



Agenda Item No. 18.

Staff Report

Date: March 31, 2014

To: Mayor Elizabeth Brekhus and Councilmembers

From: Elise Semonian, Senior Planner

Subject: Lord, Use Permit Request for Alain Pinel Realtors to expand into 5 Ross Common, File No. 1998

Recommendation

Deny the application. If the Council would like to approve the use permit, approve the use permit subject to the findings and conditions attached.

Project Summary

Owner: John A. Lord and June H. Lord Trust

Applicant: Alain Pinel Realtors

Location: 3 and 5 Ross Common

A.P. Number: 73-273-13

Zoning: C-L (Local Service Commercial)

General Plan: C (Local Service Commercial)

Flood Zone: Zone AE (1-percent annual chance floodplain)

Application for Conditional Use Permit to expand real estate office, currently located in a 632 square foot space at 3 Ross Common, into 632 square foot vacant storefront space at 5 Ross Common. The 5 Ross Common space would be modified to create four offices and a conference room. A wall between 3 and 5 Ross Common would be opened to allow a walkway between the two spaces. The restroom at 3 Ross Common would be expanded. Proposed days and hours of operation are Monday through Saturday 10:00 a.m. to 4:00 p.m. The applicant estimates five to twenty five clients per day.

Background and Project Description

The project site is developed with a mixed-use building that has residential units, a bike shop, real estate office, and 5 Ross Common, a vacant storefront space currently used for storage (a use not permitted or conditionally permitted in the zoning district). The Town started requiring

use permits in the C-L District in the 1980s. Up until 2005, the ground floor spaces were primarily rented for office uses.

The applicants received approval to occupy the 3 Ross Common space in 2009, with staff support. The approved use included a retail home furnishings and housewares boutique shared with the real estate office in the 500 square foot, ground floor, tenant space. The boutique left the space and Alain Pinel Realtors now shares the space with a gallery for the fine art of local artist Mary Lee Rybar.

The real estate office is proposing to expand into the adjacent storefront space at 5 Ross Common. Alain Pinel would make tenant improvement including connecting the spaces, adding a full size restroom, and developing four office spaces and a conference room. The applicants indicate the improvements, particularly the private office spaces and conference room, will allow them to meet with more clients at the site, increasing foot traffic in the downtown area. Several local residents are agents with this office.

There is no onsite parking for any of the current uses or residential units. Employees and customers park in the Post Office parking lot or on local streets.

Discussion

The Ross General Plan policies for the commercial area encourage uses that serve local residents, maintain the downtown as a shopping area, and create a pedestrian feel, especially in ground-floor storefront locations. Real estate offices are permitted in the C-L zoning district subject to Council approval of a use permit. (RMC §18.20.030(a)(7)) The Chapter also lists a number of retail-type uses and permits the Council to approve any use similar to those enumerated in the section (RMC 18.20.030(a)(10)).

The Ross General Plan has several goals and policies relevant to this application:

- 2.1 Sustainable Practices (c) Preserve uses in the commercial area of the town that serve local residents and reduce the need to drive to other areas.
- 8.4 Downtown and Ross Common. Maintain the Town-owned Ross Common areas linked to uses and activities at Ross School, and linked to the Town's downtown area as the central recreation, gathering and local shopping area of Ross. Maintain the downtown area as an attractive, pedestrian-friendly, small retail/business area. Encourage smaller-scale housing units mixed with commercial uses.
- 8.5 Downtown Commercial Uses. Create a warm, friendly, attractive and economically viable shopping environment in the downtown by encouraging local-serving commercial uses that create a pedestrian feel in the Downtown, especially in ground-floor storefront locations. Create an attractiveness to the Downtown commercial area through regulation of signage, awnings, and other façade treatments, and through public improvements.

- Relevant General Plan “New Ideas” 8.B Modify Downtown Commercial Zoning. Revise commercial zoning in the Downtown to prohibit offices in storefront locations, to encourage mixed use housing, and to encourage uses that are local-serving and would contribute to the vitality of downtown.

The Ross General Plan policies for the commercial area encourage uses that serve local residents, maintain the downtown as a shopping area, and create a pedestrian feel, especially in ground-floor storefront locations. Real estate offices are commonly permitted uses in downtown areas. However, real estate uses bring in little foot traffic, have less activity and may not contribute to a vibrant downtown. Staff supported the prior use permit for Alain Pinel to partner with the retain boutique, since the proposed use was primarily retail in character, which is encouraged by the General Plan. However, the use has been chiefly a professional office use with retail sales playing a very secondary role.

The existing and proposed space is one of the most prominent and retail or restaurant-appropriate spaces in the Town’s small commercial district. The vitality of the downtown area depends on a number of factors including the mix of businesses, available parking, and the general economy. The 2006 flood, as well as school, Lagunitas Bridge and Sir Francis Drake intersection construction may have deterred new businesses in the downtown area in recent years. The current downtown area has few retail businesses in storefront spaces and restaurants that are not open mid-day. The Ross Grocery has limited their hours and is closed on Sundays. The general improvement of the economy may draw additional retail business to the downtown area in the future, which may lead to more traffic for all downtown businesses. However, if office uses continue to occupy the storefront spaces, retail stores are even less likely to seek to locate downtown.

On the other hand, although the Council has wished to encourage retail uses within the Local Service Commercial zoning district, especially in street front spaces, several offices have been approved in the downtown area. This site had a series of ground floor office uses until 2005. In addition, the property owner does not appear to be actively advertising the 5 Ross Common space for lease and currently uses the space for storage, with windows covered with blinds. The proposed use will be an improvement over the existing conditions. Improvement of the space with offices and a conference room will bring in more foot traffic than the existing storage use.

Based on the small size of the spaces, hours of operation, estimated customer traffic, and typical work pattern of real estate agents (showing property and not typically working full time in the office), staff expects the proposed use will not significantly increase parking demand or decrease available long term parking.

Staff would be more supportive if the applicant could partner with an active retail business to share the 3 Ross Common space. Staff recommends the Council consider the application and public comments and determine if findings can be made to approve the application.

Fiscal, resource and timeline impacts

The Town currently serves the site and there would be no operating or funding impacts associated with the project. California Government Code Section 65863.5 requires the Town to notify the Marin County Assessor when any conditional use permit is approved.

Alternative actions

1. Continue the project for modifications; or
2. Make findings to deny the application.

Environmental review (if applicable)

See findings, Attachment 1.

Attachments

1. Findings and Conditions of Approval
2. Application
3. Site history

Attachment 1

Recommended Town Council Action, Findings and Conditions

If the Council can find the use permit is consistent with the CL zoning regulations and general plan, staff recommends that the Town Council, after carefully reviewing the application, site visits, staff reports, correspondence, and other information contained in the project file, approve the Conditional Use Permit as proposed with the following Findings and subject to the following Conditions of Approval:

A. CEQA This project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15303, conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

B. Findings

1. *The establishment, maintenance, or conducting of the use for which the use permit is sought will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, convenience, or general welfare of persons residing or working in the neighborhood of the use and will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood. (RMC §18.44.030) The use permit is consistent with the public welfare;*

The proposed real estate and art studio expands an existing use that has not been found to be detrimental to the public welfare or injurious to property or improvements in the neighborhood. Based on the small size of the proposed use and anticipated customer traffic and number of employees, the project is not anticipated to generate significant traffic or parking demand. The size and nature of the proposed business would not generate noticeable parking, traffic, noise, or other undesirable or harmful effects that would adversely impact nearby businesses or neighborhoods. Design review is required for any outdoor advertising and no signs are currently proposed.

2. *The proposed use will not be detrimental to or change the character of adjacent or neighboring properties in the area the use is proposed to be located;*

The proposed use will be in an existing structure that has no onsite parking. No exterior modifications are proposed. The character of the neighborhood is a downtown commercial district, which is appropriate for the proposed use, which expands an existing use.

3. *The property on which the proposed use is to be located is suitable for the proposed use;*

The applicant will update the interior for the proposed use.

4. *The traffic-generating potential and/or the operation of the proposed use will not place an unreasonable demand or burden on existing municipal improvements, utilities or services;*

The business will occupy approximately 1,114 square feet of space and client traffic is estimated at 5 to 25 customers per day. The major intersections in Town operate at non-congested conditions and the number of trips generated by this use is not sufficient to lower these Levels of Service. The site is served by existing utilities and services and requires no additional municipal improvements.

5. *Adequate consideration has been given to assure protection of the environment;*

The project is categorically exempt from the requirement for the preparation of environmental documents under the California Environmental Quality Act (CEQA) under CEQA Guideline Sections 15303 (conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure). No exception set forth in Section 15300.2 of the CEQA Guidelines applies to the project including, but not limited to, Subsection (a), which relates to impacts on environmental resources; (b), which relates to cumulative impacts; Subsection (c), which relates to unusual circumstances; or Subsection (f), which relates to historical resources.

6. *The proposed use is consistent with applicable zoning provisions;*

The project site is located within the Local Service Commercial District (C-L) zoning district. This district “is intended to be applied to properties which constitute a compact centrally located land area of only such size as is necessary to contain local service commercial uses necessary for the convenience of the residents of the town.” (RMC §18.20.020) Real estate offices are conditionally permitted in the district. The proposed use includes an art gallery, which is a retail-type use in a storefront location, which is encouraged by the General Plan. There is no parking available on site and no parking requirements for the use. The proposed use is expected to have a low long-term parking demand.

7. *The proposed use is consistent with the objectives of the general plan;*

The General Plan land use designation for the site is Local Service Commercial. This commercial land use designation “applies to the downtown area and is intended to constitute a compact, centrally located area of such size as is necessary to contain local service commercial uses necessary for the convenience of the Town residents.” The proposed use is consistent with the objectives of the general plan based on the facts and statements made during the April 9, 2015, public hearing and council discussion on the item.

8. *Adequate consideration has been given to assure conservation of property values, the suitability of the particular area for the proposed use and the harmony of the proposed use with the planned development and future land use of the general area.*

The business expansion will not negatively impair property values or planned development or future land use in the area. The business has operated in the past in harmony with uses in the area. The occupation of the vacant ground floor space, currently used for storage and not generating any foot traffic for adjacent businesses, will improve existing conditions in the downtown area.

B. Conditions of Approval, Commercial District Use Permit Application for Alain Pinel to expand into 5 Ross Common.

1. This approval shall allow the expansion of an existing real estate office and retail business at 3 Ross Common to expand into 5 Ross Common, an existing commercial building, subject to compliance with all of the following conditions of approval. Hours of operation shall fall within Monday through Sunday from 8 a.m. to 8 p.m. (proposed hours are 10 a.m. to 4:00 p.m. Monday through Saturday). The business will have up to five on site individuals and estimated customer traffic of 5-25 people per day.

2. Window treatments such as shades, blinds or curtains are not allowed in storefront windows, unless these are primarily decorative and do not obscure interior views.

Window displays in the storefronts should relate to the retail business and real estate use. Desks and/or equipment shall not be placed where they interfere with a full view into the space.

3. Any expansion or modification of the approved use (such as operation of only the real estate office at the space) shall be through a subsequent public hearing by the Town Council.

4. These conditions shall be binding on the applicant and all successors in interest. In case of transfer of ownership, the new owner of the establishment shall provide the Town with written acknowledgement of these conditions of approval. Failure to comply with this requirement may result in revocation of this Conditional Use Permit.

5. The applicant is notified that the site and ground floor office space is in a FEMA flood hazard area and the area periodically floods.

6. Minor modifications to the Conditional Use Permit consistent with the Town of Ross Municipal Code may be made subject to review and approval of the Planning Department if the modifications are in keeping with the intent of the original approval.

7. The applicant is responsible for ensuring that all improvements comply with disabled access regulations, regardless of whether a building permit is required for the work.

8. A building permit is required and the project shall comply with all requirements of the Ross Valley Fire Department.

9. Any encroachment into the public right of way, such as for installation or replacement of awnings, signage, seating, or lighting, requires prior approval of a revocable encroachment permit from the town manager or their designee.

10. 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.

11. If the Planning Department finds evidence that any of the conditions of approval have not been fulfilled, or that the use has resulted in a substantial adverse effect on public health, safety, and/or general welfare or on public facilities or services, the Planning Department may elect to refer the Conditional Use Permit to the Town Council for review. If upon such review the Town Council finds that project has resulted in a substantial adverse impact on public health, safety, and/or general welfare or on public facilities or services, the Town Council shall reserve the right to modify or revoke the approval of the use.

