

**REGULAR MEETING OF THE ROSS TOWN COUNCIL  
on the SPECIAL DATE OF  
TUESDAY, SEPTEMBER 11, 2007**

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

Present: Mayor Hunter, Mayor Pro Tempore Cahill, Council Member Durst, Council Member Skall, Council Member Strauss

**2. Posting of Agenda.**

Town Manager Broad reported the agenda was posted according to government code. Mayor Hunter said Item 18 had been withdrawn and Item 10 is continued upon advice from legal counsel.

**3. Patriot Day Remembrance**

Mayor Hunter said today marks the sixth anniversary of September 11, 2001 attacks on the World Trade Center, the anniversary date is now called "Patriot Day" and the Council honored those who lost their lives in the tragic event by taking a moment of silence.

**4. Minutes – July 12, 2007**

Mayor Pro Tempore Cahill provided some minor typographical corrections to the minutes of July 12, 2007.

**Council Member Strauss moved, and Councilmember Durst seconded, to approve the minutes of July 12, 2007, as amended; motion carried unanimously.**

**5. Demands.**

The demands were met.

**6. Open Time for Public Expression.**

There were no public comments.

**7. Report from Mayor Scot Hunter.**

Mayor Hunter reported Ross' longest running business, Ross Grocery, known as Eddie's, has re-opened and is offering new services. He suggested everyone visit Eddie's, said the new menus were fresh and competition. He congratulated them on their reopening and hoped everyone will help in making their new business a success.

**8. Report from Committee Heads.**

Finance Committee - Mayor Pro Tempore Cahill

- 2006-2007 year end financials

Mayor Pro Tempore Cahill reported that the Town's overall financial health is good, the fiscal year ending 2006-07 was a successful year for the Town and said a full set of financials and a report are available with Town staff. He highlighted revenues as being slightly above \$5.1 million, or 10% above budget, expenditures were slightly above \$4.3

million, or within 1% of budget, capital expenditures was \$240,000 or \$60,000 below budget, and overall the Town netted approximately \$760,000 which raised the general fund balance to just over \$4.2 million. He complimented each department manager and the Town Manager for doing a financially superb job.

**Public Works – Councilmember Strauss**

- **Sir Francis Drake and Shady Lane Pedestrian Improvements**

Council Member Strauss reported meeting on the project this morning, said they have recommendation on various civil engineers to move forward with request for proposals and then a scoping session to get the projects underway.

- **ADA Transition Plan Amendment update**

Council Member Strauss reported the ADA draft Transition Plan is completed, we are reviewing it, ensuring all information is included, and it will be brought back in the near future to go through a public review process.

**Ross School Liaison – Council Member Skall**

Council Member Skall reported on the Leadership Council, noting the new school year started with 12 new very enthusiastic teachers, 24 new families entering into the Ross School and of those, 14 were entering kindergarten. He said Ross Recreation will be publishing their community telephone directory for the 2008-2010 year and said it is a great reference guide.

Regarding the Ross School design, the Town Manager, Council Member Strauss and he met today with the design committee to review updated plans. The team took to heart thoughtful suggestions which were brought forth from past meetings. The plans look very good and the school is are hoping to come to the Council in October to present their ideas about a first phase regarding how the staging and temporary classrooms will be set up, as well as interaction with fire, street traffic and other issues.

- **On Line Municipal Code – Council Member Durst**

Council Member Durst reported that the municipal code is now available on-line at [www.townofross.org](http://www.townofross.org) and she thanked Linda Lopez for inputting all pages. She also thanked Project Planner Christine O'Rourke for contacting Congresswoman Lynn Woolsey's Office and said the Town is now included on her website.

- **Marin Telecommunications Agency**

Council Member Durst said she will be attending a 6-hour workshop this Saturday from 11:00 to 5:00 p.m. regarding future planning for MTA. The workshop will be led by Tom Robinson, a consultant from Philadelphia, on creating a wireless network in Marin.

**9. Report from Ross Property Owners Association.**

Carla Small gave the following report from the Ross Property Owners Association:

- The Sun Flower Banners were up which were in conjunction with the fundraiser that the Marin Art & Garden Center is doing on September 23, 2007;
- They will look to the Ross School students to do some holiday banners and will be working with Molly Gamble for centennial banners next year;
- She thanked the Town Council and Town Manager for, after 18 months, getting the Ross Town tennis courts resurfaced. They finally have Ross Town tennis court's attention to resurfacing the tennis courts it would be great if the Council could influence them to properly maintain them. In the past they have left this up to tennis pro's which does not work. With the increased cost of having to pay \$200 every two years for a key, they should be better maintained. Also, considering what was made from their last phone book, dinners and pre-school, she felt they could manage to maintain the tennis courts. In addition, she requested they come before the Council and make a quarterly report, as they had not for some time;
- She also asked for a presentation from the Ross Recreation Department;
- They received public comments regarding speeding still being a problem on Bolinas and are asking for enforcement on one street;
- She requested police enforcement for preventing further u-turns in front of the post office;
- The Ross Property Owners Association would also highlight all businesses in their next newsletter and were working on getting a little blurb from all businesses downtown;
- They received a call regarding the median in the road on Sir Francis Drake across from where Winship is, close to Bolinas, as not being maintained. San Anselmo maintains the median further down, but asked that Ross' portion be maintained.

Mayor Hunter agreed the Council will work with staff on follow-up items. Council Member Strauss said he met this morning regarding Bolinas Avenue. They agreed to send San Anselmo a formal letter requesting they split the cost of a traffic study and said complaints had been received from Ross and San Anselmo residents.

Police Chief Barry Heying agreed to investigate the continuing U-turn problems.

Council Member Skall suggested and confirmed with Town Manager Broad that the Ross Recreation would be asked to make a presentation in the near future.

**10. Flood Control Report and Town Council consideration of authorizing Town Hydrologist Matt Smeltzer to proceed with proposed Fernhill Avenue and Bolinas Avenue Flood Study (Broad and Jarjoura).**

Mayor Hunter noted Item 10 is continued on advice of legal counsel.

**11. Council Consent Agenda.**

Mayor Hunter noted all items would be considered in one motion and confirmed there were no public comments.

- a. Adoption of Ordinance No. 600 amending Title 15, Building and Construction, by amending chapter 15.04, California Building Code, Section

15.04.0150(d), Section 107.3 Amended Fees, to increase investigation Fees.  
(Broad & Semonian)

- b. Adoption of Ordinance No. 601 amending Title 15, Building and Construction, by amending chapter 15.50, Time Limits for Completion of Construction.  
(Broad)
- c. Adoption of Ordinance No. 598, amending Title 2, Administration and Personnel, by adding Section 2.05, Town Manager. (Broad)
- d. Town Council Consideration of Resolution No. 1632 approving an expenditure plan for the utilization of supplemental "Citizen Options for Public Safety" (COPS) law enforcement funds in fiscal year 2007-2008.  
(Heying)

**ACTION:** Council Member Durst moved, Council Member Strauss seconded, to approve the Council Consent Agenda consisting of items a, b, c and d; motion carried unanimously.

**End of Council Consent Agenda.**

Mayor Hunter reported Loraine Berry (Agenda Item No. 12) had not yet arrived and suggested hearing the next item on the agenda.

