



Agenda Item No. 11b.

Staff Report

Date: October 3, 2014

To: Mayor Elizabeth Brekhus and Councilmembers

From: Elise Semonian, Senior Planner

Subject: Ryan, Use Permit Request for Magnolia Gallery, custom framing business, 26 Ross Common, File No. 1974

Recommendation

Council approve use permit subject to the findings and conditions attached.

Project Summary

| | |
|---------------|---|
| Owner: | John Levinsohn |
| Applicant: | Theresa Ryan, Magnolia Gallery |
| Location: | 26 Ross Common |
| A.P. Number: | 73-272-10 |
| Zoning: | Local Service Commercial District (C-L) |
| General Plan: | Local Service Commercial "Downtown Special Planning Area" |
| Flood Zone: | Zone AE (High Risk Area with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage) |

A Local Service Commercial District use permit application for a custom framing/art gallery business in the approximately 450 square foot space previously occupied by an antique furniture restoration business. The business would also sell home accessories. The business would have one employee (the owner/applicant), occasional part time help, and 1-3 customer visits per day. Proposed office hours are Tuesday through Saturday 10 a.m. to 5:30 p.m. and by appointment.

Background and Project Description

The applicant is proposing to open a custom framing business in a vacant space. The business would also sell home accessories. The business currently operates on Magnolia Avenue in downtown Larkspur.

The project site is developed with a commercial building with three storefront tenant spaces and no onsite parking. Number 20 is occupied by a law office. Number 22 is Ross Café.

Antique Furniture Restoration occupied Number 26 for a furniture restoration shop specializing in 18th century European antiques from 1984 until May 2014. Hours of operation were 8-5 Monday through Saturday. Zoltan Szegedi was the owner and employee. The business had limited retail and limited customer traffic. This space is currently vacant and the property owner recently upgraded the interior.

Prior conditionally permitted uses at the site were antique shops (1989 and 1990), wig making (1988) and graphic design studios (1996 and 1998). A skin care salon was denied in 1989. The owner indicates the spaces have also been used for retail (Squirrel's Nest 1976, dress shop 1978).

Discussion

The only use permitted in the downtown area by right is multifamily housing mixed with conditionally permitted commercial uses. The zoning code lists other uses the Town permitted by right until 1985, but now must secure a discretionary use permit from council. Conditional use permits run with the land, not the applicant, and are transferable.

Uses allowed with council approval include "shoe sales and repair," "gift shops," "appliance, radio and television sales and service shops," and any use the Town Council finds to be similar to the conditionally permitted uses. (R.M.C. Section 18.20.030(a)) The custom framing business is similar in character to the listed retail sales and service businesses. The use is also similar in character to the prior antique furniture restoration business, which was determined to be consistent with the listed uses when it was established.

Staff considers the former antique restoration use "nonconforming" because it was lawfully established and maintained, but is now conditionally allowed, but does not have a conditional use permit. Town regulations permit nonconforming uses to continue and they may be changed to another nonconforming use "of the same or more restricted classification" (Ross Municipal Code Section 18.52.020). The proposed use and antique furniture restoration business are very similar in operational characteristics with custom work that involves minimal retail sales, few customer visits, and low parking demand. Council may determine the use is similar to the former use and no use permit would be required.

Pursuant to Ross Municipal Code Section 18.20.030(b), in order to grant a use permit the Town Council must make a number of findings (see findings, below). Staff believes the Council may make the required findings in support of the use permit and recommends the Council approve the Conditional Use Permit based on the findings below and subject to the conditions in Attachment 1.

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. The proposed use of the space expands the retail nature of the space and will enhance the downtown area. The applicant indicates she has many current Ross customers.

There is no onsite parking for the three tenant spaces. Employees and customers park in the Post Office parking lot or on local streets. Since the proposed use will have the same operational characteristics and full time employees as the prior use, staff believes the parking demand will not change.

Fiscal, resource and timeline impacts

The Town currently serves the site and there would be no operating or funding impacts associated with the project. If approved, the project would be subject to annual business license fees. 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

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. 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 use, which is similar to the antique furniture restoration business that it replaces, would not be detrimental to the health, safety and morals since 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.

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

The proposed space was previously used for furniture restoration and the property owner has updated the interior for the proposed use. The building is a commercial building that does not need modifications to accommodate the business.

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 custom framing use should generate the same traffic and parking demand as the previous furniture restoration business. 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) The zoning regulations require approval of a Conditional Use Permit (CUP) by the Town Council. The proposed use is consistent with the zoning, as it includes activity similar to other retail sales and service business uses. 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 since there is a single employee that resides near the town.

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 following General Plan policies are applicable to the proposed use:

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.

The Action List of 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 proposed custom framing business would be in a ground floor storefront location. The framing business is partially retail in nature and will have a transparent storefront with products on display, enhancing the curb appeal and value of the store and downtown area.

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 custom framing business use will not negatively impair property values or planned development or future land use in the area. A business with similar characteristics has operated in the past in harmony with uses in the area.

B. Conditions of Approval, Commercial District Use Permit Application for Magnolia Gallery at 26 Ross Common

1. This approval shall allow the establishment and operation of an approximately 450-square-foot custom framing business, with retail sales of home accessories, within 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 5:30 p.m. Tuesday through Saturday and by appointment). The business will have up to two employees and estimated customer traffic of 1-3 people per day.

2. 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.

3. 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.

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

5. 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.

6. 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.

7. 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.

8. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee.

9. 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.

10. 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.

11. 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.

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

Version 8/23/13



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

COMMERCIAL DISTRICT USE PERMIT APPLICATION

Legal Owner of Parcel John L. Levinsohn
Mailing Address 36 Corte Oriental, Greenbrae
Home Phone _____ Business Phone 461-7100
Fax _____ Email _____

Assessor's Parcel Number _____
Parcel Address 26 Ross Common

Applicant (if not owner) Theresa Ryan
Mailing Address 250 Magnolia Avenue, Larkspur
Home Phone 686-1849 Business Phone 924-7702
Fax _____ Email ryantheresa@gmail.com

Proposed Use

A Commercial District Use Permit is hereby requested to permit the following:
Magnolia Gallery was established in Larkspur in 1995. I own and operate this custom framing/art gallery along with selling home accessories. I create fine quality custom designs responding to my clients needs and desires.

Version 8/23-13

Magnolia Gallery also creates
visually stimulating window displays.

Net rentable square

footage approx. 450

Number of persons working on site myself & occasional part-time help

Work days and hours Tues - Sat 10 - 5:30 and or by appointment

Number of client or customer visits per day 1-3

Number of parking spaces available for the proposed

use street parking - I live less than 1/2 mile away and plan on walking or riding a bicycle when possible

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.

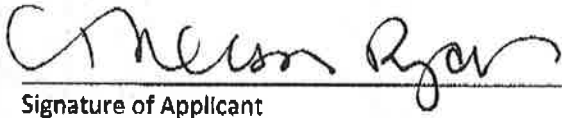
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Signatures of Owner and Applicant

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.


Signature of Applicant

9.25.14
Date

Signature of Owner

Date

Town Email List

If you would like to receive copies of upcoming Town Council agendas and other items of interest to Ross residents please give us your email address below.