12. Signage is not a part of this review. The applicant shall apply to the Planning Department for a separate sign permit prior to the installation of any permanent signage at the site.

13. The business owner shall remain in compliance, at all times, with the Town's regulations and with other applicable laws.

12. The business owner shall notify the Town of any intention to rename, change management, or convey the business to another person.

14. The business shall maintain an address number that complies with the building code (contact Building Department for more information).

13. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with the Town Council and Town boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding ("action") 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 alleging any other liability or damages based upon, caused by, or related to the approval of the project. The Town shall promptly notify the applicants and/or owners of any action. The Town, in its sole discretion, may tender the defense of the action to the applicants and/or owners or the Town may defend the action with its attorneys with all attorneys' fees and litigation costs incurred by the Town in either case paid for by the applicant and/or owners.



Town of Ross

Planning Department

P. O. Box 320, Ross, CA 94957

Telephone (415) 453-1453 Fax (415) 460-9761

Phone (415) 453-1453, Ext. 121 Fax (415) 453-1950

Web www.townofross.org Email esemonian@townofross.org

#1998

\$1,593.41
paid

COMMERCIAL DISTRICT USE PERMIT APPLICATION

Legal Owner of Parcel JOHN & LORD TR
JUNE A LORD TR

Mailing Address PO Box 917, Ross, CA 94957

Home Phone 415.751.1005 Business Phone 415.461.0552

Fax _____ Email john.lord@stbcglobal.net

Assessor's Parcel Number 073-273-13

Parcel Address #3 Ross Common & #5 Ross Common

Applicant (If not owner) Alain Pinel Realtors

Mailing Address 12772 Saratoga-Sunnyvale Rd., Suite 1000; Saratoga, CA 95070

Home Phone 408-913-7930 Business Phone 408-741-7111

Fax 408-741-1019 Email bhalter@apr.com

Proposed Use

A Commercial District Use Permit is hereby requested to permit the following:

See attached - Alain Pinel Realtors, Expansion of
Premises by adding 5 Ross Common

See attached - Proposed Floor Plan

Net rentable square
 footage #3 Ross Common 482 r.s.f. + #5 Ross Common 632 r.s.f. = Total 1,114 r.s.f.

Number of persons working on site one to five on-site individuals

Work days and hours Monday through Saturday, 10:00 AM - 4:00 PM

Number of client or customer visits per day five to twenty-five

Number of parking spaces available for the proposed
 use street parking

Applicant will be billed for any additional Town Consultants' time in excess of base fee amounts. A completed application accompanied by the filing fee is necessary for consideration of the Commercial District Use Permit request. In any case where a permit has not been used within one year after the date of granting thereof, then without further action by the Town Council the use permit shall be null and void.

Mandatory Findings

Before granting any use permit, the Council must find that the establishment, maintenance, or conducting of the use for which the use permit is sought will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, convenience, or general welfare of persons residing or working in the neighborhood of the use and will not, under the circumstances of the particular case, be detrimental to the public welfare or injurious to property or improvements in the neighborhood.

In granting any use permit under the provisions of this chapter, the Town Council shall designate such conditions in connection therewith, as will, in its opinion, secure substantially the objectives of protection to the public welfare and property or improvements as hereinbefore set forth.

Signatures of Owner and Applicant

I HEREBY CERTIFY under penalty of perjury that I have made every reasonable effort to ascertain the accuracy of the data contained in the statements, maps, drawings, plans, and specifications submitted with this application and that said information is true and correct to the best of my knowledge and belief. I further consent to any permit issued in reliance thereon being declared by the Town Council to be null and void in the event that anything contained therein is found to be erroneous because of an intentional or negligent misstatement of fact.

I HEREBY FURTHER CERTIFY and agree that if a use permit is granted by the Town Council, under the provisions of the Ross Municipal Code, I shall abide by the conditions set forth in such use permit, and all other applicable rules, regulations, ordinances, and laws governing such use and/or buildings; and that this use permit application, if granted, may be recorded by the Town of Ross.

I HEREBY FURTHER CERTIFY that I have read the Commercial District Fact Sheet and understand the use permit processing procedures and application submittal requirement.

Bonny J. Balton, Alain Pined Realtors
Signature of Applicant

3/19/2015
Date

John A. Zand TR
Signature of Owner

3/19/2015
Date

Town Email List

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Email(s) _____

Alain Pinel Realtors Expansion of Premises by adding 5 Ross Common

Alain Pinel Realtors (APR) has operated a real estate office at 3 Ross Common since, May 2009. Since APR opened in Ross, a part of the office includes: an art gallery run by Mary Lee Rybar with numerous art pieces displayed on the walls; an area for an interior decorator to consult with clients and display examples of their work.

3 Ross Common is compact, a single room of open space, less than 500 square feet. At times, the space doesn't provide sufficient privacy for our clients and users of the space. Under the expanded plan, the current space (3 Ross Common) would continue to provide a relaxed living room atmosphere with a sofa, coffee table and guest chairs. We believe the concept of the real estate office/living room/show room has been successful.

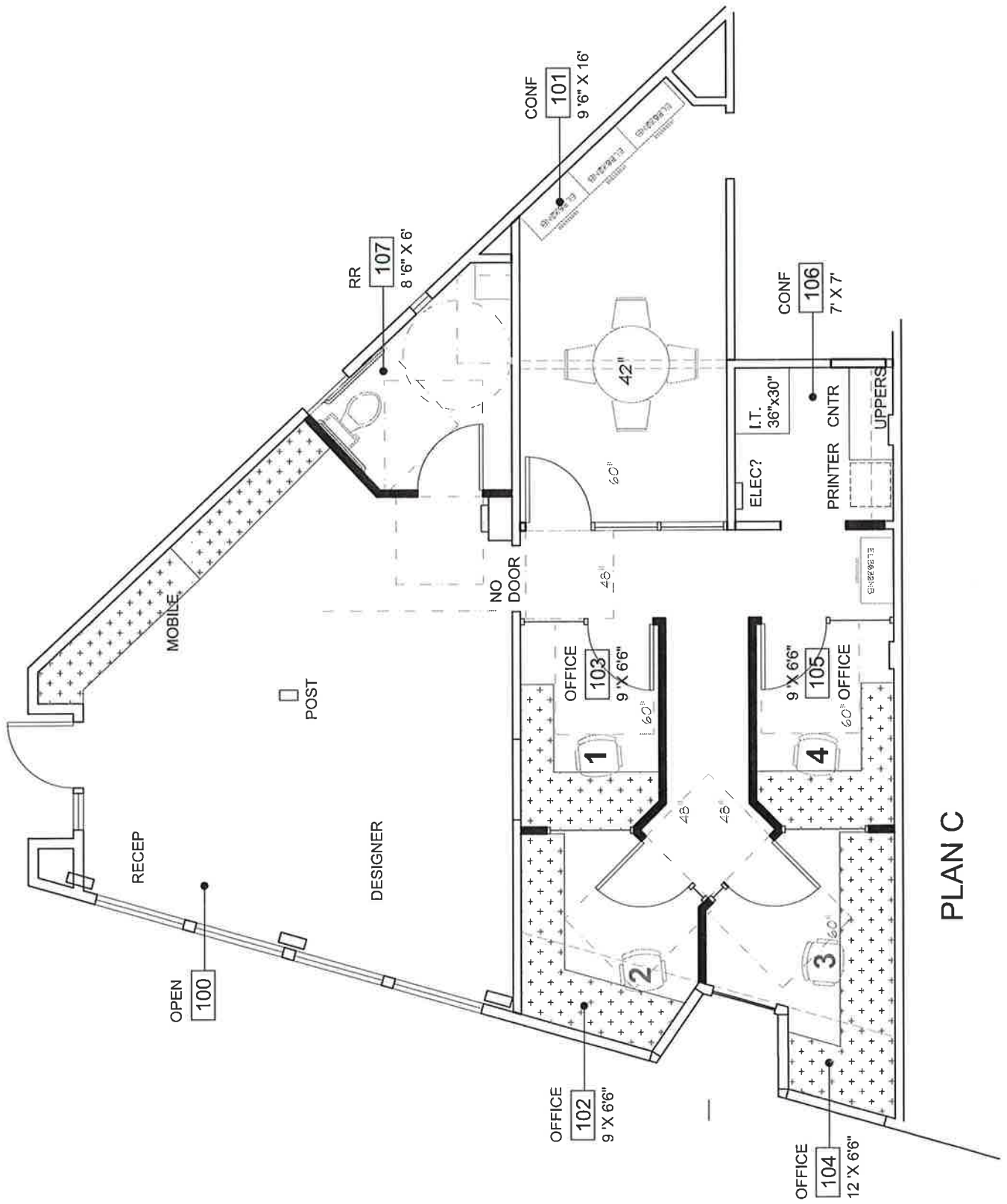
In addition, an updated and enlarged restroom will be constructed to service clients and individuals working in the combined space.

With a new Use Permit that would include 5 Ross Common the common wall will be opened to allow a walkway between the two spaces. The interior of 5 Ross Common will be updated and improved. See the attached proposed floor plan.

The exterior will also be improved to have a coordinated landscape plan outside.

Several of our real estate agents working at 3 Ross common live in the Town of Ross and Alain Pinel Realtors is very proud to be part of the Ross Community.

Proposed Floor Plan
 3 Ross Common + 5 Ross Common



RECEIVED
Planning Department

MAR 27 2015

Town of Ross

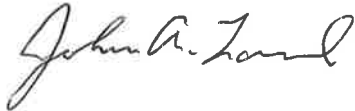
John A Lord
PO Box 917
Ross, CA 94957

March 27, 2015

To: Members of the Ross Town Council
Re: Use Permit Application - Alain Pinel Realtors

I am writing in support of the Use Permit Application of Alain Pinel Realtors to improve and expand their location at #3 Ross Common into #5 Ross Common. Alain Pinel Realtors have been at #3 Ross Common since 2009 and we have developed a very good business relationship with them. We believe they have fit well into the Ross community. Their concept for improving both spaces is appealing. We fully support their application.

Sincerely,

A handwritten signature in cursive script that reads "John A. Lord".

John A Lord

2.

agreement with the County to initiate amendments to the Joint Powers Agreement providing that the presence of representation from a majority of the member city jurisdictions plus representation from the County jurisdiction would constitute a quorum. The Council agreed to study the request and make a decision at the November meeting.

5. Endorsement of Propositions B and C.

Dr. Grasham, president of the College of Marin, explained Propositions B and C, the Marin Community College District's proposals on the November 3d ballot, which will build a new campus in Novato and complete the College of Marin campus and not increase taxes.

Stating that he felt the Council should consider items relating to districts of which Ross is a part, Mr. Walker moved that the Council endorse the propositions. Mrs. Osterloh seconded the motion, which was unanimously passed.

6. Variiances.

1. No. 351 John and June Lord, 3 Ross Common, Commercial Area (73-273-13) Approval of a hanging two-sided sign (4' x 1 $\frac{1}{2}$ ') for the Montessori School Office.

On motion by Mrs. Osterloh, seconded by Mr. Walker, Variance No. 351 was unanimously granted.

2. Lagunitas Country Club, Lagunitas Road and Glenwood Ave., (73-211-31, 73-221-01) Acre Zone. Request to erect temporary air-supported structure over the two most westerly existing tennis courts 15' from property line (25' required). Size - 113' x 118' 40' high (maximum height required - 30')

Captain John Lewis presented the plans and explained that members of the club are prevented from playing tennis six months of the year because of poor light and wet courts. The temporary structure would allow use of the courts during the entire year. He demonstrated that very little light would show through the heavy green plastic. The structure would be erected when daylight savings ends and be removed when it starts.

Across-the-road property owners, Donlon Gabrielson, Tracy Van Voorhees and Richard Tracy, opposed granting the variance because they felt the structure would be an eyesore in the community, would create excessive noise when the standby generator was used and would cause an eery light at night.

13. Proposed Findings in Support of Denial of Application of William and Janet Johnson, Potential Purchasers, 27 Baywood Ave., Legal Owner: Mildred Dunshee (AP 72-071-04).
Town Attorney Roth presented Resolution NO. 1193, and Councilman Dirkes offered an addition to Item 1.

