is feasible and then direct staff to explore whether noise is at a level of insignificance. In terms of financial feasibility and an environmental study, a CEQA study must be conducted on the wall itself.

Mayor Small clarified that the southeast location readings were less than 55 decibels. Mr. Goldberg responded in the affirmative.

Bob Jacobson, Winship Park resident, stated it is clear that this is a challenge. In the spring when the Council voted it was a decision against the old location and not necessarily in favor of the southwest. He recommended that no decision on the location can be made at this point. Construction is still occurring. No one can understand noise implications until construction is done, equipment is gone and the field is restored. Then conduct new noise studies. When the field is restored, he suggested visible checks at the one or two viable locations. This entire issue should be placed on hold for the next five or six months.

Tim Baughman, Crest Road resident, pointed out that properties are adjacent to a school and the largest sound is made by school children on about half of the days of the year at recess, lunch and on the playground after school. He believed a measurement of what the sound is at these properties on half the days of the year on a regular basis should be included.

Mimi Lapeyre, Allen Lane resident, explained that the duration of recess is short. The noise is joyful and loud and then it stops and then it is incredibly quiet. It has never felt as loud as the noise on the southeast corner. They are talking about a change of noise that exceeds what is acceptable. With the baseball field located in the northern corner, she was able to enjoy her backyard.

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

Council Member Hunter stated that he remembered the day when they did the outdoor field trip to review the three sites. The story poles were not completely accurate, especially with respect to the original field. Since they have to wait until the spring anyway, the idea of stopping and waiting until the work is done, fencing is gone and sod is down is the best way to go to understand the site. In the study itself, they are judging a change of use. Soccer has been a consistent use historically. Since they are moving the baseball location is the reason why they must go through the CEQA process. He wanted to place this on hold and wait until all of the construction and restoration is completed. He would like to see if the field could go back to where it was originally located. If all obstacles are out of the way, then they will have the best way to determine the best location. He would table the item until work is completed.

Council Member Strauss concurred with Council Member Hunter's comments. The Town and school will spend a lot of money. Traffic and parking has not been addressed. Decibel levels are a small piece. They must look at the whole picture. The Town should not be spending all the taxpayers' money. The school's architect and school could have followed their comments back in 2009. The Council must go back to rational thinking. He recommended taking a step back and discuss at a later date.

Council Member Martin views flaws in the report. The Council is restricted by the General Plan as far as reviewing this matter. This issue does not merit going into litigation or possible litigation, which is costly. Five months ago they were close to a compromised solution. It is better to have construction end. Rethink and be open and look at a compromised solution with commonsense mitigation. He happens to have played at every possible location as a kid in little league, and it does not matter where they play. He agreed to allow time influence a decision and hopefully build a community decision and achieve a result at no ones expense.

Mayor Pro Tempore Russell agreed to hold off. He did not believe three or four months is enough time. They need to see the use of the school in its new form in regard to the gym and stage. He would not care if they waited a year or two or more. Currently, they cannot move forward with creating a permanent ball field because there are several issues. Residents must understand a more normal environment once construction is completed.

Mayor Small believes there is a benefit in waiting until the field is restored and fences are removed. She is concerned about the heritage trees and often times damage done to trees does not show up for several years. Restoring the Common will allow them to mark the locations and measure the stress and determine how far they must be away from those roots. None of the questions can be answered until the Common is restored.

The Council agreed to continue the discussion of the rookie ball field location until Ross School finished their construction in the spring and completed restoration of the Common. They agreed the Common may look very different when the fences are down, and the Council could then properly stake the alternative field locations and take a fresh look at the best location for the baseball field.

This discussion will be tabled until the field is restored. There will be no further expenditure of funds on this matter at this time.

15. Town Council consideration/ adoption of Resolution No. 1751 repealing Resolution No. 1675 and Establishing Fees for Development Applications, Subdivision Applications, Environmental Review, Building and Public Works Applications and Residential Building Record Reports.