**13. Update from Chief of Protocol Molly Gamble, on September 28, 2007 Town Dinner and September 2008 Town Centennial celebration.**

Chief of Protocol Molly Gamble said the 2007 Town dinner celebration is scheduled for Friday, September 28, 2007 at 6:00 p.m. She said 228 people have signed up thus far, they were planning for a total of 300 people and are encouraging RSVP's. She said music has been added to the venue and a family is also underwriting an accordion player, and the committee is providing flowers and lanterns for the tables.

The Centennial is Saturday, September 20, 2008 as an all-day event, with a parade down Shady Lane in the morning, a picnic, and music and activities on the Ross Commons street area. The parade is from Bolinas Avenue down Shady Lane, to Lagunitas Road to the Bridge, the Ross Commons street to the end of the business district. They will close off Redwood to either end the parade route or put the children's activities there. The Commons and Grove and lawn areas will also be included. The committee is planning to hold a Town Dinner that evening at the Marin Art & Garden Center with entertainment. She said it is an old Ross School tradition of holding a talent show and this will be brought back.

Chief of Protocol Gamble said she assembled a working committee of close to 100 people and there are many subcommittees for the event. More information can be provided as they move along throughout the year. She secured a co-chair, Kirsten Polsky, formerly Kristen Zampa, who grew up in Ross who remembers the 75<sup>th</sup> Anniversary. Also, every resident who has lived in town for 50 years or more will be invited to join the Honorary Committee. There is a committee of all former Mayors and Council Members, a very

large committee for the Ross School who is also holding their 100<sup>th</sup> Anniversary, and committees representing St. John's and San Anselms, who are also celebrating their 100<sup>th</sup> year anniversary.

She will send a letter next month outlining the event and to save the date, she has secured a controller and treasurer for the event, it is projected there would be a lot of expense, felt it should not be a fundraiser in and of itself, they would approach underwriting from local families and businesses, merchandising will be sold, there will be a charge for the picnic and dinner to cover expenses, and they hope for a budget from the Town. They will start assembling expenses to create a total budget and at that point will approach the Town Council to discuss the budget.

There is also a lot of interest by a few community members to do a Centennial project which would be a gift to the Town by residents. The committee would look for direction from the Council on this, they would then go out and solicit funds from the community and she will await feedback from these two ideas from the Council. Because of the many details, she suggested being able to provide an update every two months and thanked her talented committee members who are coming up with some great ideas.

Joan Holmes, Ross resident, questioned how the events were being advertised or noticed to the community. Ms. Gamble said she sent out two e-mails, the committee put a poster outside the Post Office across from the Common, and they were trying to save costs on initial printing, but agreed to also make copies to put on the counters at the Post Office. There is a Town telephone extension on the poster and those interested could also contact Linda Lopez.

**12. Report from Marin County Commission on Aging representative Loraine Berry and Town Council consideration of reappointment of Loraine Berry to the Marin County Commission on Aging for a two-year term.**

Loraine Berry reported this was her 12<sup>th</sup> annual report, said many positive changes were included in her 10-page report. She said in May of 2007 the Commission sponsored their Annual Symposium, *Healthy Aging* where they had a sold out crowd of 400 people. Their Director continues to provide leadership, office staff provides great support to Commissioners and to the community, their weekly television program, *A Time for All Ages*, is now being sponsored by an award-winning journalist and correspondent for national public radio and television, which is held on Tuesday nights. Catholic Charities of Marin currently provides delivery of congregate meals; they anticipate that over 70,000 meals will be served during the fiscal year, the meals are provided to all seniors who are unable to prepare meals regardless of income and no eligible senior is turned away. State and federal funds have contributed toward the program and seniors are asked but not required, to provide a donation of \$1.50 per meal. The congregate sites provide socialization in many communities and they continue to lobby for affordable, assisted living units. She said she would soon make a report on the status of the Town Meeting and the Ross General Plan, and she invited everyone to attend the next Commission meeting will be held October 10 at 10:00 a.m. at the Marin Art & Garden Center.

Mayor Hunter and Council Members thanked Ms. Berry for her many years of service, and suggested a motion be made to nominate her for another two-year term.

**ACTION: Mayor Pro Tempore Cahill moved, and Council Member Strauss seconded, to nominate Loraine Berry to a two year term on the Marin County Commission on Aging; motion carried unanimously.**

**14. Report from Street Tree Working Group Chairperson Janell Hobart.**

Chair Janell Hobart reported making progress in the working group and noted the following goals:

- Developing a master plan to create tree lined boulevards throughout the Town.
- Restoring the canopy of trees.
- Recognize partnerships between the Town and Ross property owners.
- Create an installation calendar for the planting of trees because each progress at varying levels.
- Focused work on Fernhill. Chair Hobart said they believed this was a good example of lost canopy. She said Fernhill is a mixed use street, with large and small parcels. They were able to walk along the street and view the existing and proposed new trees to be planted, and they realized that one of the most important parts is the placement of the trees and species. They have complications in their strategy in that PG&E, AT&T and Comcast all have lines and wires underground which prevent problems. So, they strategized a bit on how to properly plant the trees.
- Incorporate the opportunity to create an education component with trees and plants in honor of the Centennial and to ask citizens to donate plantings.

Council Member Durst said much of the care and provisions necessary to make street trees grow at a steady pace is embedded in Section 12.24 of the Town's street tree ordinance; however, the language of the code is a little muddled. Therefore, she would volunteer to take on, as an issue of general government, to clean up the code section so that the care of the trees is clearly embedded in the ordinance. The responsibility for the care and maintenance of trees has always belonged to the property owners, she felt one question that came up was cost, but she felt the key cost was in the town budget, felt they should get to a specific height and felt placement was important.

Mayor Pro Tempore Cahill questioned whether the Town's current budget covered all trees or were the purchase of trees on an as-needed basis. He felt Ms. Hobart's plans were fantastic in the replacement of the tree canopy, as trees make Ross beautiful.

Town Manager Broad said the cost is not contained in the budget because this is the first time this has been brought up, and he did not know if the Street Tree Working Group has attempted to put a number on the cost to implement those. Mayor Pro Tempore Cahill recommended suggesting an estimate be made for the amount of cost.

Council Member Durst said what should be reviewed is the cost and the size of the planting or box and felt it may be difficult to put a number on it. Chair Hobart said for 100 trees, the cost would be approximately \$150 per tree for a 15-gallon tree, for a total of

\$10,000. Council Member Durst noted the street tree planting is also Goal 1A in the General Plan as a desirable project for the Town to support.

Town Manager Broad said the Town in past years has had money in the budget for street tree planting throughout the town. If this is something that gets further defined or the Council wants to pursue further, staff could amend the budget to provide funding.

Public Works Supervisor Robert Maccario said cost would vary depending on who does the planting and whether or not they are done all at once or in increments. He felt staying small was very important because 15-gallon smaller trees will situate themselves better.

Council Member Durst felt a key component was being practical with the idea of tree planting. She felt trees had varying ages, are subject to disease, and they are like people. Council Member Strauss felt given the time of year, the Town should get them planted in the ground this planting season and felt education to property owners was critical. Council Member Durst said if the report is accepted by the Council, the working group can start the process, they have identified locations and tree species, they would draft and send letters to homeowners notifying them of the installations and felt the emphasis has always been creating a partnership between the town and the property owners.