RESOLUTION NO. 1193

Findings in Support of Denial of Hillside Lot Application of William and Janet Johnson (AP 72-071-04)

Councilman Poore moved adoption of Resolution NO. 1193 to include Councilman Dirkes addition. This was seconded by Councilman Dirkes and passed with four affirmative votes. Mrs. Flemming abstained.

14. Proposed Findings in Support of Denial of Application of Loraine and Robert Berry, 4 Ames Ave., (AP 73-181-05).
Town Attorney Roth presented Resolution NO. 1194 and Councilmember Brekhus suggested addition of Item No. 3.

RESOLUTION NO. 1194

Findings in Support of Action Taken on Application of Loraine and Robert Berry (AP 73-181-05)

Councilman Brekhus moved approval of Resolution No. 1194 to include Item No. 3 as suggested. This was seconded by Councilwoman Flemming and passed with three affirmative votes. Councilmembers Dirkes and Poore abstained.

15. Changes Re Brown Act - Town Attorney Hadden Roth.
Town Attorney Roth presented a memo outlining the changes in the Brown Act Agenda and Meeting requirements covering the following:

1. Posting an agenda prior to each meeting of the legislative body;
2. Providing an opportunity for the public to address the legislative body;
3. Authorizing legal action to void certain actions taken in violation of the Brown Act.

Attorney Roth said it would be advisable to keep a record of the time and location of posting of the agenda. Mayor Julien said this would be worked out with the secretary.

16. Hillside Lot Application. Mitch and Isabel Wiener, Potential Purchasers, Upper Road (AP 73-111-11) Acre Zone. Legal Owner: Dr. John Mudd. Request is to allow construction of house on lot having an average slope in excess of 30%. Use Permit is for construction of house in Special Hazard Zone No. 3.
At the request of Mr. Wiener, this item was put over to the February meeting.

17. Use Permit No. 81. John and June Lord, Legal Owners and Ross Financial Services, Potential Tenants, One Ross Common (AP 73-273-13) C-L District. Request is to allow an office for financial services; mainly, real estate mortgages and related services.
Public Works Director Lunding explained that the application had been submitted in compliance with Ordinance No. 454. He said the sign will remain but will be changed in accordance with the new business.
After review, Councilman Poore moved approval of the Use Permit, seconded by Councilwoman Flemming and passed unanimously.

18. Discussion of Assignment of Franchise to Viacom Cablevision of Marin.
Abby Donaghue of VIACOM addressed the Council and stated that VIACOM would be going independent.

RESOLUTION NO. 1195

Approval of the Assignment of the Franchise to VIACOM Cablevision of Marin Inc.

Miss Donaghue suggested an addition to the last paragraph of the Resolution. Councilman Poore moved approval of Resolution No. 1195 as modified by Miss Donaghue. This was seconded by Councilwoman Flemming and passed unanimously.

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along Lagunitas in front of tennis courts 3 and 4. These will be paid for and planted by the Club and donated to the Town of Ross; the Town will maintain the trees. Mr. Girvin said that the Club would come before the Council in September with full drawings. After discussion, Councilman Goodman moved approval of the landscaping plans, seconded by Councilman Lill and passed with four affirmative votes. Mayor Pro Tempore Flemming abstained stating as a member of the Club she would not vote on the issue.

18. Fence Enclosure of the Pre-School Playground at Ross Grammar School.

Pam Riley representing the Ross Park and Recreation addressed the Council stating that the State Licensing Bureau for Pre-Schools require a fenced in playground. She was asking permission to install a four foot chain fence behind the current stone and brick walls. Miss Riley said she was open for suggestions for another type of fence. Councilwoman Flemming suggested that Miss Riley consider a hedge and Mayor Brekhus asked about using the back yard. Mrs. Charles Goodman of Sylvan Lane said that the back yard was designed for older children.

Miss Riley was asked to look into other alternatives for the fence and it was continued to the next meeting.

19. AB 84 - State Highway Improvement Projects - 1993-1998.

Town Engineer Hoffman explained that the State has recently mandated that local agencies set forth distant priorities for transportation projects that are proposed to be financed essentially by state gas tax funds. Such priorities are being extended to the period 1993-1998.


RESOLUTION NO. 1229
APPROVING THE LONG TERM 1993 -1998 MAJOR TRANSPORTATON
PROJECTS IN MARIN COUNTY AS RECOMMENDED BY THE MARIN
COUNTY URBAN SYSTEMS COMMITTEE

Upon motion by Councilwoman Flemming, seconded by Councilman Lill, Resolution No. 1229 was passed with four affirmative votes. Councilman Barry voted against.

20. Solar Installation Permit - Tom Tusher - 200 Lagunitas Road (AP 73-131-13) Acre Zone.

7-14-88
Request is to allow a pool solar system. SOLAR PERMIT NO. 37
Approval from the neighbors had been received. Councilman Barry moved approval of the solar permit, seconded by Councilman Lill and passed unanimously.


21. USE PERMITS.

-  a. John and June Lord, Legal Owners, and Stephen Jaffe, Potential Tenant, 5 Ross Common (AP 73-273-13) C-L District. Request is to allow a film editing office for Fly II Productions Ltd. (1600 sq. ft.); three employees; hours of operation 8-5 weekdays; street parking; six month lease with no renewal.
USE PERMIT NO.110

Miss Julie Lord spoke on behalf of her parents and said there would be three employees, where previously there had been sixteen.

Councilman Goodman said he would prefer to see retail shops in the C-L District.

After consideration, Councilman Barry moved approval subject to the condition that the permit be reviewed in six months. This was seconded by Councilman Goodman and passed unanimously.

-  b. John and June Lord, Legal Owners, and Anthony Eglin, Potential Tenant, 5 Ross Common (AP 73-273-13) C-L District. Request is to allow office space of

514 sq. ft. for Anthony Eglin Advertising Agency; two employees; hours of operation 8-5 weekdays; street parking. USE PERMIT NO. 111
Councilman Barry moved approval subject to the condition that this be reviewed in six months. This was seconded by Councilman Goodman and passed unanimously.

- c. Bernard and Susan Alpert. 12 Upper Ames (AP 73-181-21) Acre Zone. Request is to allow construction and use of a 1284 sq. ft. guest/pool house. Additional construction/removals not requiring variances or use permits include the construction of a 586 sq. ft. addition to the house, and the removal of a 720 sq. ft. barn, and a 980 sq. ft. deck. A landscaping plan which includes a pool, terraces, fences and plantings has also been submitted. USE PERMIT NO. 112

Lot Area	59,677 sq. ft.
Present Lot Coverage	8.4%
Proposed Lot Coverage	7.6%
Present Floor Area Ratio	10%
Proposed Floor Area Ratio	10.3%
(15% allowed)	

Mr. & Mrs. Alpert's architect presented the plans. After a short discussion, Councilwoman Flemming moved approval subject to the following:

- a. The Council has the right to request further landscaping
- b. The guest house must never be rented.
- c. Use Permit is to be reviewed in one year.

This was seconded by Councilman Barry and passed unanimously.

AT 11 P.M. MAYOR BREKHUS CALLED FOR A RECESS AND AT 11:05 P.M. THE COUNCIL RETURNED TO THE CHAMBERS WITH EVERYONE IN ATTENDANCE.

22. VARIANCES.

- a. Scott and Barbara Patton, 171 Lagunitas Road (AP 73-232-34) 00 sq. ft. zone. Request is to allow construction of an 8 x 10 spa, 18 ft. of the rear yard property line (40 ft. required) and 9 ft. of the side yard property line (15 ft. required).

7-14-88

Lot Area	15,203 sq. ft.
Present Lot Coverage	21%
Proposed Lot Coverage	21%
Present Floor Area Ratio	33%
Proposed Floor Area Ratio	33%
(20% allowed)	

VARIANCE NO. 890

Town Planner Brekke explained that under the most stringent application of the zoning code, the proposed spa encroaches into side and rear yard setbacks when drawing continuous parallel lines from the two rear and side yard points. In practical application, however, due to the lot configuration, the nearest point of the proposed spa to adjoining property is 21 feet.

After discussion Councilman Goodman moved approval subject to the conditions that the Council has the right to request further landscaping and that the Council review for any noise problem in one year. This was seconded by Councilman Barry and passed with four affirmative votes. Councilwoman Flemming voted against.

- b. Robert Rossi, 11 Woodside (AP 73-232-01) 10,000 sq. ft.

November 10, 1988

16. Use Permits.

- a. James Van Buskirk, 196 Lagunitas Road (AP 73-171-11)
10,000 sq. ft. zone. Request is to allow a Use Permit for a second unit.

Lot Area	32,516
Present Lot Coverage	15.4%
Present Floor Area Ratio	19.8%

(20% allowed)

USE PERMIT NO. 114

Mr. Buskirk said that the second unit had existed since the early 40's and he was unaware of the second unit ordinance. He said there were two rental units, 1 second unit and 1 residence on the property which was originally three lots. He added that he would comply with all the conditions of Mr. Elias' memo of November 3, 1988.

Ms. Julie Lord of Olive Avenue said she supported the application.

Councilman Lill moved approval of the second unit with the condition that it be reviewed in one year, seconded by Councilman Goodman and passed unanimously.

- b. James and Christine Howey; Daniel and Susan Ohlson - Legal Owners; Kristin Rut Klelman - Potential Tenant
23 Ross common, Suite No. 5 (AP 73-273-10,11) C-L District. Request is to allow a hair styling salon. Office space of 564 sq. ft.; four employees; hours of operation 10 a.m. to 6 p.m. Tuesday through Saturday; street parking.

USE PERMIT NO. 115

Ms. Klelman said that she had previously operated her shop in Mill Valley.

After a brief discussion, Councilman Lill moved approval with the condition that it be reviewed in one year. This was seconded by Councilwoman Flemming and passed unanimously.

Councilman Goodman said he would like to see a variety of businesses in the Town.

- c. John Lord, Legal Owner; Shannon Brown, Potential Tenant.
7 Ross Common (AP 73-273-13) C-L District. Request is to allow a facial and body care salon; 3 part-time employees. Office space of 1600 sq. ft. Hours of operation 10 a.m. to 6 p.m. Monday through Saturday; street parking.

USE PERMIT NO. 116

Ms. Brown said she would not be operating a hairdressing shop.

Mayor Brekhus mentioned that he was concerned about parking. After a short discussion, Councilman Goodman moved approval with the condition that it be reviewed in one year and that a smoke detector be installed. This was seconded by Councilman Lill and passed unanimously.

17. VARIANCES.

- a. William and Janean Jones, 88 Glenwood (AP 73-041-31)
5000 sq. ft. zone. Request is to allow enclosure of an existing porch sited 6 feet of the side property line (15 ft. required) and sited 19 to 24 feet 11 inches of the front property line (25 ft. required). Variance for the construction of an entrance patio sited 7 to 18 feet of the front property line (25 ft. required) and 6 feet of the side property line. The patio measures 7 to 10.5 feet wide. Non-conforming front and side yard setbacks and floor area ratio.

- 13. Report from Committee Heads.
Councilman Lill, Chair for Public Safety Department, reported he was working with the Public Safety Department concerning MOU negotiations.

Councilman Barry, Chair for Public Works Department, reported that he would hold a public meeting concerning the pedestrian crosswalks on Sir Francis Drake and Winship/El Camino. The meeting was set for Friday, September 13, 1991, at 8 p.m., in the Ross Town Hall.

- 14. Finance Committee Reports.
Finance Director Kelley Reid announced that copies of the Draft Budget are available in the Clerk's office.

- 15. Discussion Concerning Dangerous Animals and Review of the Town of Ross' Ordinance. (Put Over to September).

- 16. Use Permits & Variances.



- a. USE PERMIT. John Lord, Legal Owner and A. R. Neuburger, Potential Tenant, 3 Ross Common, AP 73-273-13, C-L District. Request is to allow: Diamond broker with professional appraising and consultation; 550 square feet rentable area; three employees. Hours of operation 10 a.m. to 6 p.m., Monday through Saturday; approximately six to eight clients to be received each day; on-street parking.

Mr. Neuburger stated that he expected six to eight customers per day on the site. After a brief discussion, Councilman Reid moved approval, seconded by Councilman Lill and passed unanimously.

- b. VARIANCE. ^{# 999} James and Cynthia Zak, 2 Hillgirt Drive, AP 73-082-03, Single Family Residence, One acre minimum (R-1:B-A).

Request is to allow: Construction of two posts and a cross beam to support a light over an entry gate for a single family residence. The structure will be located on the property line (25 foot front yard setback required, 0 foot proposed) and will be approximately 8 feet in height.