Town Manager Gary Broad explained that the parcel slope determination fee was changed to \$150 to reflect the fact that Public Works Director and Building Official Bob Hemati will now perform parcel slope calculations in house. Previously, the slope was determined by the Town Engineer and applicants were billed for his time at cost. Residential building record fees were changed from a flat rate of \$325 to a sliding scale that will better represent the costs of inspecting large houses and multiple units. Houses under 5,000 sq. ft. will be charged \$375, while houses over 5,000 sq. ft. will be charged \$575. Each additional unit will be charged \$150.

Council Member Strauss asked staff how new construction fees compare to other communities. Town Manager Broad responded that the building and planning fees are average.

Council Member Martin did not view construction completion penalties listed in the schedule and wondered if it should be included in the schedule. Town Manager Broad noted that they are covered in the ordinance section. Town Attorney Greg Stepanicich explained that this would be limited to just application fees versus penalties for late completion of construction.

Mayor Pro Tempore Russell believed they should be charging \$800 or \$900 for the variance. Also, at some point they must consider waiving fees during emergencies. Town Manager Broad indicated that staff could bring the matter back to the Council at a later date in order to review what other communities charge in terms of the \$600 fee for variances. In regard to adding a higher fee for houses over 10,000 sq. ft. that could be added.

Mayor Pro Tempore Russell recommended adopting what is before the Council and then discuss the other items next month. Mayor Small agreed to adopt tonight and review a single variance fee. She desired an idea of what other communities are doing. Mayor Pro Tempore Russell recommended defining the variances in terms of minor or major. Town Attorney Stepanicich noted that it is required to be based on cost. Mayor Pro Tempore Russell suggested a sliding scale for every 5,000 sq. ft.

Council Member Strauss asked staff about the cancellation penalty. Town Manager Broad explained that it covers the cost of staff time when no one shows up for the inspection.

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

The Council discussed adding a higher charge for houses over 10,000 sq. ft. and may consider this action at a future time. A new \$600 fee was added for applicants who request exceptions from existing development standards, such as those exceptions recently adopted by the Town Council to streamline conversions of attics and basements to finished spaces. The fee would also apply to second unit applications that seek an exception from existing development standards regulating the size, height, location and floor area of second units.

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The Council further agreed to pass a resolution establishing fees for planning applications and building permits. The majority of fees remained the same, but a few were added or amended to better represent the true cost of providing the service. Fees were last set in September 2009. Town Manager Broad added that the resolution establishes a building mechanical permit fee of \$95 and encroachment permit fees of \$95 for a one-day permit and \$250 for a permit lasting more than one day. A fire sprinkler inspection fee of \$300 was also approved. The new fees will become effective in 60 days.

Mayor Small asked for a motion.

Council Member Hunter moved and Council Member Strauss seconded, to adopt Resolution No. 1751, repealing Resolution No. 1675 and Establishing Fees for Development Applications, Subdivision Applications, Environmental Review, Building and Public Works Applications and Residential Building Record Reports. Motion carried unanimously.

16. Town Council consideration/ adoption of Resolution No. 1749 updating and amending Town of Ross conflict of interest code and rescinding Resolution Nos. 1285 and 1613.

Town Attorney Greg Stepanicich summarized the staff report and recommended that the Council consider adopting Resolution No. 1749, updating and amending Town of Ross conflict of interest code and rescinding Resolution Nos. 1285 and 1613.

Council Member Martin asked if staff recommends a sunset. Town Attorney Stepanicich stated if any consultant is working for other consultants they can continue that work until that work is completed. Consultants cannot add on new clients after the date. Council Member Martin noted that there is a concern with the Town Hydrologist with the Pritzker project. Town Attorney Stepanicich explained that the restriction does not apply to any pending projects that a consultant is currently working on for a Ross business, residence, school or other public agency.