Mayor Pro Tempore Cahill said he understood the major issue to be one of water and nutrients and there are a number of areas where there is no irrigation, so the challenge is to be able to encourage property owners to install irrigation. Council Member Durst said there were recommendations for different types of watering systems and the Town would advise the property owner what would be appropriate, given the tree type and area, and said they have a good group of expert individuals working on it.

Public comment:

Loraine Berry felt this is a great idea, said they have talked about this for 34 years, and asked that it be done. She said she has an old oak tree on the Town's side but it is on the property line. She questioned who would take care of trimming trees if there is a dead limb.

Public Works Director Mel Jarjoura said staff first would need to determine whether it is a town-maintained tree and whether it has been the Town's responsibility to check these periodically. Residents could call the Town and indicate the limb requires trimming. If the resident owns it, they would take care of it. He also said there are many people who used to call him about replacing trees. Usually the Town has indicated they provide a 15-gallon tree and some have already been purchased and are readily available. However, the issue has always been upgrading a tree's size. If property owners want to upgrade in box size, they pay for the tree, the Town can install it, but the Town does not pay the difference between the 15-gallon tree and the upgrade.

Chris Martin agreed trees are important to property owners. He recommended actively working with the neighborhood block by block and felt owners ultimately have the

responsibility of watering and maintaining the tree. Related to this, canopies in the Town are important and in the past what everyone has enjoyed were primarily elm trees as well as oaks and bays. But recently, many sycamores and red plum trees are planted along streets and he was curious if the Town would keep a traditional approach of the large mature growing trees like oaks and elms or would other trees be added to the canopies.

Council Member Durst said the object is to create something more poly-cultured than what they have and look at placement. They did look at elm look-a-likes that were supposedly more disease-resistant and they found those trees that had the look of the elm were too close a cousin. So, it is better for the Town to mix it up a little and go for a look rather than just the elm, single species in a row, along-the-road look. There are pavements, sidewalks, and overhead wires, under grounding and when elms were planted, many people got around by horse and buggy. So, the look of a single species is not truly possible.

Joan Holmes, asked if elms were being planted along Fernhill. Chair Hobart said they were proposing a mixture of oaks and elms. Ms. Holmes felt smaller trees were better because she shared the cost of having oaks installed and they have a growing structure that resembles a pine, with huge, lower branches. She also confirmed that the canopy report would soon be on the Town's website.

Loraine Berry said some property owners want larger trees and are willing to pay for them, did not feel the Town should limit options if a site was able to take a larger tree and felt some options should be left open. Council Member Durst said the object is practicality rather than one of a broader vision. Chair Hobart also confirmed with Ms. Berry there is a plan which would be updated for each individual street.

Steven McKinney suggested establishing a number of fir trees to keep the continuity with the elms. In talking with homeowners in his neighborhood, there are many people willing to volunteer in terms of labor to dig for the trees and felt this was the biggest cost. He also liked the idea of working block-by-block.

Council Member Durst said the current composition and formation of the group was done by Council resolution last December and it specified the type of numbers of individuals. The group is comprised of two members of the community, a town arborist, a town street supervisor and one member from the Council. She welcomed volunteers to assist with labor; however, she said this is the official working group.

A Speaker said he thinks we are talking about implementation and issues of rights-of-ways and the more you include those who live on the streets and have them involved, the better the trees are cared for and the better the experience will be.

Public Works Supervisor Maccario said the Town's biggest problem has always been the sense of ownership. What occurs is people want trees, the Town plants them, and the tree dies due to lack of water or care. So, he felt there should be a sense of ownership. As

far as volunteering, due to under grounding, right-of-way, wiring, irrigation, and other impediments, he felt trees should be planted by the Town's experts.

Council Member Strauss cautioned not to have too many different trees on a street because he felt it would lose the effect of the canopy. He said there were some great trees on Battery Street in San Francisco, a six foot sidewalk and a nice canopy has grown within 5 years with nice Sycamores. Council Member Durst felt there were experts on how that worked, and Council Member Strauss confirmed with her that the situation would be customized based on what constraints were in place.

Council Member Strauss suggested working with one tree type on any given street, but Mayor Hunter preferred that a variety be used, depending upon the need to do so. Mayor Pro Tempore Cahill felt more discussion could occur on this issue, suggested accepting the report, agreed it should not be a patchwork and felt the group has worked well on the issue. Council Member Strauss questioned if Sycamores were bad trees, and Chair Hobart said it is used a lot as a street tree, but it loses branches and there are other options, so it was not their first choice.

**ACTION: Mayor Pro Tempore Cahill moved, and Council Member Strauss seconded, to accept the report from the Street Tree Working Committee; motion carried unanimously.**

15. Follow-up discussion of the five Town Council goals for 2007-2008 and the implementation of these goals. (Broad)

a. Flood damage reduction/warning and emergency response (Cahill)

Mayor Pro Tempore Cahill said the item is closely connected with and somewhat overlaps Council Member Skall's emergency preparedness goal. Regarding the telephone emergency notification system, Police Chief Heying has taken the lead in these areas and has helped them a great deal. Prior to the 2005 flood, the Town had a TENS system, which is an automatic telephone emergency system that notifies residents in the event of a flood warning issued by the National Flood Service. It worked well for the 2005 flood, but since that time there have been other communities taking this on and joining the system, and the question is whether it has reached its capacity and what that effect is.

He said the County has an additional telephone system the Town has joined called, the MEANS system, where the County can send a customized message directly from the Civic Center from using 48 local telephone lines. With that system the Town will have better notification in the event of a flood.

b. Increase resident readiness, response and recover (Skall)

Council Member Skall thanked Chief Heying for his assistance, said they have appointed Cecilia Conti, a citizen volunteer, to serve as a Disaster Volunteer Coordinator and assist them with their outreach to the community. In addition, they are holding the *Get Ready Marin* project with the official start date of September 29, 2007, which is the date of their

annual disaster awareness fair which will be held at the Ross Common from 10:00 a.m. to 12:00 p.m. on Saturday. Classes should begin in November and held at the Marin Art & Garden Center, where they will be able to work with the community with regards to RPOA and PTA meetings. Residents can be provided with the tools, confidence and knowledge to carry the preparedness message forward, respond to disasters, and be ready through education. It is also anticipated the classes will stimulate interest in the CERT training program, which will be held October 20 and 27, 2007.

**c. Advisory design review (Durst)**

Council Member Durst said Project Planner O'Rourke, Town Manager Broad and she met to discuss what the advisory program would look like. She said Council has always had design review responsibility by following guidelines, but this was not the sense of the General Plan, which was to have a group available who were more open, available, looser, and available to get input on a design project. So, she wanted to look at a process similar to the General Plan process; one member of planning staff, the interested applicant, a member of the community who has experience in architecture or landscape architecture, and an interested, at-large community member. There are some issues around meeting as a group, but they will reconvene and discuss those issues and she welcomed any input about the program and advisory composition.