Email(s) _____

8. Variances.

- a. John Ribeiro, Loma Linda Ave. (72-162-06)
10,000 sq. ft. zone. Variance and Hillside Lot Application, continued from April 13 meeting. Since neither the applicant nor his representative appeared, both applications were considered withdrawn and the matters closed.
- b. Dorothy S. Mayer and Anne P. Rogers - Squirrel's Nest, 7&9 Poplar Ave. Commercial Area (73-272-10)
Mrs. Ted Flannigan, manager of the Squirrel's Nest, presented a sketch of a hanging two-sided sign, 48" x 5' in length, to replace two previously used signs, 128 x 5' and 4' x 8'. The building has a 30' frontage. She stated the owners felt a hanging shield type sign would be more attractive and more in line with the character of the Town. The matter was put over to the June meeting to allow the Council to study the matter further and try to reduce the size of the sign.
- c. John Woodward Johnson, 193 Prospect Ave. (72-071-18) 10,000 sq. ft. zone.
Increase existing one car non-conforming garage to provide parking for two cars. Addition - 13'6" x 26'3" with covered walk at rear of existing garage. Present garage has 12" setback, proposed addition to be in line with existing structure. Present lot coverage - 22.7%, Proposed lot coverage - 25.9%.
Mr. Johnson and Architect McDonald presented plans and arguments in favor of the addition, which would eliminate parking cars on the street and bicycles on the sidewalk area. Overhead garage doors were provided in the plan. Feeling that the addition would decrease a traffic hazard, Mrs. Lewis moved that the variance be granted, with the condition that the walkway not be attached to the house. Mr. McAndrew seconded the motion, which was passed with Mr. Jones dissenting.
- d. Joseph D. Bernat and Marjorie H. Bernat, 145 Sir Francis Drake Blvd. (72-231-15) Acre Zone.
Construction of detached 15' x 21' carport, 8' from property line on south side (25' required) 18,724 sq. ft. lot in acre zone. Present lot coverage - 15.4%, Proposed lot coverage - 17%.
Mr. Bernat presented plans and explained the need to park three cars. Following discussion, Mr. McAndrew moved denial of the variance request

5-11-62

4.

1. Receipt of letters indicating availability of sewer and utility service from the appropriate agencies.
2. Proper disposition of any existing or proposed utility easements now crossing or to cross the proposed parcels for service to adjacent parcels.
3. Filing of a Parcel Map or Record of Survey Map delineating all parcels.

Mr. R. Jones seconded the motion, which was unanimously passed.

10. Variances.

a. No. 299. Dorothy S. Mayer and Anne P. Rogers - Squirrel's Nest.

Replacement of two signs at 7&9 Poplar Ave. in the Commercial area (73-272-10) Mrs. Mayer and Mrs. Rogers displayed a handsome sign, 4' wide x 3' in length, designed to hang perpendicular to the building. Mr. R. Jones produced pictures of the commercial area, which showed nearly all signs and awnings to be in violation of the sign ordinance. Mrs. Lewis moved the variance be granted, Mr. R. Jones seconded the motion, which was unanimously passed.

b. No. 300. Dr. and Mrs. David F. Merten,
112 Brookwood Lane (73-261-13) 10,000 sq. ft. zone. Extend 2' and enclose porch area of existing residence; also enlarge small bedroom over porch area. Extension will increase existing non-conforming 9'6" sideline setback to 8'6". Present lot coverage - 15%, proposed lot coverage - 16%. Architect Van Logan presented the plans and Dr. Merten explained he had inherited a fine collection of books within the last year and needs a library to house them. Mr. Martinelli moved the variance be granted, Mrs. Lewis seconded the motion and it was unanimously passed.

6-8-67

11. Discussion of proposed Ordinance setting forth regulations governing use of Natalie Coffin Greene Park.

Mr. Elliott offered to write to the League of Calif. Cities concerning rules and regulations of private parks and to draft an ordinance, for presentation at the July meeting, prohibiting motorcycles, motorscooters, buses and house trailers in the Park, limiting fires in pits only, limiting the number in organized groups, and stating open hours for the Park.

The budget includes \$500.00 for after-School Recreation, which is to be offered on the same basis as Town participation in the Summer Recreation Program -- The Town will underwrite the program in the amount of \$500.00 with the understanding that it is to be the last available source tapped, that the Board will continue to seek outside assistance and attempt to put the program on a break-even basis.

Mr. Jones moved that the tentative budget be adopted, Mrs. Osterloh seconded and the motion was unanimously passed.

23. Other Business.

1. Unanimously agreed to remove the two NO PARKING - ANY TIME signs on Madrona Ave., as requested by Mr. Norman Steur, Jr.

2. Denied a request by City of San Anselmo Public Works Dept. for the Town to enter into a joint powers agreement with San Anselmo for maintenance to the center line of Oak Ave. where it abuts property within the Town of Ross.

3. Heard from Mr. Jones that he would like to be included in OPERATION UNDERSTANDING scheduled for October 26th.

8-13-70 4. Granted permission for the Squirrel's Nest sign to be moved across the street to its new location.

5. Once again directed that the Goldstine barn be posted as UNSAFE FOR OCCUPANCY and directed the Town Attorney to request Mr. Goldstine to appear at the September meeting and show cause.

24. Adjournment.

At 12:30 A.M. the meeting was adjourned, in memory of Judge Haley, to August 20, 1970 at 8:00 P.M.

MAYOR

A T T E S T

Clerk

From the audience, neighbors Krietzberg, Bowman, Higbie and Stafford expressed concern of stability, fire, access, retaining wall heights and drainage. Letters of concern were received from Mr. and Mrs. Lowe and Mr. and Mrs. Higbie.

Following a lengthy discussion, Mr. Brekhus moved that at the April meeting, which will be a continuance of the initial hearing, the applicants provide the following:

1. A cut and fill map
2. Landscaping plans
3. A cross section map
4. Updated drainage report

Also, all heights designated at the site and trees scheduled for removal to be ribboned.

Mr. Poore seconded the motion, which was unanimously passed.

Mr. Brekhus further moved that the applicant be required to furnish a complete EIR, the firm to be chosen from a list provided by the Town Engineer, because it was felt the project may have a significant effect on the environment. Mr. Poore seconded the motion, which was unanimously passed.

Mr. Stafford returned to the Council table.

9. Recommendations by Streets and Parks Committee concerning Parking in Downtown Ross.

Streets and Parks Committee Chairman Poore reported he and Mr. Scales met with the merchants in Ross and it was the consensus that there is a need for additional parking. The problem has been impacted by the opening of the Frederick S. Allen Park because players at the paddle courts and tennis courts park downtown. After studying requirements in other cities, the Committee recommended that the strict Ross requirements be amended to require less than three spaces for each 500 sq. ft. of floor area. This would mean that Mr. Levinsohn would have to provide 6 to 8 stalls instead of the now required 15 to 16. He suggested that if the Squirrel's Nest and the Field properties seek enlargement, on-site parking must be provided. Also, he suggested that because the Ross Garage contributed a beautiful little park to the Town, the 5 yr. additional public parking requirement might be waived.

Mr. Scales agreed that although parking is not yet critical, sales have increased 72% and as businesses grow parking problems will increase. He recommended acceptance of Mr. Hoffman's alternate I (4 additional spaces) alternate III (4 additional spaces) and alternate IV (6 additional spaces) at a cost of \$19,500 with the amount to be born equitably among all developers. No action was taken on providing additional parking stalls.

The Council unanimously agreed to set the April 9th meeting for the first hearing to amend the Code.

March
12, 1981

10. Variances.

1. John L. Levinsohn, 7-9-11 Poplar Ave. (73-272-1D)
Local Service Commercial District
Request to allow 0 parking spaces for additional
construction of 1090 sq. ft. to rear of existing
building for retail space and 2nd story addition
of 1090 sq. ft. for office rental space.
(continued to April meeting)

2. Jerry L. and Betty Jean Cruse, 65 Ivy Drive
73-152-18) 20,000 sq. ft. zone
Request to construct 400 sq. ft. two-car garage
and 186 sq. ft. bay addition to existing house.
Garage 7'6" from side property line.

| | |
|--------------------------|--------------------|
| Lot Area | 20,325 sq. ft. |
| Present lot coverage | 7.1% |
| Proposed " " | 9 % |
| Present floor area ratio | 13 % |
| Proposed " " " | 15 $\frac{1}{2}$ % |

(15% allowed)

Planner Jean Ellison and designer John Marshall explained the bay addition which will upgrade the kitchen and baths and the need to eliminate parking on Ivy Drive and provide required parking on the property. By allowing a distance between the house and garage, an existing deck can be utilized. Dr. Robert Taylor, neighbor to the east, objected to the placement of the garage because of noise and view. He suggested moving the garage closer to the house, a suggestion supported by Mr. Scales. Mr. Brekhus and Mr. Poore favored effective screening between the properties. Mr. Poore moved granting the variance, with the applicants providing a landscaping plan for approval by the Building Inspector. Mr. Stafford thought the plan should be approved by the Council. Mr. Poore amended motion to continue the matter to the April meeting to allow the applicants to submit a detailed landscaping plan for Council approval and a copy to Dr. Taylor. Mr. Brekhus seconded the motion which passed by a four to one vote, Mr. Scales dissenting.