Town Attorney Stepanicich noted a correction to Section 2 on page 1 of the Resolution, after the phrase, "are hereby" add the following language: "*incorporated by reference and shall constitute the Conflict of Interest Code for the Town*" to read as follows: "Section 2. The model Conflict of Interest Code adopted by the Fair Political Practices Commission, codified at 2 California Code of Regulations Section 18730, attached hereto as Exhibit A, as amended by the Commission from time to time, and Appendix A which sets forth the designated positions, and Appendix B which sets forth the disclosure categories for each designated position, are hereby incorporated by reference and shall constitute the Conflict of Interest Code for the Town."

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

The Council agreed to pass a resolution designed to avoid potential conflicts of interest by prohibiting some Town consultants from working on private projects in Ross. The prohibition will affect the Town Arborist, the Town Hydrologist, the Building Inspector, and any consultant providing advice to the Town Council or staff on buildings not constructed by the Town. In order to provide for a transition period, the restriction does not

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apply to any pending projects that a consultant is currently working on for a Ross business, residence, school or other public agency.

Mayor Small asked for a motion.

Council Member Martin moved and Council Member Strauss seconded, to adopt Resolution No. 1749, updating and amending Town of Ross conflict of interest code and rescinding Resolution Nos. 1285 and 1613. Motion carried unanimously.

17. Town Council consideration/introduction of Ordinance No. 625, amending Municipal Code Chapter 18.42, Second Units, to allow a discretionary review process and to provide certain exceptions to second unit development regulations.

Project Planner Christine O'Rourke summarized the staff report and recommended that the Council introduce Ordinance No. 625, amending Municipal Code Chapter 18.42, Second Units, to allow a discretionary review process and to provide certain exceptions to second unit development regulations

Mayor Small 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 Small asked for a motion.

Mayor Pro Tempore Russell moved and Council Member Hunter seconded, to introduce Ordinance No. 625, waive the reading and schedule adoption for the October 13, 2011 Town Council meeting. Motion carried unanimously.

18. Town Council discussion regarding adopting regulations curtailing installation of additional asphalt in the right-of-way and on Town-owned property

Public Works Director Bob Hemati explained that some permeable surfaces will increase the flow of pollutants into the storm water system and a gravel surface may also create traffic and vehicular damage during the wet weather season. Staff added that there is a compatibility concern when trying to re-finish the right-of-way surface, that it may not be consistent throughout the Town. A gravel or dirt driveway must be compacted in order for vehicles to drive over it, which means the surface is fairly impervious if not totally impervious. Staff further recommended that the Council consider the various input and direct staff on how to proceed.

Mayor Pro Tempore Russell believed this should be linked to the Stormwater Management Ordinance. He does not have complete confidence in how it was handled and wanted to make sure that they can generally show that there is no net increase. He is in favor of applying the same standards. Public Works Director Hemati agreed to incorporate the Stormwater Management Ordinance to specifically include improvements within the right-of-way.

Mayor Small opened the public hearing on this item.

Peter Nelson, Circle Drive resident, desired an explanation in regard to why this topic is being discussed. Mayor Pro Tempore Russell is very concerned and focused on this issue because they must do what is in the best interest of the Town. He desired a more holistic approach.

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Peter Chase, Woodside Way resident, noted that changes must occur and in the long run it appears better.

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 Strauss felt gravel is the best long-term solution. Council Member Martin liked the idea of looking at this with fresh eyes and discussing alternatives.

The Council directed staff to amend the ordinance.

19. No Action Items:

a. Council correspondence received

- * Email from 4 Canyon Road resident asking for special Town Council meeting - Mayor Small responded that it will be heard at the October Town Council meeting.
- * CEO of the Marin Art & Garden Center towing issue
- * Frank Malin correspondence

b. Future Council items

- * Proclamation for Dorothea Miehle

20. 90 Laurel Grove Avenue, Amendment to Variance and Design Review No. 1778

Steve and Kirsten Polsky, 90 Laurel Grove Avenue, 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). Request for amendment to plans approved by the Town Council on June 10, 2010, for design review and variances associated with converting the existing basement area to a family room. The amendment would increase the approved basement area from 635 square feet to 723 square feet (88-square-foot increase). Total floor area of 4,114 square feet is proposed.