Lot Area	17, 220 sq. ft.	
Present Lot Coverage	8.6%	
Proposed Lot Coverage	8.6%	(15% allowed)
Present Floor Area Ratio	21%	
Proposed Floor Area Ratio	21%	(15% allowed)

Mr. Zak presented the plans. There were no comments from the audience and after a brief discussion, Councilman Reid moved approval, seconded by Councilman Lill and passed unanimously.

- c. VARIANCE. ^{# 1000} Roger and Patricia Farrow, 98 Sir Francis Drake Blvd., AP 72-151-07, R-1:B-10, Single Family Residence, 10,000 square foot minimum. Request is to allow: Construction of an upstairs bathroom approximately 50 square feet in area, replacing an equal size area of deck (resulting in no change in floor area ratio.)

The existing residence is nonconforming in side yard setback (12 feet existing, 15 required) and floor area ratio.

Lot Area	12,195 sq. ft.	
Present Lot Coverage	11.7%	
Proposed Lot Coverage	11.7%	(20% allowed)
Present Floor Area Ratio	23.0%	
Proposed Floor Area Ratio	23.0%	(20% allowed)

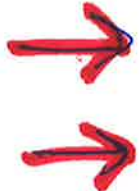
8/8/91

- 21. Request for Variance Extension, William and Diane Clarke, 4 Walters Road, AP No. 072-221-05 & 06, Variance No. 1026, granted June 11, 1992.

After a brief discussion, Councilman Barry moved approval, seconded by Councilman Scott and passed unanimously.

- 22. Review of the Following Use Permits in the C-L District and Discussion of Other Businesses Within the C-L District.

Town Planner Broad explained that routinely the Council approves uses within the local commercial district subject to the requirement that the use be reviewed by the Council in one year. He and intern Aimee Oberti had reviewed the following permits and found them to be in compliance with the approved uses. He noted that Sharon Campbell expanded the size of her operation with no increase in staff or scope. Mr. Broad further explained that there were a number of other businesses in the local commercial district which did not have use permits nor business licenses.




- a. Use Permit No. 111, Anthony Eglin, tenant; John Lord, legal owner; advertising company. Councilmember Barry moved approval. Seconded by Councilman Scott and passed unanimously.
- b. Use Permit No. 116, granted 11/10/88, Shannon St. Claire, tenant; John Lord, legal owner; skin care salon. Councilmember Barry moved approval. Seconded by Councilman Scott and passed unanimously.
- c. Use Permit No. 142, granted 1/6/90, 15 Ross Common, Cafe Linguini; Giuseppe Guli; tenant; A. Forester, legal owner. Councilmember Barry moved approval. Seconded by Councilman Scott and passed unanimously.
- d. Use Permit No. 141, granted 11/8/90, 17 Ross Common; Mr. Hillmer, tenant; A. Forester, legal owner. Urban Design. Councilmember Barry moved approval. Seconded by Councilman Scott and passed unanimously.
- e. Use Permit No. 115, granted 11/10/88, Tizka Salon, 23 Ross Common; Messrs. Howey and Ohlson, legal owners. Councilmember Barry moved approval. Seconded by Councilman Scott and passed unanimously.
- f. Use Permit No. 125, granted 9/14/89, Gately & Kemp, tenants; Messrs. Ohlson/Howey, legal owners. Law office. Councilmember Barry moved approval. Seconded by Councilman Scott and passed unanimously.
- g. Use Permit No. 101, granted 12/10/87, 27 Ross Common, Lisa Insalito, tenant; Vita Badalamenti, legal owner. Massage salon. Councilmember Barry moved approval. Seconded by Councilman Scott and passed unanimously.
- h. Use Permit No. 136, granted 7/12/90, 22 Ross Common, Benjamin Cafe; Michelle Benjamin, tenant; J. Levinsohn, legal owner. Councilmember Barry moved approval. Seconded by Councilman Scott and passed unanimously.
- i. Use Permit No. 147, granted 5/9/91, 30 Ross Common; Michele Gandolfa, tenant; J. Levinsohn, legal owner. Pet Grooming. Councilmember Barry moved approval. Seconded by Councilman Scott and passed unanimously.
- j. Use Permit No. 143, granted 12/13/90, 32 Ross Common; Peggy Knight, tenant; M. Rossetti, legal owner; custom hair prosthesis. Councilmember Barry moved approval. Seconded by Councilman Scott and passed unanimously.

the code.

Ms. Ann Morrissey said that her mother lives in the home and loves gardening and had installed the trellis to hold vines. She was not aware that a permit was required. After a short discussion, Councilmember Goodman moved to support the staff's interpretation of the Code and informed the applicant that she could apply for a variance. This was seconded by Councilmember Reid and passed unanimously.

15. Use Permits.

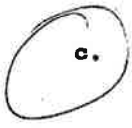
 a. John Lord, Legal Owner; Page Kelleher, Tenant, 5 Ross Common, A.P. No. 73-273-13, Local Commercial District. Request is to allow: Retail sales of handmade and custom painted furniture in 514 square feet of commercial area. One employee with 2 to 4 customers anticipated each day. Hours of operation are five days a week, 11:00 a.m. to 5:00 p.m.

USE PERMIT NO. 179. Ms. Kelleher stated that she had been in business in Sausalito for six years; primarily her business is conducted off site.

After a brief discussion, Councilmember Goodman moved approval with the condition that the applicant apply for a business license. This was seconded by Councilmember Reid and passed unanimously.

b. Maurizio Rossetti, Legal Owner; Coleman Consulting USE PERMIT NO. 180. Group, Inc., Tenant, 32 Ross Common, A.P. No. 73-272-06, Suites 230, 240, 250 and 260A, Local Commercial District. Request is to allow: Expansion of an existing work/shift scheduling consulting firm into a total of 3,011 square feet of tenant space. Eleven employees with no on-site client visitation. Hours of operation are Monday through Friday, 8:00 a.m. to 5:00 p.m. A use permit to allow the establishment of this use at 27 Ross Common was approved in 1988 for 600 square feet of tenant space with 4 employees.

After hearing from the representative, Councilmember Ried moved approval with the condition that the applicant apply for a business license, seconded by Councilmember Scott and passed unanimously. Councilmember Goodman asked that the Council consider allowing staff to approve these C-L District applications and if they have any questions, they should bring it before the Council. He noted that the present procedure could be a hardship, if the applicant has to wait four to six weeks to get on the agenda. Councilmember Reid stated that he would be in favor of one Councilmember and staff making the decision.

 c. Julia and James Lord Trust, Legal Owner; Michael USE PERMIT NO. 181. Harper, Tenant, 7 Redwood Drive, A.P. No. 73-272-15, Local Commercial District. Request is to allow: Computer consulting firm in approximately 300 square feet of tenant space. One employee with no customers anticipated each day and primarily off-site customer visitations. Hours of operation are Monday through Friday 9:00 a.m. to 6:00 p.m.

Mr. Lord stated that he is not changing the exterior of the building.

Town Planner Broad explained that this parcel contains two separate legal lots of record. Zoning regulations for the district require one parking space for every 250 square feet of net rentable floor area. Mr. Broad added that sufficient room exists on the undeveloped parcel to meet these off-street parking requirement for the office use of this building. The applicant indicated that due to financial matters, he would want to provide parking between his building and the Ross Grocery.

that each one take care of his/her own parking. He noted that other owners had been required to provide parking.

Last month the owner was directed to provide parking for this building on his adjacent vacant lot, or submit an alternate parking plan.

Mrs. Garril Page of Shady Lane wondered what would happen if the lot was sold. Mayor Brekhuis responded that this would have to be disclosed in the bill of sale.

Ms. Sue Johnson of Redwood Drive felt it might create more traffic in the neighborhood and be unsafe for children walking to school.

Councilmember Goodman moved approval with the following conditions:

- (1) Parking must be provided immediately and the office space not be used unless the parking spaces are provided.
- (2) Owner must submit a landscaping plan or alternative parking within 30 days.
- (3) The curb must be cut to provide access to the parking area, immediately.
- (4) All parking for this structure must be approved by the Council.
- (5) A business license shall be obtained from the Town of Ross prior to commencement of use.
- (5) A smoke detector shall be provided as required by the Building Department.

This was seconded by Councilmember Reid and passed unanimously.

#183

b. - Julia and James Lord Trust, Legal Owner; Carolyn Gracie, M.D., Tenant, 7 Redwood Drive, A.P. No. 73-272-15, Local Commercial District. Request is to allow: Psychotherapy office in approximately 175 square feet of tenant space. One employee with 3 to 5 clients anticipated each day. Hours of operation are Monday through Friday 8:00 a.m. to 5:30 p.m. with occasional evening or weekend day use.

(Please see Item a. above for discussion concerning these two permits)

Councilmember Goodman moved approval with the following conditions:

- (1) Parking space must be provided immediately; the office space may not be used unless parking spaces are provided.
- (2) Owner must submit a landscaping plan or alternate parking within 30 days.
- (3) The curb must be cut to provide access to the parking area, immediately.
- (4) All parking for this structure must be approved by the Council.
- (5) A business license shall be obtained from the Town of Ross prior to commencement of use.
- (6) A smoke detector shall be provided as required by the Building Department.

This was seconded by Councilmember Reid and passed unanimously.

→ #184

c. John Lord, Legal Owner; Joanna Rybak, Tenant, 7 Ross Common, A.P. No. 73-273-13, Local Commercial District Beauty salon including skin care, nails and therapeutic massage in approximately 1,600 square feet of commercial area. Four to five employees with approximately 8 customers anticipated each day. Hours

Following are the payroll expenses for the year ending June 30, 1995:

	% INCREASE	BASE PAY 06/30/94	INCR. 07/01/94	EMT EDUC. PAY	HEALTH INS	TOTAL BASE PAY	RENT EFFECTIVE 10/01/92	NOTES
BESGROVE	3X	2,250	2,318	0		2,318		5X step increase 2/15/95
CARMAZZI	3X	3,186	3,618	0		3,618		Step D to E 1/1/95
HILL	3X	3,689	3,800	50		3,850	(650)	Rent increase 3X 1/1/95
NINENBERG	3X	4,280	4,408	100		4,508		
KEMPINSKI	3X	3,186	3,282	100		3,382		Step C to D 4/8/95
PARKHURST	3X	3,875	3,991	0		3,991	(550)	Rent increase 3X 1/1/95
REIS	3X	3,875	3,991	150		4,141	(700)	Rent increase 3X 1/1/95
SCIUTTO	4.5X	5,722	5,980	100		6,080		
SELFRIDGE	3X	3,689	3,800	100		3,900		
TUCKER	3X	3,689	3,800	150		3,950		
VALLEE	3X	3,689	3,800	150		3,950		
		41,130	42,787	900	0	43,687	(1,900)	
ELIAS	3X	5,899	6,076	100		6,176		\$1070 pd once yr-Prop 4 cert.
MARCARRIO	8X	3,090	3,337	0	365	3,702		
FONTAN	8X	2,921	3,155	50		3,205		
THOMAS	3X	2,263	2,331	0		2,331		
		14,173	14,899	150	365	15,414		
MOORE	0X	\$10.50 / hr.						
FIRE RESERVES	0X	\$4.38/hr						
TREASURER	0X	\$103/mo						
CROSSING GUARDS	0X	\$6.44/hr						

Councilmember Reid moved approval, seconded by Councilmember Brown and passed unanimously.

16. Report from Committee Heads.

General Government: John Scott reported on the waste management JPA insurance. He and Councilmember Reid will get together on the insurance issue.

Public Safety: Councilmember Reid reminded everyone to drive carefully - now that school has started.

Streets & Parks: Councilmember Goodman said that he read an article concerning Madrone Trees - Fading Fast. Homes built within 100 ft. of these trees are causing 80 percent of them to die; also a factor has been the dry winters and people climbing the trees with spikes causing fungus in the open wounds. He asked that RPOA include this in their newsletter.

17. Use Permits.

a. John Lord, Legal Owner; Paul Rosenblum, Tenant. 3 Ross Common, A.P. No. 73-273-13, Local Commercial District
 Request is to allow: Office for wholesale food broker in approximately 500 square feet of commercial area. Two employees with 2 to 3 customers anticipated each week. Hours of operation are Monday through Friday, 8:30 a.m. to 5:30 p.m.
USE PERMIT NO. 189. Councilmember Scott moved approval with the condition that the applicant obtain a business license. This was seconded by Councilmember Brown and passed unanimously.