3. Steen Moller, 69 Wellington Ave. (72-072-09)
10,000 sq. ft. zone.
Request to extend deck 100 sq. ft.

| | |
|--------------------------|------------|
| Lot Area | 14,793 sq. |
| Present lot coverage | 18 |
| Proposed " " | 19 |
| Present floor area ratio | 17 |
| Proposed " " " | 18 |

(20% allowed)

Mr. Moller explained that the existing deck in need of repair and while replacing it, h

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the Ross Municipal Code. Mr. Brekhus moved denial of the variance, seconded by Mr. Stafford and unanimously passed. The Town Attorney was directed to advise Mr. Moller that he must show cause at the May meeting why the deck should not be declared a nuisance.

5. No. 605 Jerry L. and Betty Jean Cruse, 65 Ivy Drive (73-152-18) 20,000 sq. ft. zone
Construction of 400 sq. ft. 2-car garage and 186 sq. ft. bay addition to existing house. Garage 7'6" from side property line.
The Council advised Planner Jean Ellison the landscaping plan prepared by Landscape Architect Wm. Kapranos was satisfactory and on motion by Mr. Poore, seconded by Mr. Stafford, Variance No. 695 was unanimously granted.

4-9-81
* 6. John L. Levinsohn, 7-9-11 Poplar Ave. (73-272-11)
Local Service Commercial District
Request to allow 0 parking spaces for additional construction of 1090 sq. ft. to rear of existing building for retail space and 2nd story addition of 1090 sq. ft. for office rental space.
Carla Flood and Peter Behr both objected to expansion of the commercial area. James Russell suggested the Council determine what kinds of local services are necessary for the convenience of the residents of the Town.
Mr. Levinsohn did not appear and for this reason the Council asked the Town Clerk to notify him that if he intends to go forward with his plans that he should so advise the Clerk to have the matter scheduled for the next meeting.

14. Use Permit No. 61 Your Pleasure, Inc., Space 6, Ross Garage (73-273-10 & 11) Local Service Commercial District.
Operation of restaurant from 11:30 A.M. to 2:30 P.M. and 6:00 P.M. to 10:00 P.M. six days a week (closed Sundays) with seating for 48 indoors and 32 outdoors. Name to be LE COQUELECOT. Wine and beer to be served.
Mrs. Broomhead explained that an interior wall has been built to enclose an existing kitchen. All deli items which previously were sold have been eliminated. Operating hours will be shortened - previous hours were from 9:00 to 9:00.
Mr. Scales said the request is a substantial change in the use of the premises and more traffic may be generated. Mr. Brekhus agreed that traffic is a major concern and suggested the Street Dept. make a traffic count twice each week and at the end of the summer the Council will have a clear picture.

7. A letter from the MWD is required indicating they will agree to the construction over their water line easement immediately below Morrison Road.

Mr. Poore seconded the motion, which was unanimously passed.

Variance No. 606 was granted at the April 9th meeting.

9. Variances.

1. John L. Levinsohn, 7-9-11 Poplar Avenue (73-272-11) Local Service Commercial District.

Request to allow 0 parking spaces for additional construction of 1090 sq. ft. to rear of existing building for retail space and 2nd story addition of 1090 sq. ft. for office rental space.

Architect Van Logan representing Mr. Levinsohn stated that he did not know if the upstairs office would be rented as a real estate office. Mr. Scales was concerned that the area could be adequate for ten desks, which would aggravate the parking situation. He recommended placing restrictions on the use of the office.

Adoption of the ordinance reducing parking requirements in the commercial area would require 8 spaces for the additional construction; however, modified plans have never been submitted. Mr. Stafford felt that since Le Coquelecot was granted a use permit with a six month review to appraise traffic and parking problems and because the Town has space for only an additional ten spaces, it would be inappropriate to grant Mr. Levinsohn a variance at this time. Mr. Scales moved that revised drawings be submitted at the June meeting, seconded by Mr. Poore and passed by a three to one vote, Mr. Stafford dissenting.

2. Thomas H. Wilson, Skyland Way (72-201-16) Acre Zone Request to install tennis court fence 1' from side.

Mr. Lunding reported that Mr. Wilson has requested a continuance to the June meeting, the cost of renoticing to be paid by him. On motion by Mr. Scales, seconded by Mr. Poore, the request was unanimously granted.

3. John Allen, 51 Sir Francis Drake Blvd. (72-171-02) Acre Zone. Request to construct a 3-car garage with guest quarters and balcony above, 6' from property line. Applicant requested a continuance to the June meeting. On motion by Mr. Stafford, seconded by Mr. Poore, the request was unanimously granted.

10. Applications for Solar Permits.

1. Solar Permit No. 10 John S. and Agneta K. Dupen, 33 Fernhill Ave. (73-041-37) 20,000 sq. ft. zone. On motion by Mr. Scales, seconded by Mr. Poore, solar permit No. 9 was unanimously granted.

X

5-14-81

5-14-81

5-14-81

2. Solar Permit No. 10 Robert Berry, 4 Ames Avenue
(73-181-05) 20,000 sq. ft. zone

On motion by Mr. Scales, seconded by Mr. Poore,
Solar Permit No. 10 was unanimously granted.

5-14-81

3. Solar Permit No. 11 Mr. and Mrs. William Spencer,
51 Glenwood Avenue (73-091-71) Acre Zone

On motion by Mr. Scales, seconded by Mr. Poore,
Solar Permit No. 11 was unanimously granted.

At 9:03 P.M. the Town Council sitting as a Planning Commission heard

11. Amendments to Zoning Ordinance concerning

a. A reduction in the parking requirements in the
Local Service Commercial (C.L.) District to one space
for each 250 sq. ft.

b. Changing certain requirements for "Hillside Lots",
including building heights and adding certain
definitions including "attic" and "mezzanine".

Town Attorney Elliott reported that the notice of
hearing was published in the Ross Valley Reporter.
No one from the audience asked to be heard upon said
proposed amendments.

Mr. Scales moved that on June 11, 1981 at 8:00 P.M.
the Town Council will hold a public hearing on the
proposed amendments. Mr. Stafford seconded the
motion, which was unanimously passed.

At 9:10 P.M. the Town Council sitting as a Council heard

12. Adoption of Ordinance No. 427.

Repealing and Replacing Chapter 14.04, Repealing Section
14.08.040 and Amending Section 14.12.040 of the Ross
Municipal Code, Adopting the 1979 Edition of the
Uniform Fire Code and Making Changes Regarding Fire
Prevention Regulations.

Mr. and Mrs. George Lindahl urged the Council to
require that numbers of houses be prominently displayed.

The Council discussed modification to Section
10.208 of the Uniform Fire Code and instead of the
requirement that approved numbers be placed on buildings
decided to require placing numbers on premises in such
a position as to be plainly visible from the street.

Mr. Stafford felt owners or occupants should have the
option of displaying such numbers.

Mr. Poore moved adoption of Ordinance No. 427 with
modification of Section 10.208, seconded by Mr. Scales
and passed by a three to one vote, Mr. Stafford
dissenting.