Lot area	16,546 sq. ft.	
Existing Floor Area	20.5%	
Approved Floor Area	24.3%	
Proposed Floor Area	24.8%	(15% permitted)
Existing Lot Coverage	19.1%	
Approved Lot Coverage	19.2%	
Proposed Lot Coverage	19.2%	(15% permitted)

The existing residence is nonconforming in setbacks (34 foot rear setback existing and proposed, 40 feet required) and covered parking (one covered space existing and proposed, two required).

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 with an amended condition in regard to minimizing runoff to comply with the Town's Stormwater Management Ordinance.

Barbara Brown, architect, explained that the existing foundations were a lot less stable, so it made sense to go all the way back to the wall. By doing that they gained square-footage. She further noted that it does not change the exterior elevation or excavation numbers.

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Mayor Pro Tempore Russell discussed existing area and when the project originally came before the Council was there existing space that had ceiling height of 5.5 ft. Architect Brown responded that the existing basement had a 7-foot ceiling height. Just the ledge area was at 3 feet of height and the rest of the space was 7 feet with a slab floor. Also, the basement and attic spaces are not adding additional impervious materials.

Mayor Small 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 Russell believed what is important about this application is that they will approve this as a variance. Attic and basement exceptions would be creating a safe harbor and it would be feasible to come to Council with a variance to get approval without meeting all the requirements in the new regulations. They must have a consistent approach as to why the Council is willing to waive some requirements. In this case, there is no neighbor concern and there is ample parking and that is why requirements are being waived.

Council Member Hunter did not review this matter under the new requirements. When considering the addition, especially under the new regulations, he chose to approve because they had approved it before the new ordinance existed.

Council Member Martin appreciated the conditions to comply with the Town's Stormwater Management Ordinance and calculating the permeable surface and avoiding runoff.

Mayor Small agreed there is ample parking and no one is being impacted. Council Member Strauss reviewed the constructability of this project and agreed it impacted no one.

Mayor Small asked for a motion.

Council Member Strauss moved and Council Member Hunter seconded, to approve the project at 90 Laurel Grove Avenue with the findings and conditions outlined in the staff report including the Town's Stormwater Management Ordinance. Motion carried unanimously.

90 Laurel Grove Conditions:

1. The applicant shall update the building permit plans to reflect the approved basement area expansion.
2. The project shall comply with the Town Stormwater Management Ordinance RMC Sec. 15.54.010. (a) No down spouts shall be connected directly to the Town storm drain system or enter directly into any water course or creek without first going through a treatment area (such as flowing over a landscaped area, lawn or French drain, or other area that cleans, filters, slows the speed and amount of water leaving a property), or to an approved alternate location based on approved geotechnical and engineering designs. (b) A drainage plan is required. The plan shall be designed, at a minimum, to produce no net increase in the rate and volume of peak runoff from the site compared to pre-project conditions (no net increase standard). Applicants are encouraged to reduce peak runoff from the site compared to preproject or pre-development

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conditions. The Town may require a hydrologic/hydraulic analysis to be prepared and submitted. The Town may require that construction of drainage facilities be supervised, inspected and accepted by a professional engineer, a letter of certification prior to project final, and preparation and submittal of certified as-built drawings of the constructed facilities. The property owners shall be responsible for inspecting and maintaining drainage facilities.