Town Manager Broad said this was brought before the Council a few months ago and feedback was that Council members wanted a much more fluid, looser and formal process than the way he had suggested implementing it initially. So they went back to the drawing board following Council Member Durst's lead, to determine how to be compliant with pertinent laws and steer towards a much more formal process, and he confirmed with Council Members they were better on target with this type of process.

**d. Downtown area plan (Strauss)**

Council Member Strauss said they are working on locating base maps for the broad downtown area, the Ross Common. The Post Office, roadways, the commercial area, Fred Allen Park, and depending on getting these maps, they would schedule a meeting of all stakeholders and interested parties to hold a visioning process to share ideas on the downtown. They hoped to schedule this for the second half of October, said there were a lot of issues regarding ADA access for the downtown, curbs, gutters, parking, street trees, the look and character of the downtown and that would contribute to improvement.

**e. Conclude fire consolidation (Hunter)**

Mayor Hunter said this would be discussed under Item 16 and he thanked Council for their progress on all goals.

Public Comment:

Loraine Berry referred to agenda items a and b, and asked the Town to ensure they identify and include those vulnerable seniors who might need assistance during a disaster.

16. **Town Council approval of Resolution No. 1631 Authorizing the Mayor and Town Manager to Prepare a Draft Joint Powers Agreement (JPA) with the City of Larkspur for consolidated fire protection services. (Broad and Heying)**

Town Manager Broad said they held a public meeting a few months ago at which point the City Council heard a report from a consultant hired by the five fire agencies in the Ross Valley. In addition to the Town of Ross Fire Department, it included Ross Valley Fire Service, Kentfield Fire Protection District, Corte Madera and Larkspur. The presentation and report prepared for the meeting was the culmination of an extensive study that was conducted by these five communities in the Ross Valley, including management, labor and elected officials.

The report looked at the feasibility of fire consolidation throughout the Ross Valley. Unfortunately, the conclusion of the report was that if all 5 agencies were combined together, due to a number of factors, the price for the combined agency was \$2 million more in total than the cost of the five budgets of each department. So, faced with that outcome, all five agencies regrouped and actively began looking at the feasibility of consolidation with the Ross Valley Fire Department with the Kentfield Fire District and with the City of Larkspur Fire Department. They had both formal and informal meetings and at the conclusion, they reached a decision that the City of Larkspur represented the best potential candidate for consolidation with the Town of Ross Fire Department.

They held staff meetings with Larkspur Fire Department staff, their City Manager, and a follow up meeting which included Mayor Hunter, about the consolidation with Larkspur. The more they looked at it, the more excited everyone became at this prospect and they felt it better represented an excellent opportunity to join the two departments together. In the final analysis it provides enhanced fire protection in both communities as well as a better organization.

Police Chief Heying said, operationally, what has been missing for both departments have been a mid-management level or Battalion Chief or Chief Officer. A Chief Officer directs the fire department operations at scenes of fires, disasters, any large scale emergencies requiring multiple fire resources and responders. They also function as the resource coordinator and arranges for specialized resources at the scene. Ross has been too small to have Battalion Chiefs because it would require three Chief Officers to be on duty to accommodate a 24 hour, 7 day-a-week coverage. Likewise, Larkspur has been in the same situation.

When they looked at the operational model, they saw the potential to get those three officers on board with a size of a department which would be financially feasible. There also would be existing personnel available to fill those positions. We would be able to absorb the promotions at a minimal cost because the Larkspur has relief firefighters which they could absorb into their organization and Ross Fire Department has an

apprentice program which is designed to backfill for promotions. So, they have personnel who have learned how to do things in Ross and they are well-trained.

In looking at the whole operational model, it was decided the Deputy Chief, who is currently working in Larkspur, could be used as a Battalion Chief, and then promote two Battalion Chiefs from each of the two departments, backfill one with the relief firefighter in Larkspur and another one from the apprentice program in Ross. So they would only need to hire one additional person in the entire model to get the full compliment of management. He felt the situation made for a favorable financial outlook.

Even though Ross and Larkspur do not share a border, it would allow for a potential merger opportunity. He noted it was not necessary to share a border and they have found effective models that occur, as long as the proximity is close. They look at the merger as being a benefit for administrative, professional Chief Officer coverage, and also some fire leadership, which has not been present in Ross for a long time and which they have in Larkspur. So, they would run an administrative consolidation as well. Personnel would remain where they are currently deployed and would still interact with Ross Valley and other agencies through mutual aid agreements.

Mayor Hunter referred to mutual aid agreements and questioned who was first, second and third responders. Chief Heying said the Town of Ross receives help from both the Ross Valley Fire Department and Kentfield Fire. Depending on resources needed, there is a block order assignment that occurs and they are looking at modifying this now to enhance what is currently in effect on their first alarm assignments. He said they take the engine crews nearest, which would not change under the merger, and always want to have the system where they can get the closest resources.

Town Manager Broad said staff looked at the question of the stand-alone department, which somewhat overlaps in terms of the organizational benefits in consolidating with Larkspur. What the consolidation does is it keeps what they have in place already with existing strengths of the department and it augments it by bringing in management of a Battalion Chief and a full-time Fire Chief into that organization. And, it further strengthens it by making it a larger, three-station organization. They would find this to be a significant benefit during the periods where natural disasters occur.

They also reviewed how it would be compared if Ross was to stay a stand-alone department. They found they could no longer function this way because of mandates and the need for additional training and enhancements for augmenting the department if they were to stand alone. If they brought in a Battalion Chief, it would cost about \$500,000 for three Battalion Chiefs; one for each shift as opposed to being able to split that cost with Larkspur and sharing it between the two communities. Similarly, if they brought in a full-time Fire Chief rather than a half-time Fire Chief, it would be a significant cost as well, rather than the ability to share that management position with Larkspur and pay our pro-rata share of the total cost.

There is the opportunity for the Town of Ross to buy the quantity needed of additional management staffing, while 2/3 of that cost is borne by the Larkspur community. In

terms of how this ties into the financial implications, Larkspur did an analysis and ran a preliminary budget of the organizational cost of taking the two departments and factoring in the additional 1.5 new positions required. They arrived at a rough estimate of \$150,000 annually, with Ross's share of using a 1/3 model would be about \$50,000, which is very negligible compared to the \$2 million consolidation cost for all 5 agencies. He felt this was not to say this is the only cost that would come out of consolidation in terms of how both contracts meld together, salaries here versus salaries in Larkspur, but we have gone into this knowing we were not going to be able to reduce existing costs by entering into any sort of a consolidation. Their goal was to provide enhanced fire protection service for the community.

Town Manager Broad said Town staff, Fire Department management and labor representatives are very supportive of the idea of consolidation and its ability to provide superior fire protection service for the residents of Ross. The big savings is over what it would cost Ross if we remained independent and tried to piecemeal components. We also believe the management in place in Larkspur is excellent. Chief Bob Sennett, who is very well-respected, would do an excellent job running a merged organization.

Town Manager Broad thanked the fire labor representatives present at the meeting, who have made a huge contribution to this effort, they have been patient, and said they would not have been able to get as far along in the process without their input, assistance and feedback.