6/11/81

X

9. Variances.

1. No. 606 John L. Levinsohn, 7-9-11 Poplar Ave.
(73-272-11) Local Service Commercial District.

Request to allow 0 parking spaces for additional construction of 1090 sq. ft. to rear of existing building for retail space and second story addition of 1090 sq. ft. for office rental space.

Mr. Levinsohn presented updated plans and explained that each of the first floor stores would be increase by 300'. The second floor would be used for offices, either one large or three small. Mr. Scales reported that a parking lot count of spaces both north and south of the Post Office showed the demand to be not as heavy as anticipated. Mr. Stafford again reminded the Council that the Broomhead Use Permit will be reviewed in October and that the Council is obligated to wait until then before considering this variance. Other members felt that Mr. Levinsohn deserved a decision because he applied in November of 1980. Mr. Scales moved that the variance be granted, with the following conditions:

1. Council to approve uses by type
2. Use of variance within 90 days, one 30-day extension to be permitted by the Bldg. Inspector upon satisfactory showing that applicant is proceeding with diligence and Council may extend period upon such showing but not to exceed 180 days from granting of variance.
3. Applicant to provide 5 parking stalls at a cost to be determined by Town Engineer.

Mr. Poore seconded the motion.

Mr. Stafford amended the number of parking stalls required at 8. Mr. Brekhus seconded the amendment.

On a vote of the amendment, Mayor Chase and Councilmen Stafford and Brekhus voted ayes - Councilmen Scales and Poore - no.

On a vote of the motion, Mayor Chase and Councilmen Stafford and Brekhus voted ayes - Councilmen Scales and Poore - no.

2. Thomas H. Wilson, Skyland Way (72-201-16)
Acre Zone. Request withdrawn.

6/11/81

3. John Allen, 51 Sir Francis Drake Blvd.
(72-171-02) Acre Zone Request withdrawn.

4. William Smyth and Wren Duffy, 6 Fernhill Ave.
(73-051-16) 10,000 sq. ft. zone
Request to add 2 rooms (350 sq. ft.) to second story of non-conforming house .7' from property line. At applicant's request, the matter was continued to the July meeting.

April 14, 1988

b. Richard and Joan Madden, One Newell Road (AP 72-022-01) Acre Zone. *Mr. Madden addressed the Council and said he felt he had done everything possible to accommodate the Peraccas. Architect Hank Bruce said that there were no other alternative sites for the structure. Mr. Peracca, an adjoining neighbor, said he would sign off on the plans if the architect and soils engineer agreed there were no other alternatives. Town Engineer Hoffman stated that the Council could request another opinion from a soils engineer. After further discussion, Councilman Poore moved approval of the hillside lot application with the following conditions:

- (1) All work shall be done in strict accordance with the Soils Report issued by John C. Hom & Associates, Inc. dated December 9, 1987.
- (2) The Soils Engineer shall approve all construction plans relating to his recommendations, affirm that those recommendations have been incorporated into the plans, shall review all soil related construction, and upon completion submit written confirmation to the Town that all work under his jurisdiction is acceptable.
- (3) A drainage plan shall be submitted for staff approval when a building permit application is made.
- (4) The Council reserves the right for a period not to exceed one year after site planting to require further landscaping if it deems necessary.
- (5) Hydrant located at Crest and Baywood must be upgraded to steamer type.
- (6) Sprinklers will be required.
- (7) 24 hour monitored alarm system must be installed.
- (8) The Council reserves the right to request further landscaping, if required.
- (9) Subject to all staff requirements.

This was seconded by Councilman Brekhuis and passed with three affirmative votes. Councilmen Julien and Dirkes voted against.

VARIANCE
#872

Councilman Poore moved approval of the variance application, seconded by Councilman Brekhuis and passed with three affirmative votes. Councilman Julien and Dirkes voted against.

USE PERMIT
#106

Councilman Poore moved approval of the Use Permit application with the condition that it never be used for rental. This was seconded by Councilman Brekhuis and passed with three affirmative votes. Councilmen Julien and Dirkes voted against.

16. Amendment to Use Permit No. 93, Granted September 10, 1987.
At the request of Mrs. Chriss, this item was withdrawn

17. Use Permit.

John Levinsohn, Legal Owner; June Solomon, Potential Tenant.
22 Ross Common (AP 73-27210) C-L District. Request is to allow operation of a beauty salon (500 sq. ft.) with one to three employees; hours of operation will be 10 a.m. to 6 p.m. weekdays with occasional evenings; 10 a.m. to 3 p.m. on Saturdays. A maximum of three customers will be present at any one time; on-street parking.

Mr. Levinsohn and Miss Solomon addressed the Council and said that 80% of Miss Solomon's business would be wig making, with 20% hairdressing. She said she manufactures and maintains wigs for chemotherapy patients.

After a short discussion, Councilman Dirkes moved approval of the use permit subject to a six month review. This was seconded by Councilman Brekhuis and passed unanimously.

The Council had received a letter from a neighbor who was concerned about parking outside of her house.

*Requests are to allow construction of caretaker's quarters, garage and storage area on lot having an average slope in excess of 30%; total addition of 3,461 sq. ft. USE PERMIT for use of new detached structure as caretaker's quarters. VARIANCE is required because of existing non-conforming pool shed. Lot Area - 138,956 sq. ft.; Present Lot Coverage - 7.2%, Proposed Lot Coverage 8.7%; Present Floor Area Ratio 5.8%, Proposed Floor Area Ratio 8.3%; (15% allowed).

December 13, 1988

Mr. Girvin said that the structural soil engineer reports data to determine that the pool can be built safely and he requested that the Council make this a condition of approval rather than continuing the hearing.

After consideration, Councilman Barry withdrew his motion and Councilman Lill his second.

Councilman Barry then moved to approve the application based on the findings that the hardship is the steepness of the existing site and the child's needs for a pool, with the conditions that appropriate structural engineering studies be submitted, that Doctor Taylor's concerns be worked out with Mr. & Mrs. Simonelli; that all work be done to the satisfaction of the Town Engineer. This was seconded by Councilman Lill and passed with three affirmative votes. Mayor Brekhus and Vice Mayor Flemming voted against.

8. Lot Line Adjustments and Variance.

- a. David and Nadine Hunter, 80 Wellington (AP 72-121-15) 10,000 sq. ft. zone. Request is to allow a minor lot line adjustment between lands of Hunter and lands of Hester (AP 72-121-16). Proposed line will not change square footage of respective properties.

There being no comments from the audience, Councilman Barry moved approval, seconded by Councilwoman Flemming and passed with four affirmative votes (Councilman Lill was absent and returned after the vote).

- b. Marcia Lucas Rodrigues, 1 Garden Road (AP No. 72-154-05 and AP No. 72-154-11) 10,000 sq. ft. zone. Request is to allow merger of two lots resulting in a net of 2.16 acres:

| | | |
|--------------|---|------------|
| AP 72-154-05 | - | 1.92 acres |
| AP 72-154-11 | - | .24 acres |

Variance request is for lot having double frontage on Garden Road and Loma Linda Avenue.

At the request of the applicant, this item was withdrawn.

9. Use Permit.

Sonia and Vita Badalamenti - Legal Owners, and Fred Pullman - Potential Tenant, 27 Ross Common (AP 73-273-09) C-L District. Request is to allow an office for a charitable wildlife foundation; office space of 600 sq. ft.; two full-time employees; hours of operation 9 a.m. to 5 p.m., Monday through Friday; on site parking.

USE
PERMIT
NO. 118

Councilman Goodman stated that he would like to see businesses that would generate revenue in the C-L District. After a brief discussion, Councilwoman Flemming moved approval, seconded by Councilman Lill and passed unanimously.

10. Review of Use Permit No. 107 Granted April 14, 1988, 22 Ross Common, John Levinsohn, Legal Owner; June Solomon, Tenant - Beauty Salon.