3. The applicants shall comply with any requirements of the Marin Municipal Water District, Ross Valley Sanitary District, PG&E and Ross Public Safety Department. Evidence that all requirements of MMWD have been complied with shall be presented to staff prior to building permit final.
4. The project shall comply with the recommendations of James Lascot, Consulting Arborist, dated June 16, 2011.
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 FOR REVIEW AND APPROVAL PRIOR TO ANY CHANGE.
6. 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.
7. 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.
8. 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.
9. Any portable toilets shall be placed off of the street and out of public view.
10. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, based on the date of the original building permit for this project, 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. The construction completion date shall not be extended by this project change.
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

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consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

21. 15 Woodside Way, Design Review No. 1823

Susanne and Peter Chase, 15 Woodside Way, A.P. No. 73-252-06, R-1:B-6 (Single Family Residence, 6,000 sq. ft. minimum lot size), Medium Density (6-10 units per acre). Review of landscape plan associated with a design review application, conditionally approved by the Town Council on May 12, 2011, for a new driveway/parking area in the rear yard, within 25 feet of the top bank of a seasonal creek and for a new 6-foot tall wood and wire fence and gate. The Council will consider modifications made to the plans including additional stacked stone along the watercourse and a change in the gate material from wood and wire to a black metal grid. An after-the-fact variance from the 6-foot side yard fence height limit is necessary for approximately 16 feet of fence that is up to 10.75 feet tall.

Lot area	6,900 square feet
Existing/proposed Floor Area	19.4% (20% permitted)
Existing/proposed Lot Coverage	19.5% (20% permitted)
Existing Impervious Areas	26.8%
Proposed Impervious Areas	27.9%

The residence and carport are nonconforming in setbacks. The site has nonconforming parking (two spaces required, one covered parking space provided).

Senior Planner Elise Semonian summarized the staff report and recommended that the Council listen to the applicant and neighbors and make a recommendation on the landscaping. Staff further believed the neighbor's suggestion for additional Star Jasmine along the fence was appropriate.

Mayor Pro Tempore Russell thought variances are required for a fence above 4 feet. Senior Planner Semonian noted that fences between 4 and 6 feet require only design review. Mayor Pro Tempore Russell asked staff if the English Laurel opposite Stephanie Lamarre's home is sufficient. Senior Planner Semonian responded that the plants will grow to provide the necessary screening.

Council Member Hunter understands that it was agreed that staff would review and approve the landscape plan. Senior Planner Semonian noted that staff met with the applicant and neighbors, and that a formal plan was submitted for approval but was not acceptable to staff or the neighbors and the applicants worked with staff to revise the planting. Since any approval was likely to be appealed to the Council, staff believed it would be more appropriate to have the Council consider the plan.

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Mayor Small remembered when solid fences were not appropriate and there was a desire for a more open fence with vines. The Council felt it is an attractive fence.

Peter Chase, applicant, received tremendous support from the Town and noted all of the staff members he had worked with on the project. He noted that they are getting one off street parking place on their property. He explained that an 18-foot setback is needed for the gate and the surface is pervious. In terms of the fence, they took road grade and set the fence and when standing on the road the fence is 6 ft. tall. The neighbors are most concerned about viewing a vehicle. He submitted photographs depicting the landscape areas and parked vehicles. He received input from 14 different residents that believed the entire project is wonderful for the area. He appreciated staff's support and the Council's consideration.

Mayor Small opened the public hearing on this item.

Scott Tseckares, architect, representing the Chrisman's, explained that at the ADR meeting more than two ADR members discussed planting trees between the Chrisman's and the parking lot. They proposed a new evergreen pear at that location. He felt a tree that comes up to a canopy would provide the best screening. Also, they discussed larger plants to screen from Madrona. They made a request for one additional evergreen pear. Over the summer months, the applicant installed the landscape, not putting in the evergreen pears, and now viewing the new drawing it does not show any evergreen pears. The species was eliminated from the plan. Bamboo was planted in an effort to provide screening. The process that the applicant went through to install the landscape is what turned the neighbors off. In terms of the fence height, the posts are taller. It is a staggered fence and they believe it is taller than 6 ft. There are rules in place to avoid residents from just moving forward and building structures. There was a moratorium on English Laurel and now it is over and there is a wholesale nursery that has them available for \$95.00. He further asked the Council to consider the use of a canopy tree to screen the Chrisman's main living area.