Mayor Goodman thanked Councilmembers Barry and Scott for all their hard work on this ordinance.

- 16. Reconsideration of Decision, 1/12/95, Concerning Appeal of Damage Assessment for Removal of Trees Without Permit at the Lagunitas Country Club. Upon motion by Councilmember Reid, seconded by Councilmember Scott, this matter was unanimously continued. Mr. Elias was directed to write a letter reminding the Lagunitas Club of this matter.

- 17. 84 Sir Francis Drake Boulevard (AP # 072-161-013). A Show Cause Hearing as to Why the Construction Modifications to the Garage to Allow its use as Living Space Shall not be Removed and the Garage be Returned to its Original State. Upon motion by Councilmember Barry, seconded by Councilwoman Brown, it was unanimously voted to continue this matter.

- 18. Resolution No. 1359 - Authorizing Participation in the Marin County Risk Management Authority. Public Works Director Elias asked the Council to consider adopting this resolution pending decision by the committee on whether the Town would remain with State Fund insurance or switch to Marin County Risk Management Authority. It was agreed that Mayor Goodman, Councilmember Reid and Mr. Elias would serve on the committee. Upon motion by Councilmember Reid, seconded by Councilwoman Brown, Resolution No. 1359 was adopted with the following vote: AYES: Mayor Goodman, Councilmembers Reid, Brown and Scott. Councilmember Barry abstained.

- 19. Resolution No. 1360 Authorizing Application to the Director of Industrial Relations, State of California for a Certificate of Consent to Self Insure Workers Compensation Liabilities. Mr. Elias said that this resolution is also needed pending a decision by the committee. Councilmember Reid moved approval, seconded by Councilmember Brown and passed with four affirmative votes. Councilmember Barry abstained.

- 20. USE PERMITS.

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See Permit # 200

- a. John Lord, Legal Owner, A. William & Kiki Schwartz, Tenant, 5B Ross Common, A.P. No. 73-273-13, Local Commercial District. Office for desktop publishing and design and consulting in approximately 150 to 160 square feet of commercial area. One to two employees with approximately 0 - 2 customers anticipated each day. Hours of operation are Monday through Friday, 8:30 a.m. to 3:00 p.m. Councilmember Reid moved approval with the conditions that the applicant obtain a business license from the Town of Ross and that a smoke detector be provided as required by the Building Department. This was seconded by Councilwoman Brown and passed with four affirmative votes. Councilmember Barry voted against.
- b. Donlon and Agnes Gabrielsen, 2 Glenwood Avenue, AP 73-131-18, R-1:B-A (Single Family Residence, One acre minimum). Use permit to allow a 2,152 square foot recreation building currently being constructed to be used as a guest house. A guest house is "a subordinate dwelling used as such by guests or by members of the family of the persons occupying the main dwelling on the lot, and not involving the payment of rent, either directly or indirectly."

This 3.8 acre parcel complies with zoning regulations related to both floor area and lot coverage (15% permitted.) The existing main residence is

this project. This was seconded by Councilmember Barry and passed unanimously.


Councilmember Reid then moved that the Ross Town Council, sitting as the Planning Commission, recommend that the Town Council introduce and adopt the proposed Upland Subdivision Ordinance, Zoning Ordinance and Zoning Map Amendments. This was seconded by Councilmember Barry and passed unanimously.

Mayor Goodman and the Council thanked Mr. Broad for his fine report.


THE COUNCIL SITTING AS A COUNCIL TO CONSIDER THE FOLLOWING:

COUNCILMEMBER BARRY LEFT THE ROOM.


21. USE PERMITS.

-  a. George and Deborah Mainas (tenant); Susan and Daniel Ohlson & James and Christine Howey (owners) 23 Ross Common, AP 73-273-11, Local Commercial District A real estate and private business office in 500 square feet of office space. Two to three employees with one client anticipated each day. The office will be open Monday to Saturday, six days a week, from 8:00 a.m. to 5 p.m. with occasional evening use.

USE PERMIT NO. 202. Councilmember Scott moved approval with the findings in the staff report and the condition that a business license shall be obtained from the Town of Ross prior to the commencement of business use. This was seconded by Councilmember Brown and passed with four affirmative votes. Councilmember Barry had left the room.

-  b. Hollywood Pictures (tenant); John and June Lord et al (owners). 7 Ross Common, AP 73-273-13, Local Commercial District. A temporary film production office until the end of October in 1,600 square feet of office space. Approximately 10 workers will be in the office at a time. The office generally will be open Monday through Friday, 7:30 a.m. to 10 p.m.

USE PERMIT NO. 203. Councilmember Scott moved approval with the findings in the staff report and the condition that all necessary permits and licenses shall be obtained from the Town of Ross. This was seconded by Councilmember Brown and passed with four affirmative votes. Councilmember Barry had left the room.

-  c. Richard Trono (tenant); John and June Lord et al (owner). 7 Ross Common, AP 73-273-13, Local Commercial District. A real estate brokerage office in 800 - 1,600 square feet of office space. Three to four employees with six clients anticipated each day. The office will be open six days a week, from 7:30 a.m. to 5 p.m.

USE PERMIT NO. 204. Councilmember Scott moved approval with the findings in the staff report and the condition that a business license shall be obtained from the Town of Ross prior to commencement of use. This was seconded by Councilmember Brown and passed with four affirmative votes. Councilmember Barry had left the room.

COUNCILMEMBER BARRY RETURNED TO THE COUNCIL CHAMBERS.



b. Michael B. Yandle Landscape Architect (tenant)
 John Lord (owner), 5 Ross Common, AP 73-273-13, Local Commercial District. Landscape architect in 520 square feet of tenant space. Two employees with two clients anticipated each day. The office will be open daily from 8 a.m. to 6 p.m.

USE PERMIT NO. 212. Councilmember Reid moved approval with the findings in the staff report and the following conditions: A business license shall be obtained from the Town of Ross and a smoke detector shall be provided as required by the Public Safety Department, seconded by Councilwoman Brown and passed unanimously.

24. DESIGN REVIEW APPLICATION AND A REQUEST FOR TREE REMOVAL.
 Art and Sherry Valdez, 2 De Witt Drive, AP 73-201-09, R-1:B-A (Single Family Residence, One Acre minimum.)
 Design Review to allow the construction of 6,915 sq. ft. residence with 800 square feet of terraces. A 1,100 square foot 4-car garage, a 485 sq. ft. exercise room, 325 sq. ft. cabana and 550 square foot porte-cochere ar proposed. Site improvements include a tennis court, swimming pool and an auto court. Council approval to allow the removal of on-site trees including an 8" and 17" oak; 7", 10", 26", and 32: elm trees; and 8", 15", and 15" walnut trees; and a 26" pine tree is also requested.

Lot Area	83,200 sq. ft.
Present Lot Coverage	0.0%
Proposed Lot Coverage	9.9% (15% permitted)
Present Floor Area Ratio	0.0%
Proposed Floor Area Ratio	12.6% (15% permitted)

DESIGN REVIEW NO. 85. The architect Dan Hale, said that at the last meeting the Council focused on drainage, protection of the oaks and visual impact. Councilmember Barry reminded the applicant that they should have a plan to protect the trees. Councilmember Reid asked if there was sufficient screening for the tennis court on Shady Lane. The architect pointed out that a letter of approval was received from St. John's Church and the applicant would provide sufficient landscaping. Mr. Schwartz, the civil engineer for the project, said that the Town retained Mr. Stan Bala, engineer, at the applicants' expense, to do a pier review. Mr. Valdez was given a choice of engineers and he chose Mr. Stan Bala. Mr. Schwartz did not dispute Mr. Bala's report and felt that the improvements would take care of any additional water to the drainage system. The Council heard from Mr. Bala who referred to his report of March 1, 1996, and noted the recommendations of Headwall "A"; Junction Box "B"; Catch Basin "C"; and Culvert Entrance "D". Mr. Bala said that these recommendations could cost \$30,000+. The applicant agreed to pay for these upgrades. Town Engineer Bracken addressed the Council and explained that the culvert passage under Lagunitas Road at Shady Lane is about to collapse. He estimated that repair would cost approximately \$6000 to \$7000. In response to a question, Mr. Elias said that all drainage funds had been spent for this year and he estimated the drainage fee for this project to be approximately \$7000. There was further discussion on drainage and Mr. Schwartz suggested that Mr. Valdez fix the pipe on Lagunitas as described by the Town Engineer, in lieu of paying the drainage fee. Mayor Goodman asked if any work performed by the Town on this drainage would cause a problem to the applicant's property, making the Town liable. All three engineers responded that this would not cause any additional problems. Mrs. Diane Rudden of Willow Avenue asked if this would cause any additional flooding on her property. Town Engineer Bracken responded that it would not.

had a window on the original drawings submitted to the Public Works Department but at the request of Mrs. Julie Osterloh, they made the window smaller. Mr. Wagner, Jr. said that they had done the construction according to code. He said that the attic will be used for storage only and a pull down ladder would block the hallway, making it impossible to use it for living space. They planned to keep the shutters on the window closed and install landscaping on the west side to increase the privacy.

Councilwoman Brown noted for the record a letter received from Mrs. Julie Osterloh dated May 20, 1996, requesting that the window in the attic area be removed. The letter further noted that the previous owner was already permitted to enlarge a garage for storage.

Mr. William Tony Curtiss spoke from the audience on behalf of Mrs. Osterloh and stated that the window was originally designed to permit light into the living room because it was to be left open but now it has been enclosed, eliminating the justification for a window. Mrs. Osterloh asked that the window be eliminated because it looks directly into her breakfast room.

After further discussion, Councilmember Reid moved approval of the following:

1. Construction Completion shall be extended to September 30, 1996.
2. Sheetrock shall be removed in the attic space.
3. A light and a smoke detector are permitted. No receptacles are permitted.
4. Outside area shall be cleared of debris by June 23, 1996, to the satisfaction of the Public Works Director.
5. The shutters of the attic window shall remained closed.

This was seconded by Councilwoman Brown and passed with four affirmative votes.

COUNCILMEMBER CURTISS RETURNED TO THE COUNCIL CHAMBERS.

19. USE PERMITS.

- a. Elizabeth Topper/White Planes (tenant); John Levinson (owner). 20 Ross Common, AP 73-272-10, Local Commercial District. Graphic design studio in 500 square feet of tenant space. Two employees with no on-site clients anticipated each day. The office will be open Tuesday to Friday from 9:30 a.m. to 5 p.m.

USE PERMIT NO. 216 Councilwoman Brown moved approval with the findings in the staff report and the following conditions:

1. A business license shall be obtained prior to commencement of use.
2. A smoke detector shall be provided as necessary.

This was seconded by Councilmember Curtiss and passed unanimously.

- b. Andrew Kimball/Qube Learning (tenant); John Lord (owner) 7 Ross Common, AP 73-273-13, Local Commercial District Management consultant office in 600 square feet of tenant space. Three employees with no on-site clients anticipated each day. The office will be open Monday to Friday, from 8 a.m. to 5 p.m.



USE PERMIT NO. 217 Mayor Goodman questioned the attic area and Public Works Director Elias said that this is a very complicated building. He said that Captain Vallee informed him that the attic space was preexisting. Mayor Goodman expressed concern that the office areas are getting smaller which could eliminate possible future retail stores. He asked that the minutes reflect his concerns.

Councilmember Gray felt that the Council should review the uses in the C-L District and Town Planner Broad suggested that when applicants apply for use permits in the larger buildings, a detailed floor plan of the building be included. This will be discussed further

during retreat.
Councilmember Reid moved approval with the findings in the staff report and the following conditions:

1. A business license shall be obtained prior to commencement of use.
 2. A smoke detector shall be provided as necessary.
- This was seconded by Councilmember Gray and passed unanimously.

Mr. Arthur Valdez of DeWitt Avenue said that Mr. Lord's offices have remained vacant for over a year.



- c. **Arthur and Arleen Valdez (tenant); John Lord (owner)**
3 Ross Common, AP 73-273-13, Local Commercial District. Management office in 400 square feet of tenant space. Three employees with two to three clients anticipated each day. The office will be open Monday to Friday, from 9 a.m. to 5 p.m.