There being no comments from the audience, Councilwoman Flemming moved approval, seconded by Councilman Lill and passed unanimously.

12-13-88

X

August 10, 1989

Attorney Roth said he had insisted that the applicant submit a record of survey to the Council showing the new configuration but they did not have this survey at this time.

Mr. Roth said that under the Required Conditions of the Conditional Certificate of Compliance, Item 1, should read:

1. The current property owner shall submit a lot line adjustment application including a record of survey which shall be in recordable form adjusting the lot lines of Lots 91, 92 and 93, from three lots into two lots.

Mr. McInerney said the conditions were acceptable to him including the amended conditions and that he agreed to the granting of the two lots.

Mr. Ed Wynne of Bridge Road, said that during the 1982 flood there had been a landslide on his land from this property. He expressed opposition and requested the item be continued so that the neighbors could be present.

Mr. Forsiak, Chestnut Avenue, urged the Council not to take action this evening and suggested that they review the property.

Dr. & Mrs. Todd of Rock Road, Kentfield, spoke in opposition to the project.

After a lengthy discussion, Councilman Barry moved that this item be continued to the next meeting and that the applicant submit a record of survey in recordable form to the Council, seconded by Councilman Lill and passed unanimously.

28. Use Permit.
 John Levinsohn, Legal Owner and Rebecca Collins, potential tenant, 20 Ross Common (AP 73-272-10) C-L District. Request is to allow a skin care, electrology, cellulite treatment salon; one employee. Office space of 500 sq. ft. Hours of operation: 10 a.m. to 6 p.m, Monday through Saturday; street parking.
- The Council heard from Ms. Rebecca Collins, the potential tenant, and Mr. Daniel David, from the Shanon St. Claire Skin and Body Care Salon in Ross.
- After considerable discussion, it was the consensus of the Council that since there were four existing hair salons and a skin care salon, another beauty care salon would be too numerous in such a small commercial district. They felt diversity would be more beneficial to the Town. Accordingly, Councilman Lill moved denial of the application, seconded by Councilman Goodman and passed unanimously.

29. Hillside Lot Applications.
- a. Tom and Judy Hyde, 31 Upper Road, AP #73-111-01, Acre Zone. Request is to allow a variance for the construction of kitchen, breakfast room, bath, utility, bedroom, closet, storage and decks totaling 2777 square feet; pre-existing non-conforming side yard setback. Hillside Lot Permit for the construction of additions on a parcel having a slope greater than 30%. Use Permit is for the construction of additions on a parcel lying within Hazard Zones 3 and 4.
- | | |
|---------------------------|-----------------|
| Lot Area | 112,820 sq. ft. |
| Present Lot Coverage | 3.8% |
| Proposed Lot Coverage | 5.4% |
| Present Floor Area Ratio | 4.5% |
| Proposed Floor Area Ratio | 7.0% |

(15% allowed)

Architect Kathy Strauss explained that this application is substantially similar to the previous variance application that was approved by the Council February 11, 1988; although the total square footage was reported in error by staff on the previous application. Total added square footage is 2461 sq. ft.

October 12, 1989

Councilwoman Flemming moved that this item be continued for thirty days. This was seconded by Councilman Lill and passed with four affirmative votes. Councilman Barry voted against.

21. Use Permits.

- a. John Levinsohn; legal owner and Roxanne Cornelison; potential tenant, 20 Ross Common, (AP 73-272-10) C-L District. Request is to allow the establishment of an artifacts and antiques dealership serving corporate clients. 500 net rentable square feet. Two staff persons on site. Hours of operation: 10 a.m. to 6 p.m. Monday through Saturday; on street parking.

USE PERMIT NO. 127

There being no comments from the audience, Councilman Goodman moved approval subject to the condition that the permit be reviewed in one year. This was seconded by Councilman Barry and passed unanimously.

- b. James Gaither, 11 Southwood, AP #73-152-05, 20,000 sq. ft. zone. Request is to allow a use permit for a guest house. Pre-existing nonconforming front, rear and side yard setbacks.

| | |
|---------------------------|--------|
| Lot Area | 48,850 |
| Present Lot Coverage | 11.1% |
| Proposed Lot Coverage | 11.1% |
| Present Floor Area Ratio | 12.6% |
| Proposed Floor Area Ratio | 12.6% |

(15% allowed)

USE PERMIT NO. 128

Mr. Gaither explained that he proposed to restore the guest house and there would be no change in size nor use. It would be used primarily as a dressing room for the pool and a place where his children could stay occasionally. Adjoining neighbor, Mr. Bob Rorick, stated that the plans did not outline the sewer lines. Mr. Gaither had assured him that he would take care of this.

After consideration, Councilwoman Flemming moved approval subject to the conditions that the staff certify that the sewer lines are properly installed; the guest house is never rented; a smoke detector be installed in the guest house and the use permit must be reviewed in one year. This was seconded by Councilman Barry and passed unanimously.

- c. Wendel and Lissa Nicolaus, 69 Shady Lane, AP #73-091-21, 10,000 sq. ft. zone. Request is to allow a Home occupation permit for a painting studio.

USE PERMIT NO. 129

There being no comments from the audience, Councilman Goodman moved approval subject to the condition that the permit be reviewed in one year; a smoke detector be installed in the studio and applicant comply with all requirements of the Ross Municipal Code as outlined in Town Planner Brekke's report dated October 12, 1989. This was seconded by Councilman Barry and passed unanimously.

22. Hillside Lot Applications.

- a. Mitch and Isobel Wiener, 27 Upper Road, AP #72-111-11 Acre Zone. Request is to allow a Hillside Lot application for the construction of a home on a slope greater than 30%. Use Permit is for the construction of a home in a Hazard Zone #3.

| | |
|---------------------------|----------------|
| Lot Area | 79,845 sq. ft. |
| Proposed Lot Coverage | 2.98% |
| Proposed Floor Area Ratio | 5.92% |

(15% allowed)

10-12-89

July 12, 1990

On motion by Councilman Brekhus, seconded by Councilman Goodman, Ordinance No. 485 was unanimously passed.

23. Use Permits.

USE PERMIT
NO. 138

a. Dan Ohlson and James Howey, Legal Owners and Gina and Darla Farr, Potential Tenants. 23 Ross Common, AP 73-273-10, C-L District. Request is to allow establishment of office for marketing and real estate consulting and banking consultant in the area of Federal Compliance Community Reinvestment Act; 550 sq. ft. rentable square footage; two persons on site. Hours of operation 9 a.m. to 5 p.m., Monday through Friday; approximately two clients to be received on site each day; on street parking.

Ms. Farr explained that she and her sister would be sharing the offices. There was some discussion re the possibility of renting the offices for retail and Councilman Brekhus reminded the council and audience that two of the Councilmembers had met with staff and the C-L property owners and it was determined that the landlords had exhausted the market trying to find retail tenants. Mr. Ohlson said his office had been vacant for five months. Mayor Barry stated that he had to pay taxes in San Anselmo for his offices and Mr. Elias was directed to look into San Anselmo's ordinances.

After discussion, Councilman Reid moved approval, seconded by Councilman Lill and passed with four affirmative votes. Councilman Goodman voted against, he felt the area should be used for retail.

USE PERMIT
NO. 136

b. Dan Ohlson and James Howey, Legal Owners and F. Haynes Lindley, Jr., Potential Tenant, 23 Ross Common, AP 73-273-10, C-L District. Request is to allow general business office for John Randolph Haynes and Dora Haynes Foundation, administering a trust fund benefiting research of social science; 380 sq. ft. plus 70 sq. ft. storage net rentable square footage; one person on site. Hours of operation 9 a.m. to 5 p.m., Monday through Friday; no clients will be received on site; on street parking.

Ms. Susan Bowman represented the applicant. She said Mr. Lindley is presently in Los Angeles but would be moving into the offices shortly.