Council Member Strauss asked if the Larkspur Council had met to discuss the matter, and Town Manager Broad said they would meet on September 19, 2007. Their City Manager has indicated that in discussions with Councilmembers, they appear to be enthusiastic about the idea. It is recognized in Larkspur that their lack of Battalion Chief coverage is the major failing the department has, so they are enthusiastic about the opportunity.

Regarding process, Town Manager Broad said this is a step where the Council is not making any final decision, but rather authorizing staff to work with Larkspur on negotiating a draft a JPA Agreement, which would return in a future public meeting for approval. They have also talked about the fact that in all likelihood, they would look at a JPA agreement that had a trial period of about two years, and if both parties felt it was successful, it would become a permanent arrangement.

Mayor Pro Tempore Cahill said, assuming the Town were to sign the JPA and have Battalion Chiefs covering the two jurisdictions, how would it affect Police Chief Heying's position with the Town of Ross. Town Manager Broad said it would change his position in that currently Chief Heying is assigned to run both fire and police. He would give up his Fire Chief duties and be able to focus full-time on running the Police Department. In conversations with him, Chief Heying has indicated ideas for other job duties and responsibilities to be added to his overall work as Police Chief and have more time available for running the Police Department.

Mayor Pro Tempore Cahill said assuming the Council approves moving forward with the JPA, he questioned if staff would have some of the miscellaneous costs ascertained or not, and Town Manager Broad said they will have more specificity on how the two departments would be merged and more clarity on costs. In terms of the JPA, nothing is set in stone, but the Larkspur City Manager suggested that it might be similar to the JPA agreement Larkspur has in place with Corte Madera for Twin Cities Police in which there are two members from each Council that form the board and they meet quarterly along with the City Manager of each community. This has run smoothly for 25 years. Each community has full input into how the organization runs which is another added benefit of creating a JPA with Larkspur rather than going into an existing JPA, because we can customize the agreement and its structure.

Public Comments:

Joan Holmes said Larkspur covers a huge area and is steep and she questioned if this was taken into account for Ross fire engine apparatus. She also questioned if Ross would get called to respond to emergencies in Larkspur. Mayor Hunter said currently, absent of consolidation or with consolidation, there is a mutual aid agreement in the entire County, so this will not change. If there is a fire in Ross, Ross is the first responders. He said the change is one of operational overlay; the Town will have 24 hours a day with management and this provides firefighters with more training, apprenticeship, growth in careers, and better fire services.

**ACTION: Council Member Strauss moved, and Council Member Durst seconded, to approve Resolution No. 1631 Authorizing the Mayor and Town Manager to Prepare a Draft Joint Powers Agreement (JPA) with the City of Larkspur for consolidated fire protection services.**

**17. Planning Application Consent Agenda.**

Council Member Durst reported the need to recuse herself on Item 17d due to real property interests, and Mayor Hunter removed the item for separate action.

**a. 104 Laurel Grove, Lot Line Adjustment No. 1658**

Karen Pell and Heather Lupa, 104 Laurel Grove, A.P. No. 72-211-30, R-1:B-A (Single Family Residential, One Acre Minimum Lot Size) and Benjamin Polk and Erin Kinikin, 100 Laurel Grove, A.P. No. 72-211-39, R-1:B-A (Single Family Residential, One Acre Minimum Lot Size). Lot line adjustment that increases the lot size of 100 Laurel Grove and reduces the lot size of 104 Laurel Grove by 8,513 square feet. 100 Laurel Grove currently has a lot area of 43,534 square feet (1.0 acre) and is proposed at 52,047 square feet (1.2 acres). 104 Laurel Grove currently has a lot area of 106,013 square feet (2.4 acres) and is proposed at 97,500 square feet (2.2 acres).

Mayor Pro Tempore moved, Council Member Strauss seconded, to approve Planning Application Consent Agenda Items “a” as presented by staff with findings and conditions in the staff report. Motion carried unanimously.

1. The Town approves the transfer of 8,513 square feet from 104 Laurel Grove to 100 Laurel Grove as shown on the Lot Line Adjustment Diagram, Drawing No. H1558, prepared by David Harp, Licensed Land Surveyor, dated 12-18-06. This lot line adjustment shall not create any new lots or parcels and the 8,513 square feet of land that is transferred shall be merged with the 100 Laurel Grove lot, currently Assessor's Parcel Number 072-211-39.
2. The recorded documents shall reflect transfer of the easements that are shown on the subdivision of the Lands of Damner, Marin County Parcel Maps Book 23 Page 49.
3. The applicants shall provide the planning department with a copy of the recorded documents that complete the lot line adjustment by September 11, 2008.
4. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense 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.

- b. **44 Chestnut Avenue, Variance, Design Review and Tree Removal No. 1659**  
Jennifer and Peter Daly, 44 Chestnut Avenue, A.P. No. 73-291-06, R-1:B-20 (Single Family Residential, 20,000 Square Foot Minimum Lot Size). Variance and design review for landscape improvements including: 1.) replacing over 100 linear feet of wood retaining wall, up to four feet in height, on the down slope edge of the driveway; 2.) constructing a 6 foot tall, matte black, ornamental iron fence with open design, on driveway retaining wall, resulting in a combined fence height of 8 to 10 feet (6 feet permitted with design review); 3.) 6.5 foot tall stone column (6 feet permitted with design review) and 6 foot tall, open design, matte black, ornamental iron pedestrian gate; and 4.) tree removal permit to remove 3 fir trees ranging from 30 to 40 inches in diameter and one 18 inch diameter pine tree.

**Mayor Pro Tempore moved, Council Member Strauss seconded, to approve Planning Application Consent Agenda Items "b" as presented by staff with findings and conditions in the staff report. Motion carried unanimously.**

1. Plans for the driveway retaining walls shall be reviewed and approved by a licensed civil engineer.
2. The landscape plan shall be modified to include less formal planting to replace or supplement the boxwood hedge near the entrance to the site, subject to planning department review and approval.
3. Drip irrigation is required. The project shall comply with Marin Municipal Water District Ordinance 385, even if ordinarily exempt from their requirements. Plans shall be submitted for MMWD's review and approval. The applicant shall

- provide a copy of the MMWD Final Compliance Letter to planning department staff prior to project completion and final inspection.
4. Excavation and planting shall avoid the major support and absorbing tree roots of the trees to be retained. Hand excavation is required within the drip line of trees.
  5. Artificial irrigation shall not occur within the root zone of oaks, unless deemed appropriate by an arborist and written evidence is provided to the planning department staff.
  6. The existing wood and wire fence between the driveway and the street shall be removed before project final.
  7. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
  8. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
  9. This project shall comply with the following requirements of the Department of Public Safety: 1.) Clear all brush impinging on access roadway; 2.) Roadway must have a vertical clearance of 14 feet; 3.) A street number must be posted {minimum four inches on contrasting background}; 4.) A Knox Lock box is required; and 5.) The property must be cleared of all dead or dying flammable materials.
  10. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice.
  11. **NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.** Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval prior to any modification.
  12. **FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY SEPTEMBER 11, 2008, WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**
  13. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
  14. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
  15. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall

prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

**c. 79 Shady Lane, Design Review No. 1611**

David and Anne Ramsay, 79 Shady Lane, A.P. No. 73-091-16, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). Design review for work within 25 feet of a watercourse. Project involves work to repair and strengthen a creek retaining wall in Ross Creek.