Bard Chrisman, Spring Road resident, reviewed the fence height ordinances available on the Town's website and the fence built violates the ordinance. He is at a loss as to why that is acceptable.

Stephanie Lamarre, Woodside Way resident, explained that the problem has been the process. There has been no logical process. The plan should have been submitted, approved and then implemented. This applicant just moved forward without any approval. At the May meeting, the Council stated that privacy screening needed to be implemented and an appropriate height was discussed, which was not done. The plants must be a sufficient height to screen the parking and provide privacy. She further asked the Council to ask the applicant to comply with the rules.

Peter Nelson, Circle Drive resident, noted that at the first ADR meeting, additional plantings were discussed. It has not been to ADR since then. It speaks to the importance of having plans. Mr. Chrisman requested an elevation plan at the ADR meeting. He further noted that this is an example of building and then seeking approval, which has drawbacks.

Susanne Chase, applicant, stated that the original plans were gardenias and camellias out front and the neighbors objected, so she planted English Laurel. They chose smaller English Laurel in order to have visibility in and out of the driveway. The bamboo that was cut down was a visual problem traveling in and out of their driveway. Mr. Chase stated that safety was

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a concern so an engineer redesigned the property and the bamboo was removed due to the visual impact.

Mayor Pro Tempore Russell asked why the project was completed before approval. Mr. Chase responded that no one indicated that he could not move forward. Mayor Pro Tempore Russell is uncomfortable that work has been done prior to approval. As a practical matter, without the watercourse issue, the applicant could do whatever they desired within their property. He does not understand what is driving the lack of cooperation.

Mayor Small pointed out that visibility was a concern. They are in a situation when they have so many non-conforming lots in Ross. They have a house that sits outside of the setbacks and others are clearly in the setback, and as a result, this creates a difficulty. Ms. Lamarre believed there are other ways to create adequate screening.

Nancy MacPhee, Madrona Avenue resident, believed this is an unbelievable situation and the new landscaping is an asset to the neighborhood. She further noted that it is an obvious improvement to the lot.

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 Strauss noted that he was never in favor of having a vehicle in the middle of the backyard. He did not understand why work continued without approval or a permit. A penalty should be assessed in regard to plantings. The fence posts that stick above the height of the top rail should be cut down as well as the fence as approached from Spring Road so the top rail aligns with the Chrisman's property. He believed it should be taken straight across for a better appearance. He is very discouraged about the process. He further hoped the neighbors could equally share in the screening.

Council Member Martin concurred with Council Member Strauss. He liked the fencing. It is an improvement from what was present. He agreed with the adjustments of cutting off the fingers on the post and bringing that fence on the Madrona side to the appropriate height of 6 ft. The translucent panels on the side closest to Woodside are not necessary and should be removed. In terms of the corner where the bay is, it could be an asset to plant a maple. He desired a solution tonight. Mrs. Chase noted if the Chrisman's plant on their property the tree would thrive.

Council Member Hunter noted that they must balance the needs and rights of the property owner with the needs and the rights of the community. It appears the Chase's have jumped before the plan was approved and the neighbors are asking for a lot. He wished the entire project went through the proper process. He hopes the neighbors can work it out. He agreed with Council Member Strauss's comments. He also hoped the applicant and neighbors can compromise and figure out a landscape plan.

Mayor Pro Tempore Russell believed the Chase's have improved the property and he is very impressed that 14 neighbors are supportive of what has occurred. It is disappointing that the applicant and neighbors could not come to a compromise. He felt there are unrealistic expectations on both sides. He would personally liked to have seen something more than the English Laurel.

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Council Member Strauss felt it is the responsibility on all parties to screen. He recommended more English Laurel on the left side of the gate and at a minimum two Star Jasmine plants on every panel. He further believed that penalties should be assessed.