After consideration, Councilman Reid moved approval, seconded by Councilman Lill and passed with four affirmative votes. Councilman Goodman voted against, he felt the area should be used for retail.

USE PERMIT
NO. 137
136

c. John Levinsohn, Legal Owner and Michelle Benjamin, Potential Tenant, 22 Ross Common, AP 73-272-10, C-L District. Request is to allow establishment of a coffee shop, possible future luncheon cafe, serving on back patio; 500 net rentable square footage; one or two staff persons on site. Hours of operation: 6 a.m. to Councilman Goodman moved approval and that it be reviewed in one year. He asked the residents to patronize the new cafe. This was seconded by Councilman Reid and passed unanimously.

Public Works Director Elias reminded Ms. Benjamin that due to the new smoking ordinance, smoking would not be allowed in the coffee shop.

25. Solar Permit Application.

SOLAR
PERMIT
NO. 43

Charles and Eileen King, 18 Sylvan Lane, 73-161-08, 20,000 sq. ft. zone. Request is to allow a solar permit for the installation of ten 4 ft. x 10 ft. solar panels, 8 inches on top of the south part of the main roof.

Upon motion by Councilman Lill, seconded by Councilman Reid the solar permit was granted with four affirmative votes, Councilman Goodman abstained.

August 9, 1990

A PUBLIC HEARING OF THE ROSS TOWN COUNCIL ACTING IN ITS CAPACITY AS A PLANNING COMMISSION ON THE FOLLOWING:

14. An Ordinance of the Town Council of the Town of Ross Adopting Chapter 5.22 Entitled "Satellite Dish Antennas," To The Ross Municipal Code Providing for the Regulation of all Antennas Within the Town.

This item was continued to the next meeting.

THE ROSS TOWN COUNCIL SITTING AS A COUNCIL TO CONSIDER:

15. Adoption of Amendment to and Adoption of Ordinance No. 488- Interim Ordinance of the Town Council of the Town of Ross Extending a Drainage Impact Fee Ordinance to Protect the Public Health, Safety and Welfare.

Councilman Brekhus moved adoption of Ordinance No. 488 to include the amendment, as follows:

Add Paragraph (e) Any monies residual after the aforementioned study and evaluation are completed, will be applied to construction of the facilities deemed necessary by said study.

This was seconded by Councilman Lill and passed unanimously.

16. Introduction of Ordinance No. 490, An Ordinance Adding to the Ross Municipal Code a New Chapter 13.20, Drainage Impact Fee, to Title 13 (Water and Sewers) Authorizing a Drainage Impact Fee on Development.

Councilman Brekhus moved introduction of Ordinance No. 490 and waiver of the reading. This was seconded by Councilman Reid and passed unanimously. This ordinance will be discussed at the next meeting.

17. Adoption of Ordinance No. 489. An Interim Ordinance of the Town Council of the Town of Ross Extending, As An Urgency Measure, Zoning Restrictions Applicable to An Accessory use Which May Be In Conflict With Contemplated Zoning Proposals the Town Council is Considering Adopting. (Wells)

Councilman Brekhus moved adoption of the Ordinance and that it be extended for 10 months and 15 days. This was seconded by Councilman Reid and passed with four affirmative votes; Councilman Goodman voted against.

18. Town Attorney's Presentation of Proposed Permanent Design Review Ordinance; for Information and Discussion.

This item was continued to the September meeting.

19. Adoption of Ordinance No. 482 -Amending Ross Municipal Code, Title 15, Chapter 15.50.080 - Time Limits for Completion of Construction Extensions and Security for Guarantee.

There was a brief discussion and Mr. Norman Bradley of Willow Avenue requested that Section 15.50.060, Section (b), second paragraph include: No new permits shall be granted for a period of one year thereafter.

This item was continued to the next meeting.

20. Use Permits.

a. John Levinsohn, Legal Owner, and Frank Mascarelli, Potential Tenant. 20 Ross Common, AP 73-272-10, C-1 District. Request is to allow the establishment of an antique shop; 500 net sq. ft.; two staff persons on site. Hours of operation: 10 a.m. to 5 p.m., Tuesday through Saturday; on street parking. Councilman Goodman said he welcomed the retail store in the Town and wished them well. Councilman Reid moved approval, seconded by Councilman Goodman and passed unanimously.

*
USE PERMIT
#137

13. Discussion of Petition to Town Council to Regulate Structures Related to Keeping of Animals.
 Town Planner Broad referred to the petition received from the residents requesting the Council to amend the current ordinance as it relates to structures and the keeping of animals.
 29. Mr. Dirk Van Meurs, of Laurel Grove expressed concern over the current ordinance and the possibility of a barn being constructed in his neighborhood.
 After some discussion, Councilmember Reid moved that the Town Attorney be directed to review Chapter 8.16 of the Ross Municipal Code and amend it to eliminate the 50 ft. limitation and require a use permit for all barns, stalls, corrals, etc., that are used to house animals as listed in the Code. This amendment would include all existing structures that are dormant at this time. Any existing barns that house animals effective this date are to be grandfathered in. This amended ordinance will be retroactive to this date. This was seconded by Councilmember Goodman and passed unanimously.
14. Appointment of Town Representative to the Marin County Council of Mayors & Councilmembers Legislative Committee.
 Councilmember Reid moved to appoint Councilmember Brown with Councilmember Scott as alternate. This was seconded by Councilmember Goodman and passed with three affirmative votes. Councilmembers Brown and Scott abstained.
15. Presentation by Raymond F. Moritz, Principal Fire Ecologist: Fire History and Hazards of the Town of Ross with Mitigating Strategies. (30 minutes).
 Mr. Raymond F. Moritz gave a very informative talk on fire safety and showed historic and present day slides of Marin County. He stressed the importance of clearing all combustible or flammable vegetation on properties. Mayor Barry and Council thanked Mr. Moritz for his presentation.
16. Resolution No. 1350 of the Town of Ross In Support of "No on 188" the Philip Morris Initiative (Smoking and Tobacco Products).
 Councilmember Goodman explained that the Town does not generally take a position on State ballot issues; however, this Proposition would effect the Town's smoking ordinance. Councilmember Reid moved approval, seconded by Councilmember Goodman and passed unanimously.
17. Julia and James Lord Trust, 7 Redwood Drive, AP. No. 73-272-15, Local Commercial District. Request is to allow: Council approval of a parking lot design for a commercial building at 7 Redwood Drive as Required by the Use Permit Conditions of Approval for the Building Tenants.
 At the request of the applicant, this matter was put over. Councilmember Reid questioned whether Mr. Lord had the authority to provide an easement for 9 Redwood because of the pending litigation on the property. Mr. Lord responded that this matter would be resolved by the following Monday and said that he will call Councilmember Reid concerning this.

AT 8:50 P.M. MAYOR BARRY CALLED FOR A BREAK AND THE MEETING RECONVENED AT 9:00 P.M. WITH EVERYONE IN ATTENDANCE.

18. Use Permits
 John and Jane Levinsohn, Legal Owners; Shannon Colla, Tenant. Location of Property: 22 Ross Common, A.P. No. 73-272-10, Local Commercial District. Request is to allow: Coffee shop to replace an existing coffee shop in approximately 500 square feet of tenant space. Two employees
 Use Permit No. 192

with an estimated 20 - 40 customers, each day. The coffee shop will be open 7:00 a.m. to 6:00 p.m. daily (winter) and 7:00 a.m. to 9:00 p.m. (summer.)

Mrs. Colla stated that she would like to include patio use in the application.

After some discussion, Councilmember Reid moved approval of the Use Permit with the condition that the applicant obtain a business license and the permit be reviewed in one year. This permit does not include patio use; applicant will have to request that this be renoticed. This was seconded by Councilmember Goodman.

Councilmember Scott expressed concern over the added traffic with 20 - 40 customers each day and recommended that the problem of the downtown parking be reviewed as a whole. Councilmember Goodman favored having an ice cream and coffee shop in Town. He felt that 20 - 40 customers represents one to three per hour, not a substantial number of cars.