**Mayor Pro Tempore moved, Council Member Strauss seconded, to approve Planning Application Consent Agenda Items "c" as presented by staff with findings and conditions in the staff report. Motion carried unanimously.**

The following conditions shall be reproduced on the fist sheet of the construction plans:

1. The applicant shall submit evidence prepared by a licensed land surveyor that confirms the retaining wall and construction work shall take place on the applicants' lot. If the construction work or wall repairs will be off site, the applicant shall submit written evidence from property owners that permission has been obtained for the construction and work.
2. Planning department staff shall review and approve the design of any guardrail or fence proposed within 36 inches of the repaired wall prior to construction.
3. All work which could affect the creek shall be completed when there is no water in the creek and during the June 1-October 15 work window, as established by NMFS Guidelines for anadromous salmonids.
4. The applicants shall incorporate the habitat protection and improvement measures recommended by the Town Hydrologist, attached to the staff report dated September 5, 2007, for the retaining wall repairs. Planning department staff may modify this condition, in consultation with the Town Hydrologist, if found necessary for safety and engineering reasons.
5. The applicants shall make their best efforts to obtain and secure large woody debris on the threaded lag bolts installed on the wall in order to provide cover for fish in the pool area.
6. No creek dewatering of the creek is permitted by this approval.
7. No concrete, cement, slurry, or other construction debris is permitted to enter the creek. If any concrete, cement, slurry, or other debris inadvertently enters the creek, the material shall be cleaned up and removed from the channel immediately.
8. Staging/storage areas for equipment, materials, fuels, lubricants and solvents, shall be located outside of the creek channel and associated riparian area.
9. Spoil sites shall not be located within the stream channel, where spoil may be washed back into the creek. Building materials and construction equipment shall not be stored where materials could fall or be washed into the creek.
10. All existing vegetation outside the project limits shall be left undisturbed.
11. The applicant is responsible for obtaining all appropriate Federal, State and local permits prior to issuance of a building permit, including a Streambed

Alteration Agreement from the Department of Fish & Game, permit from the U.S. Army Corps of Engineers and the Regional Water Quality Control Board. The applicant shall comply with any additional requirements of the agencies.

12. The drainage from the residence and site shall not be discharged directly into the creek.
  13. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
  14. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice.
  15. No changes from the approved plans shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval prior to any modification.
  16. Failure to secure required building permits and/or begin construction by September 11, 2008 will cause the approval to lapse without further notice.
  17. 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.
- e. **3 Southwood, Variance and Design Review No. 1547**  
David and Elizabeth DeRuff, 3 Southwood Avenue, A.P. No. 73-152-09, R-1:B-20 (Single Family Residence, 20,000 Square Foot Minimum). Design review for 150 linear feet of wood retaining wall, up to 2 feet tall, along the west property line. Variance to permit a 6 foot tall fence on top of the wall, resulting in a combined fence height of up to 8 feet (6 feet permitted).

**Mayor Pro Tempore moved, Council Member Strauss seconded, to approve Planning Application Consent Agenda Items "e" as presented by staff with findings and conditions in the staff report. Motion carried unanimously.**

1. This project shall be subject to all conditions of the March 10, 2005, approval for the new home at 3 Southwood, as amended on May 11, 2006. No changes

from the original conditions of approval or to the project plans are approved except the proposed retaining wall and fence along the west property line.

2. Landscaping shall be installed as proposed on the landscape plan prepared by Beverly Sarjeant, dated June 21, 2007, prior to construction completion. Staff reserves the right to require additional landscape screening for up to three(3) years from project final.
3. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review prior to any change.
4. IF NOT CONSTRUCTED AS PROPOSED, THIS FENCE AND RETAINING WALL APPROVAL SHALL EXPIRE ON THE DATE OF PROJECT FINAL FOR BUILDING PERMIT ON THE NEW HOUSE CONSTRUCTION OR ON SEPTEMBER 11, 2008, WHICHEVER DATE IS SOONER.
5. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

**d. 19 Oak Avenue, Variance and Design Review No. 1664**

Meade and Terri Boutwell, 19 Oak Avenue, Ross, A.P. No. 73-022-16, R-1:B-A (Single Family Residence, 1 Acre Minimum Lot Size). Variance and design review for landscape improvements including a new sports court within the south side setback area (25 feet required, 2.5 feet proposed) and re-grading the driveway. The project involves approximately 70 cubic yards of cut and 106 linear feet of retaining walls ranging from 2 to 5 feet tall. The applicants would remove a section of concrete drainage swale in the front yard and replace the existing culvert in the sports court area with one that will dissipate water on site.

Council Member Durst recused herself from considering the item. Mayor Hunter confirmed there was no public comment on the item.

**ACTION: Council Member Strauss moved, Council Member Skall seconded, to approve Planning Consent Agenda Item 17d. Vote: 4-0-1 (Durst recused).**

1. Lighting of the sports court for evening or night time use is not permitted.
2. The applicants shall improve the driveway runoff by using pervious material and/or sloping areas to drain into adjacent landscaping and not directly into the storm drain.
3. A detailed landscape plan and material samples shall be submitted for review and approval by staff and installed prior to project completion.

4. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
5. An encroachment permit is required from the Town of San Anselmo prior to construction. The Ross Town Council recommends the height of the stone columns in the right-of-way be limited to 4 feet.
6. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice. Construction shall be complete upon the final performance of all construction work, including total compliance with all conditions of application approval, installation of required landscaping, and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and approval of the applicable work by town staff shall mark the date of construction completion.
7. NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval prior to making any changes.
8. FAILURE TO SECURE REQUIRED BUILDING PERMITS AND/OR BEGIN CONSTRUCTION BY SEPTEMBER 11, 2008 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.
9. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
10. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
11. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

End of Planning Consent Agenda.

**18. 68 Bridge Road, Design Review No. 1666**

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

For the benefit of people arriving late to the meeting, Mayor Hunter re-announced that the item had been withdrawn from the agenda by the applicant.

**19. 39 Fernhill Avenue, Variance, Design Review, Use Permit Amendment, Demolition, Lot Line Adjustment, Conditional Exception to Subdivision Ordinance, and Tree Removal No. 1661**

The Branson School, 39 and 71 Fernhill Avenue, A.P. Nos. 73-072-04, 73-082-01, 73-082-12, 73-141-03 and 73-151-05, R-1:B-A (Single Family Residential, 1 Acre Minimum Lot Size). Amendment to use permit, design review and demolition permit to allow new buildings and related site improvements on existing private high school campus including: 1.) construction of new 7,550 sq. ft. student commons building, in area down slope of tennis court and parking lot, to be used for a new dining hall, bookstore, kitchen, offices, restrooms and lounge; 2.) widening road to the lower campus to 18 feet for fire access, which includes construction of new retaining walls; 3.) demolition of 550 sq. ft. of fine arts building (“Newhouse”) and construction of accessible lift and steps at the main entry; 4.) construction of 3,278 sq. ft. fine arts center; 5.) demolition of 400 sq. ft. bookstore; 6.) various retaining walls up to 4 feet in height; 7.) 1,162 cubic yards of cut and 1,274 cubic yards of fill; 8.) tree removal, including removal of a 16 inch diameter birch, 24 inch diameter liquid ambar, and 14 inch diameter tulip tree.