USE PERMIT NO. 218 Councilmember Reid moved approval with the findings in the staff report and the following conditions;

1. A business license shall be obtained prior to commencement of any business use.
 2. A smoke detector shall be provided as necessary.
- This was seconded by Councilwoman Brown and passed unanimously.

20. DESIGN REVIEW.

David and Helen Hilliard, 88 Shady Lane, AP 73-052-17, R-1:B-10 (Single Family Residence, 10,000 sq. ft. minimum).

Design review to allow the construction of a 6-foot high redwood fence with a wood cap. The fence will be located on the rear property line along Sir Francis Drake Boulevard.

DESIGN REVIEW NO. 94. Mayor Goodman asked that the natural vegetation be allowed to grow back, rather than installing new landscaping because the natural vegetation would have faster growth.

Councilmember Gray moved approval with the findings in the staff report and the following conditions:

1. The proposed fencing along Sir Francis Drake Boulevard shall be setback at least six (6) feet from the rear property line.
2. Bushes shall be provided to screen the fence from view along Sir Francis Drake Boulevard. New bushes shall be located no more than 2 feet from the fence and maintained by the property owner southside of the right of way. Existing vegetation may be used.
3. The Town Council reserves the right to require additional landscape screening for up to one year, if necessary, and may require irrigation if deemed necessary.
4. The fence shall not exceed 6 feet in height. The Council authorized the use of the posts and end caps as shown on the submitted plans.

This was seconded by Councilmember Reid and passed unanimously.

Mayor Goodman reminded the applicants that no changes from the approved plans are permitted without Council review. The applicants indicated that they understood.

G/13/96

21. VARIANCE, DESIGN REVIEW AND USE PERMIT.

Don and Denise Ahrens, 1 Redwood Drive, AP 73-272-09, C-L (Local Service Commercial). Variance and design review to allow the conversion of an existing attic into a 485 square foot master bedroom suite. A dormer will be added to the attic facing Redwood Drive within the north side yard setback (15 feet required, 14 feet proposed) and a dormer will be added to the attic within the south side yard setback (7 feet proposed, 15 feet required.) The interior of the master bedroom will encroach within the rear yard setback (40 feet required, 30 feet proposed.)

November 12, 1998

Curtiss amended his motion to add "... and for any project involving more than 100 cubic yards of combined import and export." Councilmember Hart accepted the amendment and the motion passed unanimously.

17. Introduction of Ordinance No. 544 - Amending Title 18 (Zoning) of the Ross Municipal Code related to design review and demolition permit ordinances, Sections 18.41 and 18.50, by adding additional regulations related to demolition and construction, including the removal of exterior walls, modification of exterior elevations, site improvements and excavation and filling; and 2.) an amendment to Title 12 (Streets and Trees) to further define regulations related to the tree pruning, removal and conditions related to tree removal and pruning.

This matter was continued.

18. USE PERMIT.

McGuire Real Estate (tenant); John and June Lord, TR (owner) 7 Ross Common, AP 73-273-13, Local Commercial District.

A real estate brokerage office in approximately 800 square feet of office space. Three to four employees with four to six clients anticipated each day. The office will be open daily from 9 a.m. to 6 p.m.

Councilmember Goodman moved approval with the findings in the staff report and the following condition: A business license shall be obtained from the Town of Ross for McGuire Real Estate.

This was seconded by Councilmember Delanty Brown and passed unanimously.

19. USE PERMIT.

George Little, John and June Lord, TR (owner). 7 Redwood Drive, A.P. No. 73-272-15, Local Commercial District.

A dentistry office in approximately 850 to 900 square feet of existing office space. Two to four employees with sixteen clients anticipated each day. The office will be open variable hours 4 to 5 days a week.

Town Planner Broad said that dentistry is conditionally permitted in the C-L District. He said that correspondence received referred to this as a retail use but it is considered a professional office. There were hearings several years ago and the neighbors were concerned about four businesses being permitted. This application would provide for just one professional office. He said that he recommended that the applicant provide for as many spaces as staff determines feasible and that the parking area be of an all-weather surface rather than the present gravel and that the parcels be merged into one lot.

Councilmember Goodman said that previously the Council requested landscaping where the property abuts Marmalades coffee shop.

Doctor Little addressed the Council and said that he and his wife hope to move to the community. He spoke with the neighbors this weekend and addressed questions. He did not plan on changing the building but recognized that the parking surface needed to be improved.

Mr. Richard Thalheimer of 30 Redwood Drive said that this seemed to be a better use of the property and he supported the application.

Ms. Alyssa Rothman said that she represented the owners of 8 Redwood Drive, directly across the street. She said they did a survey of six other dentists and they determined that in order to be financially feasible, they would need five or six patients an hour, resulting in 100 car trips per day. She felt this would cause an undue burden on the area with the existing school's traffic and the many U-turns. She felt a traffic study should be done. She said that the parking is

flooding in his area and Councilmember Goodman asked that they submit photos so that he could include them with his letter.

Former Councilmember John Scott said that he was disappointed that the Corps was not addressing the homes on Shady Lane. He said that this area takes the brunt of the water from San Anselmo and Mt. Baldy and involves about 60 homes, along with the commercial district. He asked that the Corps be asked to direct this water into the creek and that the Council take a firm stand on this matter.

Councilmember Goodman said that Mr. Scott has served on the Council and attended all flood control meetings. He said that this matter has been discussed but the Corps has repeatedly said that they will not address this matter because the Towns of Fairfax and San Anselmo did not join the flood control. After further discussion, it was the consensus of the Council that they would look at the proposed 2-foot concrete walls.

13a. Construction Completion.

Art Valdez, 2 DeWitt, AP No. 73-201-09. Building Permit No. 14059, Issued: 6-24-97. Expires: 12-24-98. Request Extension to 6-24-99.

In the absence of the Town Planner, Mayor Gray read the staff report.

Mr. Valdez asked for a six-month extension but hoped to be completed prior to that time.

Councilman Goodman asked if Mr. Valdez could install perimeter landscaping. Mr. Valdez said that he had purchased 100 English Laurel plants and he would plant them.

Councilmember Curtiss did not feel that the applicant should plant on Town property - he favored keeping the rural look on Shady Lane.

Public Works Director Elias said that he did not have the manpower to maintain the right-of-ways and he depended on the residents to maintain the front of their properties.

Mr. Valdez offered to plant the right-of-way and return it to the Town.

Mayor Gray said that the planting would have to be evergreen and explained that the Council spent hours on this issue and it was agreed that the planting would be similar to the existing.

Councilwoman Delanty Brown moved approval with the condition that the laurel trees be planted. This was seconded by Councilmember Hart and passed unanimously.

14. Introduction of Ordinance No. 544 - Amending Title 18 (Zoning)

of the Ross Municipal Code related to design review and demolition permit ordinances, Sections 18.41 and 18.50, by adding additional regulations related to demolition and construction, including the removal of exterior walls, modification of exterior elevations, site improvements and excavation and filling; and 2.) an amendment to Title 12 (Streets and Trees) to further define regulations related to the tree pruning, removal and conditions related to tree removal and pruning.

This matter was continued.

15. USE PERMIT.

Andy Copperman (tenant); John Lord (owner); 5B Ross Common, AP 73-272-10, Local Commercial District. Investments/money management in approximately 150 square feet of office space. Two employees with approximately one client anticipated each day. The office will be open Monday through Saturday from 6:30 a.m. to 5 p.m.

Councilmember Goodman moved approval with the findings in the staff report and the following conditions:

December 10, 1998

1. A business license shall be obtained from the Town of Ross.
2. A local alarm shall be provided as necessary.

This was seconded by Councilwoman Brown and passed unanimously.

16. USE PERMIT.

DESIGN/communications (tenant); John and Jane Levinson (owners); 20 Ross Common, AP 73-272-10, Local Commercial District. A graphic design firm in approximately 800 square feet of office space. Three employees with approximately 2 clients anticipated each day. The office will be open daily from 9 a.m. to 5:30 p.m. This business is relocating from its present location at 5B Ross Common.

Councilmember Curtiss moved approval with the findings in the staff report and the following condition: A local alarm shall be provided as necessary. This was seconded by Councilmember Goodman and passed unanimously.

17. VARIANCE.

Jim and Jerene Donovan; 15 West Road, A.P. No. 73-171-18, R-1:B-10 (Single Family Residence, 10,000 square foot minimum). Variance to allow the removal of an existing 129 square foot upper level deck with a trellis covering. Their replacement with a 33 square foot first floor trellis and a 54 square foot second floor trellis are proposed. The existing garage rooftop deck by the residence will be raised one foot in height. A 79 square foot deck extension beyond the garage will be removed and a 25 square foot entry arbor added within the side yard setback (11 feet proposed, 15 feet required.)

Lot Area	10,769 sq. ft.
Present Lot Coverage	19.6%
Proposed Lot Coverage	19.1% (20% permitted)
Present Floor Area Ratio	37.0%
Proposed Floor Area Ratio	35.0% (20% permitted)

The existing residence is nonconforming in side yard setback. This matter was taken in summary motion. Councilmember Goodman moved approval with the findings in the staff report and the following conditions:

1. The Town Council reserves the right to require additional landscape screening for up to one year from project final.
2. Any new exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
3. The street number must be posted (minimum 4 inches on contrasting background.)
4. 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.
5. Any portable chemical toilets shall be placed off the street and out of public view.
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

Mayor Pro Tempore Strauss recommended reviewing an option of *"no fill in the 25-foot watercourse"* as an alternative for this specific project. He also felt they should deny this proposal because they have a 25-foot setback requirement, but he would be willing to continue the matter to review alternative solutions that did not add fill to that watercourse.

Mayor Byrnes desired answers to the following:


- If the impact of flood water behavior on this project is negligible; and
- Would the multiplication of similar projects down or upstream, each one having a negligible impact as a group, constitute a significant impact.

Mayor Byrnes indicated that if the answer is yes, then the Council would address whether this project could move forward with a 25-foot setback, if the act is negligible then it would be approvable.

Council Member Durst pointed out that if they must apply the watercourse setback it negates the project. Mayor Pro Tempore Strauss recommended that the applicant review alternatives to preserve the flood plain.

Mayor Byrnes asked for a motion.

Council Member Durst moved and Council Member Barr seconded, to continue the matter to a future meeting to allow the Town to conduct a peer review at the applicant's expense; and alternative solutions can be explored to pull the fill out of the 25-foot setback. The motion carried unanimously by the Council.

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18. **Local Service Commercial District Use Permit Denial No. 3**
Argane Inc. (tenant) and John Lord (owner), 3 Ross Common, A.P. No. 73-273-13, C-L (Local Service Commercial) A business office for Maranello California, a vintage Ferrari car club and dealership in 550 square feet of tenant space. Hours of operation will be 8 hours per day, 5 days a week, with two on-site employees and estimated customer traffic of 1 person per day.
- (12)

Gary Broad, Town Manager, summarized the staff report and recommended that the Council deny this application based on the findings attached in the staff report.

Edward Holl, representing, Argane Inc., felt it is a great office space and would be the perfect location to headquarter his operation. He believed it would be beneficial to the Town of Ross and he personally could not think of a better location to house his operation.

Mayor Byrnes clarified that the product is a point of contact for repairs. Mr. Holl responded that the front office operation handles all the paper work, organizes events, contracts and meetings. He pointed out that he did not know to what degree selling of merchandise would occur. He felt it is a headquarters for a vintage Ferrari operation that included fractional ownership, membership, maintenance service, events and some buying and selling of vehicles.

Mayor Byrnes opened the public hearing on this item.

Patricia Engle, Ross resident, pointed out that West America vacated that space several years ago and the space has been used for storage. She believed since most businesses downtown have very little foot traffic, this business would be a very nice entry and noted her support.

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

Mayor Byrnes pointed out that this space has not been open to the public for the last eight years. He asked staff if there is a possible link between service retail or real estate and insurance services. He asked staff if there is enough similarity to make Item 11 of the use permit to include real estate and insurance, which are intangible products. He believed this is a pretty classic service retail. Personally, he would not disqualify this use because it is not on the list because it is broad enough to include intangible services.

Town Manager Broad responded that the Planning Department reviewed the list and did not believe this list falls similar, but if the Council has a different opinion the Council can act on its opinion.

Council Member Hunter believed the staff report is well written and well within reason and he did not see a reason to approve the application. The Council agreed.



Mayor Byrnes asked for a motion.

Council Member Hunter moved and Council Member Durst seconded, to deny the application based on findings attached in the staff report. The motion carried unanimously by the Council.