Mayor Small visited the site and there has been growth in one month. She feels more comfortable addressing the fence and making those appropriate changes as outlined by Council Member Strauss.

Council Member Hunter recommended adding two more hedges. Mayor Small expressed concern for the visual impact.

The Council agreed to have the applicant cut down the posts to match the existing fence on Woodside and lower the top rail on Spring Road to align with the adjacent property on the left.

Mayor Small asked for a motion.

Council Member Strauss moved and Council Member Martin seconded, to approve the landscape plan at 15 Woodside Way with the following additions: two additional English Laurel shall be planted to the west of the gate; two additional English Laurel shall be planted to the east of the gate; two Star Jasmine shall be planted at each new fence panel; the fence posts shall be reduced in height so that the distance between the top of the post and the top of the fence rail is similar to the existing site fencing; and the fence facing Spring Road shall be reduced in height so that the top rail aligns in height with the adjacent fence at 2 Spring Road. Motion carried unanimously.

15 Woodside Way Conditions:

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

1. The applicants shall make the following changes to the landscaping and fencing installed at the site:
 - a. Two additional English Laurel shall be planted to the west of the gate.
 - b. Two additional English Laurel shall be planted to the east of the gate.
 - c. Two Star Jasmine shall be planted at each new fence panel.
 - d. The fence posts shall be reduced in height so that the distance between the top of the post and the top of the fence rail is similar to the existing site fencing.
 - e. The fence facing Spring Road shall be reduced in height so that the top rail aligns in height with the adjacent fence at 2 Spring Road.
2. All prior conditions of project approval continue to be in effect.
3. The Town Council may require additional landscape screening up to 3 years from the date of project approval.
4. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense

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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. 58 Ivy Drive, Variance and Design Review No. 1842

This item has been continued at the applicant's request.

Mischi a Marca and Haidee Thai, 58 Ivy Drive, A.P. No. 73-143-16, R-1:B-10 (Single Family Residence, 10,000 Square Foot Min. Lot Size), Medium Low Density (3-6 Units/Acre). Variance and design review for approximately 25 linear feet of new concrete retaining wall, up to 8 feet tall (6 feet permitted) and stairs with wood and wire railing. The new wall is proposed north of the residence to replace the existing terraced wood retaining walls and stairs, to allow expansion of the yard area.

23. 98 Shady Lane, Variance No. 1824

This item has been continued to October at the applicant's request.

Lulita and John Reed, 98 Shady Lane, A.P. No. 73-052-37, R-1:B-10 (Single Family Residence, 10,000 sq. ft. minimum lot size), Medium Low Density (3 - 6 units per acre). Setback variances to allow construction of the following: 1.) new pool and spa within the rear yard setback (40 feet required, 8 feet proposed); 2.) pool equipment and storage area along the south side yard property line (15 foot setback required, 0 feet proposed); 3.) relocation of a fountain within the north side (15 feet required, 1 foot proposed) and rear (40 feet required, 13.5 feet proposed) yard setbacks; and 4.) barbeque station within the south side (15 feet required, 4.5 feet proposed) and rear (40 feet required, 10.5 feet proposed) yard setbacks.

Lot area	7,511 square feet
Existing/Proposed Floor Area Ratio	32.6% (20% permitted)
Existing Lot Coverage	31.0%
Proposed Lot Coverage	31.5% (20% permitted)
Existing Impervious Surface	47.9%
Proposed Impervious Surfaces	56.0%

24. Discussion of potential Town Council goals for FY 2011-2012 and topics for the Town Council retreat on September 28.

Due to the late hour, Mayor Small agreed to send out an email in regard to topics for discussion at the Town Council retreat on September 28, 2011.

25. Adjournment.

Mayor Small moved to adjourn at 11:42 p.m.

Carla Small, Mayor

ATTEST:

Gary Broad, Town Manager