Lot line adjustment to transfer 3,652 square feet from 71 Fernhill Avenue to the main school lot so that a side setback variance is not necessary for the new student commons building. The 71 Fernhill Avenue lot area would be reduced from 58,973 sq. ft. to 55,321 sq. ft., increasing the floor area ratio from 6.0% to 6.4%, and reducing the average width from 147 to 138 feet (150 feet required). The main school lot area would increase from 591,304 sq. ft. to 587,652 sq. ft. and the floor area would increase from 13.5% to 15.3% with the new construction.

No change in student enrollment or number of on-site parking spaces is proposed.

*Existing and proposed conditions for all Branson-owned parcels:*

Lot area	707,897 square feet	
Existing Floor Area Ratio	13.6%	
Proposed Floor Area Ratio	15.0%	(15% permitted)
Existing Lot Coverage	9.6%	
Proposed Lot Coverage	11.1%	(15% permitted)

Town Manager Broad announced that due to his daughter attending Branson School, he has had no involvement with this application and Senior Planner Elise Semonian had prepared and would present the staff report.

Senior Planner Elise Semonian gave the staff report, stating the application is to construct two new buildings including a new student commons building in the lower campus area and a fine arts building in the upper part of the campus. Staff is supportive of the design. The new student commons building is proposing green building elements and the school may be seeking LEED certification. They are widening the driveway to 18 feet, adding a service access, re-arranging some parking spaces, and no additional student enrollment would occur, as the school was set at 320 students by initiative and does not intend to increase the faculty. The cafeteria would turn into small group classes, and if they are not changing the use of the space staff does not see a problem reviewing the interior plans at a staff level.

In addressing issues, the applicants have done an excellent job in talking and meeting with neighbors. There are a variety of interests and changes have been made in response to concerns. Issues involve circulation, which has been improved, construction impacts, and the applicant has prepared a construction management plan with the intent to construct the driveway and use the access, and then allow construction vehicles through the main gates for access to the fine arts building. They would allow vehicles to park on the tennis courts and staff directed all staging to take place on-site and not on public streets.

Concerns have been raised using the main gate for access, but staff feels that there should be no problems if it is timed when there is no student drop-off or pick-up. Ms. Semonian said it is typical for Public Works to review the construction management plan, the intent is to not have all construction vehicles using Bolinas Avenue for every trip, and Branson school officials have volunteered to update their school traffic and parking plan after construction. The traffic and parking generated by the school use has been a long time concern for residents. Some efforts have been made to reduce impacts on neighbors, but this is still a concern. There may be things that could be done, so they recommend a traffic study be done after construction to identify improvements and they can look at the traffic plan to see if components can be put into place. However, staff does not feel it should be tied into this project and does not expect the traffic to increase from what it is today.

Staff did not recommend a modification to the speed bumps, but believed new signage to alert drivers of the Circle Drive residential area would be appropriate. She noted one neighbor was concerned with screening and landscaping on Circle Drive, which she pointed out on the plans. Branson School has proposed to install landscaping consistent with Circle Drive, as well as a fence/wall for additional privacy, but staff felt landscaping would be sufficient and is recommending approval with conditions outlined in the staff report.

Woody Price, Head of School, echoed comments of Ms. Semonian, said they have made major modifications in response to neighbor's concerns, are still listening to on-going concerns and said they would try their best to meet them. He noted Ross residents were present who served on the task force, as well as Mary Griffin, Branson's Architect, who would present the plans.

Mary Griffin, architect, said they have been working primarily on enhancing facilities and locating them so as not to impact the surrounding communities. She said Branson used to be a residential school with dorms, but over the years dorms no longer existed, the dining hall is removed and accessed from the rear, and because it is a closed campus, students do not leave for lunch. There has been an increasing need for a student commons area and one proposal is to develop a new commons dining hall in the Glen with new technologies, a courtyard and with building that open up to the Glen. The road will be widened, they will rework the parking at the bottom of the hill in order for two cars to safely pass, will improve the turn-around and vehicular pattern and a drive would be added off the current driveway which would allow emergency vehicles to get to the back side of the building and service vehicles to access it.

Ms. Griffin said the glen side is 35 feet below the tennis courts, and therefore, the building could not be seen especially given all of the mature trees. The student commons building is proposed at 7,500 square feet and the other building is attached to the formal residence called New House. It has a flat one-story addition and they are proposing taking it off and adding a 3,200 square foot building with a new ceramic sculpture studio and rehearsal room. They currently only use the living room and it is not large enough.

Story poles are up, they will improve the front entry and add an accessible lift, a new courtyard will be added between the two buildings along the front and side and the projects fit within the FAR that Branson has negotiated over the last several years. She also noted they would be built simultaneously, a construction management plan has been developed, and noted the building's green features included photovoltaic panels, recycled roofing, passive cooling, radiant heat, and living roof on the two lower sections which will allow for rain and runoff to be absorbed. She presented the art building, which is one-story, a new house with revised entry, large music rooms, restrooms, a digital media room, the ceramic studio, and it will be designed to go with the new house.

Mayor Pro Tempore Cahill asked for Ms. Griffin's opinion regarding the need for a fence or wall adjacent to the arts building, which was requested by a neighbor. Ms. Griffin said they have had multiple meetings with neighbors. In response to one meeting, they had the landscape architects review it and the school had cleaned up some of the landscaping behind the new house. Their initial response was the character of Circle Drive was one of hedges, so if they could get the hedges to prosper, it would be more in keeping to see hedge than wall. But, if hedges do not prosper, they could implement a fence/wall in the area.

Public Comments:

Martin Shore, resident at 11 Circle Drive, thanked the school for being very amenable to the neighbors and their concerns and said his concerns involved the construction management plan and the wall. The plan shows for a new courtyard area which is close to Circle Drive and the proximity of the new building. He lives on Circle Drive and wants planting and hedging to be consistent, but the reasoning for the wall is to create separation from the new congregating area, which will be close to Circle Drive and from the residential area and school area noise. He said they are concerned with the idea of

only landscaping, stating planting can vary in height and bulk, the new building is 3,200 square feet, they would see it every day and all five neighbors on Circle Drive are also concerned. Additionally, part of the reasoning for having planting and the wall is to discourage foot traffic which would spill out on Circle Drive. He noted the existence of illegal parking that occurs in the area and they would want this discouraged because it would now become an attractive place to access the new building from the back. Regarding the idea of using the main gate for construction vehicles and traffic, he felt this was their only way of access to and from the property. He felt with construction vehicles entering and exiting such a tight area, it would be difficult getting through the archway and felt it would be a problem. He hoped that the construction management plan looked at this, and said his thought was that given the cost of making a construction road to access the bottom building, all construction should go through the new temporary road and come up the hill to access the new arts building instead of using the main entry. He also said there is a blind spot on Circle Drive when making a right-hand turn onto Fernhill. It is difficult in the mornings, after school, and with activities, buses going in and out, they are concerned about the variety of construction vehicles and their timing. Otherwise, he said the school has done a wonderful job trying to work through the process and thanked them for modifying plans to address other concerns as well.