Mayor Barry called for a vote and the motion passed with four affirmative votes. Councilmember Brown voted against. It was the consensus of the Council that the applicant be charged a fee for renoticing, only, on the use of the patio.

19. VARIANCES AND DESIGN REVIEW.

William and Patricia Barton, 15 El Camino Bueno, AP 72-162-11, R-1:B-A (Single Family Residence, One acre minimum)

Request is to allow: Variance to allow the conversion of a portion of an existing raised deck into a 116 square foot entry. The existing deck and the proposed entry are located within the required side yard setback (7 feet proposed, 15 feet required.)

10-12-94

| | |
|---------------------------|-----------------------|
| Lot Area | 6,200 sq. ft. |
| Present Lot Coverage | 29.3% |
| Proposed Lot Coverage | 29.3% (15% permitted) |
| Present Floor Area Ratio | 47.0% |
| Proposed Floor Area Ratio | 47.0% (15% permitted) |

The existing residence and garage are nonconforming in front and side yard setback.

COUNCILMEMBER REID STEPPED DOWN FROM THE COUNCIL CHAMBERS AND TOOK A SEAT IN THE AUDIENCE.

Mr. Barton explained the plans.

Councilmember Scott felt that the plans made the entry more secure and private.

Councilmember Brown felt there was a hardship in the entry way; she was happy to see the roof area being replaced with fire retardant material.

Councilmember Goodman said that at the last meeting he asked the architect to contact him in an effort to look at another alternative but this had not been done. He was concerned about the FAR and the Lot Coverage and did not feel he could support the project. He added that the deck should not be covered.

Councilmember Scott moved approval with the following conditions:

VARIANCE #1107

1. A smoke detector shall be provided as required by the building department.
2. The Town Council reserves the right to require additional landscape screening for up to one year from project final.
3. Roofing material shall be consistent with Town code requirements and subject to approval of Town staff.
4. The overhead trellis shall be removed prior to project final.
5. The roof for entire house shall meet noncombustible requirements.
6. The remaining decking shall not be enclosed.

10. The Town Council reserves the right to require additional landscape screening for up to **three years** from building final.
11. This lot shall be cleared of broom and brush as necessary to reduce fire hazard.
12. The swale on Upper Toyon must be cleared of debris and silt. A catch basin at the low point must be replaced with a new catch basin and the pipe must be upgraded to a larger size as determined by the applicant's drainage engineer and approved by town staff. The existing drainage inlet on the driveway to 29 Makin Grade shall be improved or replaced as approved by town staff.
13. This project shall comply with the recommendations included in the geotechnical evaluation prepared by Geoengineering, Inc., September 20, 1994.
14. Exterior lighting shall not create glare, hazard or annoyance to adjacent property owners or passersby. Lighting shall be shielded and directed downward.
15. All requirements of the Town of Ross Public Safety Department shall be met prior to the issuance of a building permit.
16. No changes from the approved plans shall be permitted without written authorization from the Town of Ross.
17. The approved colors and materials may not be changed without prior written approval from the Town of Ross.

This was seconded by Councilmember Brown and passed unanimously.

Mayor Goodman said that the plan shown by Mr. Peterson would be detrimental to the hillside requiring more tree removal and more excavation. Also moving the structure to the left would not be feasible because of the hillside.

In response to a question, Mr. Kane was advised that if he started work on the project, he would do so at his own risk.

18. Use permit and a tree removal permit.

USE PERMIT
NO. 194

John and Jane Levinsohn, Legal Owner; Shannon Colla, Tenant, 22 Ross Common, A.P. No. 73-272-10, Local Commercial District. Request is to allow: Approval of the use of an existing approximately 500 square foot patio to the rear of the building. Approval is also requested to allow the removal of an approximately 36 inch diameter Poplar tree. The Town Council approved a coffee shop to replace an existing coffee shop in approximately 500 square feet of tenant space at its October, 1994 meeting.

Mr. John Lord, a contiguous property owner, stated that he did not object as long as it did not interfere with his side of the fence.

Mr. Michael Newhoff of Redwood Drive spoke in favor of the application.

After a brief discussion, Councilmember Reid moved approval of the use permit and the tree removal with the findings in the staff report and the condition that the Town Council reserves the right to require additional landscaping in the rear yard of this parcel for up to one year from the commencement of outdoor use of the patio area. Seconded by Councilmember Brown and passed unanimously.

Mayor Goodman stated that several letters had been received concerning the rights of Councilmembers to vote on certain issues. He informed the audience that according to Fair Political Practices Commission regulations, a Councilmember should not vote on an issue if he/she stands to have financial or material gain or if he/she lives within 300 feet of the project.

19. Parking Proposal.

Julia and James Lord Trust, Legal Owners, 7 Redwood Drive, A.P. No. 73-272-15, Local Commercial District. Request is to allow Council approval of a parking lot design for a

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 remain 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.

August 14, 1997

17. USE PERMIT NO. 229

John and Jane Levinsohn, legal owner; David and Denise Levine, tenant, 22 Ross Common, A.P. No. 73-272-10, Local Commercial District. Coffeehouse/cafe to replace an existing cafe in approximately 500 square feet of tenant space and a patio. Two to three employees with up to 200 estimated customers, each day. The coffee shop will be initially open 7:00 a.m. to 4:00 p.m. Tuesday through Sunday, with expanded hours possible. Mr. & Mrs. Levine explained that they wished to continue the business which would still be called Marmalade. 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 prior to commencement of use.

This was seconded by Councilmember Gray and passed unanimously.

18. USE PERMIT NO. 230.

Edgar Angelone, Ph.D. and Laura Elliot, MFCC (tenant) Julia and James Lord Trust, Legal Owner. John Lord, Trustee. (owner); 7 Redwood Drive, Suite 5, A.P. No. 73-272-15, Local Commercial District. Psychotherapy office in approximately 300 square feet of tenant space -- relocating from 140 square feet of tenant space in same building. Two employees (one at a time) with up to 5 five clients anticipated each day. Hours of operation are Monday to Friday 8 a.m. to 8 p.m. Doctor Angleone explained that they were moving to larger quarters.

Councilmember Reid moved approval with the findings in the staff report and the following condition: A business license shall be obtained from the Town of Ross prior to commencement of use.

This was seconded by Councilmember Gray and passed unanimously.

19. USE PERMIT NO. 231.

Melissa Fairbanks/Premisiri Khalsa-Lewin (tenants); Julia and James Lord Trust, Legal Owner. John Lord, Trustee. (owner) 7 Redwood Drive, A.P. No. 73-272-15, Local Commercial District Office for psychotherapist and homeopath in approximately 140 square feet of tenant space. Two employees with up to 5 five clients anticipated each day. Work hours are Monday to Friday 8 a.m. to 8 p.m.

Ms. Khalsa-Lewin explained that she and Ms. Fairbanks would work on alternate days. Councilmember Goodman moved approval with the findings in the staff report and the following condition: Business licenses shall be obtained from the Town of Ross prior to commencement of use.

This was seconded by Councilmember Gray and passed unanimously.

MAYOR PRO TEMPORE GRAY STEPPED DOWN FROM THE COUNCIL CHAMBERS AND TOOK A SEAT IN THE AUDIENCE.

20. USE PERMIT.

Lagunitas Country Club, 205 Lagunitas Road, A.P. 73-211-31 and 73-221-01, R-1:B-A (Single Family Residential, One Acre Minimum).

Town Planner Broad referred to his staff report which he submitted based on use permit language proposed by the committee members. Mr. Broad said that there are several disagreements and the Council would make the final determinations. He said that the club does not have an existing itemized use permit and the Council needed to regulate activities and clarify the rules. Mr. L. J. Cella,

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

May 10, 2001

Mr. Cheek said that there is another building site on the lot with a slope of 28% but it is more on top of the Muren property and more visible. He agreed that this building slope was 35%.