Mayor Byrnes announced at 9:46 p.m. that the Council would take a short recess. The Council reconvened at 9:57 p.m.

8. **FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY OCTOBER 19, 2006 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**
9. 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.
10. The Town Council reserves the right to require additional landscape screening for up to two (2) years from project final.
11. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

Mayor Byrnes announced at 9:28 p.m. that the Council would take a short recess and then reconvene with the next agenda item.

-   d. **Local Service Commercial Use Permit** **UP 324CL**
Brown Eyed Girl Inc. (tenant) and John Lord (owner), 3 and 5 Ross Common, A.P. No. 73-273-13, C-L (Local Service Commercial.) A retail store selling women's, teen, and children's apparel as well as a business office in a combined 1,400 square feet of tenant space. Hours of operation will be Tuesday through Sunday from 10am to 6pm, with three on-site employees and estimated customer traffic of twenty people per day.

Gary Broad, Town Manager, summarized the staff report and recommended that the Council approve the project subject to findings and conditions in the staff report. Staff noted that the Council received a letter questioning the use opening at 10:00 a.m. on a Sunday morning. The applicant indicated that they are doing an outreach program to teach young girls about body image and clothing.

Mayor Byrnes opened the public hearing on this item.

Charlotte Levin, Ross resident, objected to the retail hours on Sunday and felt it sets a bad precedent in Town. She also expressed concern for traffic and parking problems.

The Brown Eyed Girl representative noted that currently they have two stores in San Francisco and she is moving to Ross and hoped to open a store in town.

Council Member Hunter felt it is an appropriate use and had no objection.

Council Member Durst agreed with the retail store and had no objection to the hours. Also, she added that if the downtown were as lively as San Francisco it would be great for Ross.

Mayor Byrnes concurred and pointed out that they turned down a quasi-commercial use in the hopes to find such a retail store and the Ross citizens desired such a business serving young girls, so he supports the retail operation.

Ms. Levin reiterated her concern for traffic congestion and parking problems as well as objecting to Sunday hours.

Council Member Barr noted that downtown parking problems would be addressed in the General Plan.

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

Mayor Byrnes asked for a motion.

Council Member Durst moved and Mayor Pro Tempore Strauss seconded, to approve the Use Permit for Brown Eyed Girl Inc. The motion carried unanimously by Council.

Conditions


1. **THIS PROJECT SHALL COMPLY FULLY WITH THE APPROVED PROJECT DESCRIPTION.**
2. Prior to the commencement of use, a business license shall be obtained from the Town of Ross Building Department. Failure to keep current with Town of Ross business license requirements and business license taxes shall be cause for the revocation of this conditional use permit approval.
3. **ANY SIGNAGE ASSOCIATED WITH THIS USE IS SUBJECT TO THE REVIEW AND APPROVAL OF THE PLANNING DEPARTMENT PRIOR TO ITS INSTALLATION.**
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 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.

FROM THE PROPERTY IN COMPLIANCE WITH RMC CHAPTER 12.12; AND 8.) A 24-HOUR MONITORED ALARM SYSTEM IS REQUIRED.

18. The applicants shall pay required Town fees of \$3 for every cubic yard of off-haul resulting from this project. Final off-haul amounts shall be calculated by the project civil engineer with calculations submitted to the Director of Public Works prior to the issuance of a building permit.
19. 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.
20. 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.
21. 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.
22. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY APRIL 17, 2007 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
23. 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.
24. 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.

Item Removed from Consent for Discussion:

e. Commercial Use Permit UP 332CL



Donna Doran - Breaking Away Bicycles (tenant) & John Lord (owner), 7 & 9 Ross Common, A.P. No. 73-273-13, C-L (Local Service Commercial). A retail bicycle shop in 1,600 square feet of tenant space. Hours of operation will be seven days a week from 10 am to 7 pm, with three on-site employees and an estimated customer traffic of twenty to forty people per day.

Town Manager Gary Broad described the request to allow a retail bike shop in two-street fronting retail spaces at 7 and 9 Ross Common. Staff's opinion is that the proposed use was similar to other uses permitted conditionally within the commercial district and

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therefore, the Council could approve, by use permit, the application. Staff felt the use was geared to Ross residents and provided findings and conditions of approval for the use and noted a letter was submitted by a neighbor of the commercial district who was present to speak.

Mayor Strauss questioned whether the applicant would return with signage, and Mr. Broad said one condition requires that signage be submitted for review and approval by the Planning Department prior to installation and prohibits A frame signs. He noted on the building, there may be some questions or issues relating to the property owner rather than the tenant, said there were awnings on the building and there was a question regarding the awning height. The Council could make it a condition of approval that would require the property owner to be responsible to raise the awnings; however, he suggested discussing this with the applicant first.

Donna Doran, applicant, Breaking Away Bicycles, said they recognize that the awning is too low, said the building owner has agreed to raise it with the approval of the Town and it would be a one-colored, clear awning. The current awning of the other shops was also being removed and would match the building. She noted there was an existing sign post which would be utilized for their sign, felt Ross was environmentally conscious and would benefit from her business.

Council Member Durst questioned whether or not the applicant intended to locate bike racks in the front of the business, and Ms. Doran noted there was a rack on the side of the building that people could use. She noted items were also listed in their lease of obtaining approval.

Public Comment:

Margaret Sheehy, voiced concerns about traffic and parking in the center, said there were already two bike shops in San Anselmo; one just beyond the edge of Ross.

Mayor Strauss said the Council was looking at ways of increasing the number of parking spaces downtown and he felt it was a simple solution to add more parking.

Charlene Levin, said she wrote a letter, echoed the comment of the existing two bike shops with in a one mile radius, voiced concerns about the hours of operation, concerned about commercial product advertisement signage in windows, concerned about bike racks located in the sidewalk, and an increase in noise and traffic. She said the previous tenant was one person with about five potential customers per day and the new use would create about 40 new customers. She felt parking was a big issue and hoped something would be done in the future about tenant and customer parking. She said she lives three houses down from the center and tenants park in front of their house all day long. She wondered if tenant parking could be designated rather than having it impact the residential area.

Ms. Doran said there were numerous bike shops in Marin County; however, hers would have a niche in that at least 50% or more of the merchandise would be dedicated to women's bikes and accessories. She said there was bike traffic coming through the town

and she felt the hours needed to be extended for opportunities to shop at those hours. She noted there was also a bike path behind the shop and they would get traffic into the shop that way.

Council Member Hunter confirmed Ms. Doran was an experienced operator and that she currently ran the shop at Angel Island. Ms. Doran said they would be looking more for upscale window dressings and not gaudy brand names and hoped residents would utilize the shop.

Councilmember Barr was noted present at 7:21 p.m.

Council Member Hunter was in favor of approving the bike shop and any business that would draw people into town. He felt the residential district needs help, shared parking concerns, said they did a town tour this morning with an urban consultant, said they could re-stripe parking to diagonal, double the amount of parking, and have the added effect of the thinning the roadway and making people slow down.

Council Member Byrnes said he was in favor of the bike shop, felt it was a good use, said it would draw traffic, and felt if we want a vital downtown customers are needed. He felt the signage could be regulated and a "no blinking neon sign" condition could be added if needed.

Council Member Durst felt the concern voiced was that windows not advertise shirts and posters, so she felt creative and lively displays would be called for and referenced City Cycles in San Francisco as having nice displays.

Mayor Strauss supported approval of the use permit and asked that advertising should be tasteful.

ACTION: It was M/S (Durst/Hunter) to approve Commercial Use Permit for Breaking Away Bicycles (tenant) & John Lord (owner), 7 & 9 Ross Common, A.P. No. 73-273-13, C-L (Local Service Commercial); A retail bicycle shop in 1,600 square feet of tenant space; Hours of operation will be seven days a week from 10 am to 7 pm, with three on-site employees and an estimated customer traffic of twenty to forty people per day. Vote: 4-0-1 (Barr abstained).

Conditions

1. THIS PROJECT SHALL COMPLY FULLY WITH THE APPROVED PROJECT DESCRIPTION.
2. Prior to the commencement of use, a business license shall be obtained from the Town of Ross Building Department. Failure to keep current with Town of Ross business license requirements and business license taxes shall be cause for the revocation of this conditional use permit approval.
3. A STREET NUMBER MUST BE POSTED (MINIMUM 4 INCHES ON CONTRASTING BACKGROUND) SUBJECT TO THE APPROVAL OF THE FIRE MARSHAL.
4. ANY SIGNAGE ASSOCIATED WITH THIS USE MUST BE SUBMITTED FOR THE REVIEW AND APPROVAL OF THE PLANNING DEPARTMENT PRIOR TO ITS

INSTALLATION. A-FRAME SIGNS, AND ANY OTHER UNAPPROVED SIGNAGE, ARE SUBJECT TO IMMEDIATE IMPOUNDMENT BY THE ROSS POLICE DEPARTMENT.

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

End of Consent Agenda.

15. Design Review No. 495 and Hillside Lot No. 113

Joyce Konigsberg, 58 Wellington Avenue, A.P. No. 72-121-44, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum). Design review and hillside lot hazard zone 3 use permit application to allow the following: 1.) construction of a 664 square foot addition to the east of the existing residence including a single-car garage, a storage room, and an indoor pool room within guideline watercourse setbacks (50 feet recommended, 29 feet proposed) and a 160 square foot dining room addition on the western elevation of the existing residence within guideline watercourse setbacks (50 feet recommended, 32 feet proposed), 2,981 square feet of total floor area is proposed*; 2.) complete redesign of the exterior of the existing residence including changes to window size and location, a new roofline, and deletion of the existing clerestory ridgeline window; 3.) construction of a new deck to the east and north of the existing residence within guideline watercourse setbacks (25 feet recommended, 4.5 feet proposed); 4.) construction of a 116 foot long, 7.5 foot tall, retaining wall to the rear of the residence; 5.) construction of an approximately 116 foot long, 8 foot tall, catchment fence at the rear of the property and upslope from the residence; and 6.) 280 cubic yards of cut and 50 cubic yards of fill.

Lot area	22,046 square feet
Existing Floor Area Ratio	9.9%
Proposed Floor Area Ratio	13.5% (20% permitted*)
Existing Lot Coverage	9.9%
Proposed Lot Coverage	13.5% (20% permitted)

*The slope of this lot is 34%. The hillside lot ordinance would recommend a maximum floor area of 1,764 square feet.

The property is nonconforming in covered parking (1 space required, 0 existing)

Town Manager Gary Broad said this item was before the Council last month, the Council was generally supportive, but there were some revisions needed which related to



c. Local Service Commercial Use Permit No. 339CL

Lee and Elaine Horschman - Gala Boutique (tenant) & John Lord (owner), 3 Ross Common, A.P. No. 73-273-13, C-1 (Local Service Commercial). A retail women's clothing store in 500 square feet of tenant space. Hours of operation will be 11 am to 6 pm Monday through Saturday, with one on-site employee and an estimated customer traffic of ten people per day.

Mayor Strauss asked for a motion.

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

Conditions

1. THIS PROJECT SHALL COMPLY FULLY WITH THE APPROVED PROJECT DESCRIPTION.
2. Prior to the commencement of use, a business license shall be obtained from the Town of Ross Building Department. Failure to keep current with Town of Ross business license requirements and business license taxes shall be cause for the revocation of this conditional use permit approval.
3. A STREET NUMBER MUST BE POSTED (MINIMUM 4 INCHES ON CONTRASTING BACKGROUND) SUBJECT TO THE APPROVAL OF THE DEPARTMENT OF PUBLIC SAFETY.
4. ANY SIGNAGE ASSOCIATED WITH THIS USE MUST BE SUBMITTED FOR THE REVIEW AND APPROVAL OF THE PLANNING DEPARTMENT PRIOR TO ITS INSTALLATION. A-FRAME SIGNS, AND ANY OTHER UNAPPROVED SIGNAGE, ARE SUBJECT TO IMMEDIATE IMPOUNDMENT BY THE ROSS POLICE DEPARTMENT.
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.

d. Lot Line Adjustment No. 3 and Variance No. 1597

Ken and Kerry Keefe, 648 Goodhill Road, A.P. Nos. 74-291-01, 74-291-02, & 74-291-03, R-1:B-5A (Single Family Residence, Five Acre Minimum) and Horst and Helen Meyer, 3 Quail Ridge Road, A.P. No. 74-291-04, R-1:B-5A (Single Family Residence, Five Acre Minimum). Lot line adjustment to allow the transfer of 2,282 square feet from 3 Quail Ridge Road to 648 Goodhill Road. 3 Quail Ridge Road currently has a lot area of 119,928 square feet and is proposed at 117,646 square feet of lot area. 648 Goodhill Road currently has a lot area of 134,067 square feet and is proposed to become 136,349 square feet.

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


c. **32 Ross Common, Samantha Lyman Interiors Commercial District Use Permit, File No. 1617**

Samantha Lyman – Samantha Lyman Interiors (tenant) & Giovanna and Maurizio Rossetti (owners). 32 Ross Common, A.P. No. 73-272-06, C-L (Local Service Commercial). An interior design office use in a 1,500 square foot, second floor, tenant space. Proposed days and hours of operation are Monday through Friday 8:30 am to 5:30 pm, with up to 4 on-site employees and estimated client traffic of 2 people per day.

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

Conditions

1. This project shall comply fully with the approved project description.
2. Prior to the commencement of use, a business license shall be obtained from the Town of Ross Building Department. Failure to keep current with Town of Ross business license requirements and business license taxes shall be cause for the revocation of this conditional use permit approval.
3. Any signage associated with this use is subject to the review and approval of the Planning Department prior to its installation.
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 contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

 d. **5 Ross Common, Number 5 Commercial District Use Permit, File No. 1622**
Maureen Vogel – Number 5 (tenant) & John & June Lord (owners). 5 Ross Common, A.P. No. 73-273-13, C-L (Local Service Commercial). A retail use in an 800 square foot space for a boutique featuring high quality women's handbags, wallets and scarves, as well as men's leather wallets, computer bags and wine totes. Proposed days and hours of

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operation are Monday through Saturday 11:00 am to 6 pm and Sunday 11:00 am to 5:00 pm. The boutique would have one to two on-site employees and estimated client traffic of 10 visits per day.

Council Member Cahill moved and Council Member Durst seconded, to approve Consent Calendar Item "d" as presented. Motion carried unanimously.

Conditions

1. This project shall comply fully with the approved project description.
2. A local alarm system is required (contact Ross Public Safety Department for additional information).
3. Prior to the commencement of use, a business license shall be obtained from the Town of Ross Building Department. Failure to keep current with Town of Ross business license requirements and business license taxes shall be cause for the revocation of this conditional use permit approval.
4. Any signage associated with this use is subject to the review and approval of the Planning Department prior to its installation.
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.

e. Variance and Design Review No. 1623

Jeff and Cate Babcock, 14 Redwood Drive, A.P. No. 73-271-03, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). Variance and design review to permit alteration of the front façade of the residence to include an additional garage door within the side setback (15 feet required, 8 feet proposed). The existing driveway would be widened to access the new garage space. A new 4-foot stone and wrought iron wall is proposed adjacent to the street right-of-way with 5.5-foot stone columns on either side of the driveway.

The existing residence is nonconforming in side yard setbacks.

Mayor Strauss noted that the applicants indicated that the driveway would be narrower from what is originally shown in the plans, so that should be added to the conditions. Town Manager Broad agreed to add a condition as follows: "that the applicant's will submit a revised driveway plan to narrow the driveway to the entry approach."

Council Member Cahill moved and Council Member Durst seconded, to approve Consent Calendar Item "e" with the additional condition. Motion carried unanimously.

Conditions of Approval

1. *The applicants' shall submit a revised plan for planning department approval to narrow the driveway to the existing driveway approach width.*
2. The Town reserves the right to require additional landscaping in the front yard for 2 years from project final.
3. This project shall comply with the following requirements of the Department of Public Safety: 1.) A street number must be posted {minimum four inches on contrasting background}; 2.) A local alarm system is required.
4. ANY PERSON ENGAGING IN BUSINESS WITHIN THE TOWN OF ROSS MUST FIRST OBTAIN A BUSINESS LICENSE FROM THE TOWN AND PAY THE BUSINESS LICENSE FEE. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
5. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice.
6. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. Red-lined plans showing any proposed changes shall be submitted to the Town Planner prior to the issuance of any building permits.
7. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY NOVEMBER 9, 2007 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
8. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
9. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

End of Planning Consent Agenda.

14. **29 Sir Francis Drake Boulevard, Sam Variance and Design Review, File No. 1612**
Sterling Sam, 29 Sir Francis Drake Boulevard, A.P. No. 73-242-10, R-1:B-10 (Single Family Residential zoning district, 10,000 Square Foot Minimum Lot Size). Variance and design review to allow an existing one-story residence to be raised approximately 7 feet to a new maximum height of 23 feet 9 inches. A 7-foot high understory is proposed below the first level. The applicant also proposes a new entry porch and stairs, raised deck and trellis in the area of the existing rear courtyard, and a new 540 square foot loft area above the garage.

Samantha Lyman, neighbor, stated that the owner has gone out of his way to consult with all surrounding neighbors and believed they have done a great job.

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 Hunter believed it is within their purview to determine if it is a structure and he determined it as a driveway and is in favor of approving the project. Council Member Skall concurred. He also reminded everyone that they had agreed the existing garage was to be removed.

Mayor Pro Tempore Strauss agreed, but found the legal issue troubling. Council Member Martin liked the project, but is also confused about the legal issue.

Mayor Cahill believed the consensus is to approve as submitted with the idea to place on the consent agenda next month to work out the legal issue in regard to the variance for the structure in order to protect the owner and the Town. The Council agreed.

Mayor Cahill asked for a motion.

Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to continue the matter to the May 14, 2009, Town Council meeting. Motion carried unanimously.



22. 3 Ross Common, Commercial Use Permit No. 1734

John and June Lord, (owner), and SL:ID Studio/Samantha Lyman and Samantha Penman and Alain Pinel Realtors (applicants), 3 Ross Common, A.P. No. 73-273-13, Local Service Commercial District (C-L). A Local Service Commercial District use permit application for a retail home furnishings and housewares boutique shared with a real estate office in a 500 square foot, ground floor, tenant space. Proposed days and hours of operation for the retail use are 11 am to 5 pm Monday through Saturday. The real estate office use would operate 10 am to 4 pm Monday through Sunday. There would be one to three on-site employees and estimated customer traffic of five to twenty five people per day.

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

Council Member Hunter asked staff how this use would be policed or controlled to ensure it is not only an office use. Senior Planner Semonian responded that conditions of approval are very specific in that regard.

Mayor Pro Tempore Strauss asked staff if floor space is allocated to the real estate use. Senior Planner Semonian noted that it is very minimal. It is along the wall.

Samantha Lyman, applicant, noted that they primarily sell home furnishings. The bulk of their sales is goods, not services. They are keeping the design building across the street. The

sofas are examples of furniture they do sell. They also keep a binder showcasing their pieces. The real estate agency will use the space to welcome their clients to Ross.

Craig Slivestri, Alain Pinel Realtors, stated that this will provide visible presence in Town and provide a comfortable and attractive place to meet their clients to discuss and browse through listings, and plan a tour. It is a prototype and this idea was born in Ross and it is exciting for their company because it is a new concept. This partnership is a paring of complimentary businesses.

Council Member Martin asked if a business plan was developed. Ms. Lyman crunched the numbers and it makes sense. Samantha Penman, applicant, stated that sales tax over the last quarter was over \$100,000, which can only get better with this joint venture. It benefits the Town and brings traffic to the store, which will benefit surrounding businesses as well. Ms. Lyman stated that they are bigger on public relations. Their success has been pretty organic. They sell home furnishings, fixture, candles and accessories. They routinely stock inventory and sell it, so it depends what they find. They may turn merchandise every three months to keep it fun, fresh and appealing.

Council Member Martin asked how they would accomplish this goal without confusing a passerby. Ms. Lyman explained that they have the same black and white color scheme. Signage will be simple, so it is all about the graphics. Sharing space is not confusing. The messaging is in the windows. It will not leave question about what they are selling. They have two other employees on occasion, but the two of them have staffed their business so far.

Real Estate Agent Slivestri noted that five agents are from Ross and no one is assigned to this office, it will just be a meeting place. All five Ross residents are mobile agents. They have a complete office at home. There will be two workstations during the hours of operation. There will be no pictures in the windows. They will have a flat screen TV displaying listings and showcasing properties. He further believed the lease is five years.

Mayor Cahill opened the public hearing on this item.

Janell Hobart, Ross resident, noted that Ms. Lyman is extremely talented and successful and noted her support for the application.

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

Mayor Pro Tempore Strauss liked the idea, but is not sure if this proposal goes along with the downtown plan.

Council Member Martin shared the concern for the downtown plan since that is a very strong corner. Currently, they have a horrible retail condition. He feels for the owner that this is a viable alternative. He wondered if there is a way to approve as a conditional use to be reviewed after some period of time. Senior Planner Semonian explained that use permits run with the land and cannot be revoked after a certain time. Ms. Lyman indicated that if a short-term condition were placed on this application, they would not proceed because of the investment in the business.

Council Member Skall stated that this is an applicant willing to move forward with a business downtown and believed the Council should approve this application.

Council Member Hunter really thinks it is very creative and must take their word that agents will meet clients and move on, not work from the space. He wished them much success. Real Estate Agent Slivestri noted that a floor agent would be present to write documents.

Mayor Cahill found the application terrific and noted his support.

Mayor Cahill asked for a motion.

Council Member Hunter moved and Council Member Skall seconded, to approve the Use Permit as outlined by staff. Motion carried unanimously.

3 Ross Common Use Permit Conditions:

1. This use permit shall allow the joint operation of a retail home furnishings and housewares boutique and real estate office in conformity with the description, hours and days of operation in the use permit application, and subject to the following conditions of approval.
2. Any expansion or modification of the approved use (such as operation of only the real estate office at the space) shall be through a subsequent public hearing by the Town Council.
3. This use permit shall expire within one year from the date of approval if not exercised.
4. The applicant is responsible for ensuring that all improvements comply with disabled access regulations, regardless of whether a building permit is required for the work.
5. A sign permit is required from the Town prior to installation of any new signage. Any exterior modifications, including repainting, shall require approval by the Planning Department staff. Town staff shall review any proposed signage with two members of the ADR Group prior to approval.
6. Any encroachment into the public right of way, such as for installation or replacement of awnings, signage, or seating, requires prior approval of a revocable encroachment permit from the Director of Public Works.
7. This project shall comply with the following requirements of the Department of Public Safety: 1.) A street number must be posted {minimum four inches on contrasting background}; 2.) A local alarm system is required.
8. NO CHANGES FROM THE APPROVED PLANS AND USE SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.
9. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee.
10. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants

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

23. 68 Bridge Road, Design Review No. 1666

Janell Hobart, 68 Bridge Road, A.P. No. 73-302-11, R-1: B-20 (Single Family Residence, 20,000 Sq. Ft. Minimum Lot Size). Design review to allow replacement of the existing 6 foot 10 inch automobile gate on Bridge Road, in the front yard, with a 6-foot tall, solid wood, gate.

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

Janell Hobart, applicant, stated that her clients are very generous to Ross and they are present, accessible and friendly, but had recent issues that were very scary. They feel exposed. They have large dogs and people are feeding them. They are unable to rest comfortably at their home. She further noted that the gate is setback 29 feet from the edge of the road.

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 and action.

Council Member Martin and Mayor Pro Tempore Strauss supported the application.

Council Member Hunter expressed concern for the application. He really thinks they can have 50% of the gate open and still provide a more substantial gate so their security is not threatened. He wanted to avoid the appearance of a long wall.

Mayor Cahill personally felt they have approved gates that have been recessed from the street. The 50% open gate policy makes sense at the street, but when recessed it does not make sense. He supported the application.

Mayor Cahill asked for a motion.

Mayor Cahill moved and Mayor Pro Tempore Strauss seconded, to approve the application with the solid gate, including the findings and conditions outlined in the staff report. Motion carried 4-1. Hunter opposed.

68 Bridge Road Conditions:

1. The proposed gates shall be designed and constructed in substantial conformance to the plans.
2. This project shall comply with the following recommendations to the satisfaction of the Department of Public Safety: 1.) a street number must be posted (minimum 4 inches on contrasting background); and 2.) a Knox Lock box is required if the gate is motorized; and 3.) all dead or dying flammable materials shall be removed and cleared per Ross Municipal Code chapter 12.12.