Mayor Hart invited the audience to speak.

Ms. Zara Muren of 14 Canyon Road researched the easements and found that they were on the 1970 subdivision map and the title would not offer insurance if the Town was not involved. Town Attorney Roth said that the map showed that it is a private easement. Ms. Muren said that it was part of the subdivision. Mr. Roth said that it is submitted as a private easement so he could not see how it could be public.

Ms. Muren said that the 40-foot wide easement overlaps her property and she showed the house above her swimming pool. She felt that the solution was to move the position of the driveway with a three foot wide area dedicated for planting to protect privacy of both properties. She said that they did not have an agreement on the fire easement.

Mr. Dore Schwab of 126 Winding Way was concerned that there would be lots of future flaws, removal of trees resulting in problems when it rains. He said that its a crime that the Murens will loose their privacy. He hated to see the old barn demolished.

Mayor Hart explained that the 40-foot fire road already exists. He said that Mr. Kornfeld is not willing to relinquish his rights and the question is: Is the Council prepared to give an indication to the applicant on the square footage allowed?

Councilmember Curtiss said that the Town has a policy of not giving up any property rights. The applicant might get more FAR but what would the Town get? He did not feel that the issue was the square footage but the Council has to see the project in relationship to the hillside ordinance. He did not think the Council should tie their hands ahead of time.

Councilmember Zorensky did not feel the Council had to make any agreements on the private easements. He said that the Council should make a finding that the site is a hillside slope and agree with that. He supported the findings of the Town Engineer and the Town Planner in that it is a hillside slope.

Mayor Hart said that the 40-foot easement is not an issue for the Town to address and the Council supports the staff's definition of the slope.

The matter was continued.

At 9:55 P.M., MAYOR HART CALLED FOR A RECESS AND THE MEETING RECONVENED AT 10:05 P.M. WITH EVERYONE IN ATTENDANCE.

19. USE PERMIT AMENDMENT. #285
Rana Madanat, tenant; John Levinsohn, legal owner; 22 Ross Common, A.P. No. 73-272-10, Local Commercial District, Coffeehouse/café to replace an existing cafe in approximately 500 square feet of tenant space plus a patio. The cafe will be open daily from 7 a.m. to 6 p.m. with 3 to 4 employees.

Mr. Broad said that this is a transfer of an existing café to a new owner and staff has no objection. No alcohol will be served; it will have the same use as the existing.

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

1. A business license shall be obtained from the Town of Ross.
2. A street number must be provided, subject to Ross Public Safety Department approval (minimum 4 inches on contrasting background.) A smoke detector shall be provided as required by the Building Department.

This was seconded by Councilmember Curtiss and passed unanimously.

c. Flood control

Council Member Martin had nothing further to report.

d. Hillside lot ordinance review

Council Member Skall had nothing further to report.

e. Unfunded mandates/pensions

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

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

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

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

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

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

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

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

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

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

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

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

Mayor Strauss asked for a motion.

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

20 Ross Common Conditions:

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

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

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

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

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

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

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

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

Elise Semonian

From: Kristen d'Offay <kdoffay@gmail.com>
Sent: Friday, September 26, 2014 2:25 PM
To: Elise Semonian
Subject: Letter of Recommendation for Theresa Ryan of Magnolia Gallery

Hi Elise,

My name is Kristen d'Offay and I'm writing this email as a letter of reference for Theresa Ryan of Magnolia Gallery.

I am a Kentfield resident with children who attend Ross School and the Garden School at the Marin Art & Garden Center. I am also the 2014-2015 Ross Auxiliary President and sit on the board of MAGC. I have been a client and friend of Theresa's for four years and can attest to her high degree of integrity and solid work ethic. I have purchased several of her beautiful frames and I'm currently working with her on installing several art pieces in my home. I believe Magnolia Gallery will be a wonderful addition to the Town of Ross and look forward to seeing her creative window displays which I feel will add foot traffic to the area.

If you have any questions about my experience working with Theresa, please don't hesitate to email or call. Again, I think Magnolia Gallery will be a delightful addition for the residents of Ross.

Warm Regards,
Kristen d'Offay
cell 404-210-3442

Elise Semonian

From: Lisa R James <lisarjames@comcast.net>
Sent: Thursday, September 25, 2014 9:45 PM
To: Elise Semonian
Subject: Magnolia Gallery, RVWL auction

Hi Elise,

I wanted to write you in support of Magnolia Gallery opening their store in Ross. I think they are the perfect business to generate some street traffic in Ross, their product suits our community, and it's a great fit with Elizabeth Gorek's art gallery.

In addition, Theresa has been a great help to our charitable organization, Ross Valley Women's league, which raises money to support Adopt a Family of Marin. Theresa has offered to display a painting in her storefront window in Ross which will be auctioned at our annual gala on October 11. It would be very helpful to our cause if she could do this as soon as possible!

Please let me know if there are any issues regarding this display.

Thank you.

Lisa James, RVWL Auction Chair
11 Southwood Avenue, Ross

Elise Semonian

From: Holly McCloud <mccloud.holly@gmail.com>
Sent: Wednesday, September 17, 2014 8:25 PM
To: Elise Semonian
Subject: Magnolia Gallery

Dear Ms. Semonian,

I think Magnolia Gallery would be a fine addition to Ross. Theresa has made several frames for me and I have always been very happy. She makes beautiful frames, bringing her artist's sensibility to all her projects. Her craftsmanship is excellent and she insists on perfection from her sources. She conducts herself with integrity both in her business and personally.

I lived in Ross at #42 Shady Lane for about 15 years and have great affection for the town. I would love to see Magnolia Gallery be a part of the business community. Theresa not only makes beautiful frames, but she makes lovely and unique displays in her shop's window. She would enhance the town's appearance.

Sincerely, Holly McCloud (formerly Lindley)

Elise Semonian

From: John Levinsohn <jll1921@aol.com>
Sent: Tuesday, September 09, 2014 9:55 AM
To: Elise Semonian
Subject: Re: 26 Ross Common

Elise , my records for 26 Ross Common go back to a retail store, the Squirrel's Nest in 1976. Then in 1978, I rented to Harriett Webb for a dress shop .These documents all show damage from flood waters in1982.

In Sept of 1984, I rented to Zoltan Szegedi for a furniture restoration shop . The rest is all Zoltan until he left in May 2014. The Mayor wrote a very nice letter recognizing his 30 years and thanking him for having his business in Ross .

I hope that a subsequent mayor will thank Theresa Ryan for having had her business in Ross. She is an ideal tenant for downtown Ross. She does not depend on foot traffic, of which there is none and makes appointments for her customers . Her business is a nice supplement to the artist , Elizabeth Gorek who recently opened her gallery on Ross Common..

Frank Mascarelli and Stephany Le Gras did rent 20 Ross Common for an interior design shop in 1990 until 1996 . In 1989 , it was rented to folks who had a retail store specializing in primitive art. I don't remember them . However, in 1986 Lesley Gano rented the space for the Coffee Express , a coffee shop. There obviously has been considerable flexibility in tenants in downtown Ross .

John

-----Original Message-----

From: Elise Semonian <esemonian@townofross.org>
To: John Levinsohn (jll1921@aol.com) <jll1921@aol.com>
Sent: Tue, Sep 9, 2014 8:32 am
Subject: 26 Ross Common

I can only find one use permit that may be for the furniture restoration. But, the address is for 20 Ross Common and the potential business owner was Frank Mascarelli for an antique shop. Was this for the other tenant space? Do you recall what business Zoltan may have replaced? Maybe there was no use permit for that spot in the past.

-Elise

Elise Semonian
Senior Planner
Town of Ross | Planning
P.O. Box 320 | 31 Sir Francis Drake Boulevard, Ross, CA 94957-0320
415.453.1453 extension 121