Pat Moody Fields, resident at 40 Glenwood Avenue, said she has seen the expansion of the school over time, noted traffic increases, blind curves, and very recent episodes of people speeding and stopping to pick-up and drop-off students. She appreciates the cooperation the school has shown in the plans and in working with neighbors, but the one thing not addressed was the construction management plan. She hoped Glenwood Avenue and its 7 houses are not totally impacted 100% by all the traffic coming and going, as there were already problems. The no left-turn onto Bolinas Lane increases their neighborhood traffic. There are young children on the street, she has had cats killed in the past, it is impossible to get out of their driveways in the morning due to the blind curve, she has been personally side-swiped at Fernhill and Glenwood by a student, students and parents speed when they are late to school and felt the situation was extremely hazardous. She hoped for a safe and effective construction management plan and requested mitigating traffic problems on Glenwood Avenue.

Frank Malin, resident at 6 Fernhill, thinks Branson School is a great place and the new plans would enhance student facilities. He is concerned about flooding because the project would add another 12,000 square feet of structure and hardscape on the campus. The student commons is a huge catchment for water, the water will go into the creek and flood and he felt this was the kind of project where one must start thinking about impacts of flooding, runoff, covering over Ross Valley with concrete and other non-permeable surfaces, and he felt it was a big problem, difficult to deal with, and hoped the Council would consider runoff effects when considering other projects.

Council Member Skall felt the architect has done a wonderful job, thinks they worked with neighbors very well and he is sure other concerns could be further addressed. He felt it would be a big project with some impacts but the school will be open and operating at the same time. He felt that part of living in Ross is recognizing the Town is almost 200 years old and things must be improved. People should recognize that

facilities need upgrade, there will be an inconvenience, but it will be done right and thinks the Council should move forward with approving the project.

Council Member Strauss felt it was a great project; he walked the area and felt the Architect had done a great job. He liked the green building aspects and hoped the water retention issues could be addressed and for Public Works to work out issues relating to the construction management plan.

Mayor Pro Tempore Cahill agreed the architect did a terrific job, supports the project, feels the project's green elements are excellent, working with the neighbors has been a model, acknowledged Mr. Malin's comment as important but he believed the matter would be addressed through conditions of staff.

Ms. Semonian said it would be their intent to retain all water on site and the water does go into the commons area, but there is a great distance where it could be diverted off the site. She noted Hydrologist Matt Smeltzer would be reviewing the drainage plans on the Town's behalf,

Council Member Durst said she loves the plan. Regarding comments about the traffic concerns, she was impressed with Dr. Field's letter to the parents and their traffic and parking handbook, which represents a significant change in how they are treating getting students on campus. There are things that should be undertaken to pull cars out of the area so that the students are less tempted to park on Bolinas Avenue. She said she was sympathetic as she lives on Upper Road, her husband has been hit by a Branson student, and the students do pick up their friends in the middle of the road, it is annoying, there are things the Town can do to be more clever about how we plan for parking in the area and suggested permits being issued, She felt the design worked nicely, likes the amount of green building and felt the plan was terrific.

Mayor Hunter echoed Council Member Durst's comments, felt the process has been exemplary, said over a year ago certain comments were made about what was being planned and it is great to see a re-thinking of the situation had taken place. He felt the concerns regarding the construction management plan were real, there are also two houses under heavy construction with pickup trucks on Fernwood and he would recommend that when the plan is ready to be finalized, allow interested members of the public to review it prior to its finalization. Senior Planner Semonian noted Condition 4 requires the plan to include construction routes, so when they are submitted, they can be available for public review.

Mayor Pro Tempore Cahill suggested modifying Condition 5 that would require Branson to provide irrigation for any trees added by the street tree committee.

Council Member Durst referred to the fence/wall request and said she would like to have a wait and see approach after the building is completed. Staff can look at how to screen it from the street and how it provides privacy for Circle Drive. Regarding landscaping, she suggested Dazzle berry between the main building and the road and the new building landscaping be planted more aggressively so it retains more water. Rather than

grass, she suggested taking a look at other methods for getting the hillside to hold more water .

Mayor Hunter reminded public speakers that the Town has the right to revisit any project during a three-year period of time, should it turn out to be a problem.

**ACTION:** Council Member Durst moved, Council Member Skull seconded, to approve the request at 39 Fernhill Avenue for Variance, Design Review, Use Permit Amendment, Demolition, Lot Line Adjustment, Conditional Exception to Subdivision Ordinance, and Tree Removal No. 1661 subject to the conditions listed below, with the additional request to modify Condition 5 to indicate that the applicant provide irrigation for any added street trees; and that the construction management plan (condition 4) be available for public review, motion carried unanimously.

1. The Branson school use shall be subject to all conditions as approved by the Town Council on May 11, 1978, except as modified by these conditions.
2. Staff may approve minor modifications to the plans in order to preserve the oak tree at the southeast corner of the proposed student commons building.
3. The demolition, design and construction of the buildings and related site improvements shall substantially conform with the plans approved by the Town Council on September 11, 2007, except as otherwise provided in these conditions of approval.
4. The construction and traffic management plan, construction routes, and rules shall be attached to the project plans and submitted to the building department for review and approval prior to the issuance of a building permit. All construction materials, debris and equipment shall be stored on site. Road closures and delays are not permitted. The applicant shall provide sufficient area on site for all construction related vehicles. Staff shall provide neighbors with the opportunity to review and comment on the construction management plan and construction routes prior to issuance of the building permit.
5. The screening landscaping proposed along the Circle Drive property line shall be installed prior to commencement of construction and irrigated until established.
6. Prior to issuance of a building permit, a sign shall be installed near the Circle Drive residential area that indicates it is a residential district and not part of the Branson School Campus. The size, text and design of the sign shall be reviewed and approved by planning department staff.
7. The applicant shall update the traffic and parking study for the school after construction is complete and when school is in session. Results of the traffic study shall be submitted to planning department staff. The Town Council reserves the right to require traffic and safety improvements if warranted to ensure the school use is not detrimental to the health, safety, morals, comfort, convenience, or general welfare of persons residing in the neighborhood.
8. The new buildings proposed on the main school site (APN Nos. 073-141-03 and 073-082-12) will bring the site over the maximum permitted floor area of 15%. In exchange for granting a variance for this site, the Town will limit the combined floor area on all Branson School parcels, identified on the project plans, to a

- maximum of 15% of the combined lot sizes. If any of the lots is sold, the seller is responsible for notifying the new owner of this restriction.
9. The applicant shall provide the planning department with a copy of the recorded lot line adjustment documents before the building permit is issued for the student commons project. The applicant shall also perfect the lot merger for the main Branson campus lots prior to issuance of the building permit.
  10. A building permit is required for the proposed work. The design and construction of all site alterations shall comply with all applicable codes and regulations in effect at the time of plan submittal and building permit issuance, including all disabled access regulations.
  11. The applicant shall obtain any necessary air quality permits for demolition prior to issuance of the building permit.
  12. No changes from the approved plans shall be permitted without prior Town approval. Plans submitted to the Building Department for the building permit shall be identical to those approved by the Council, except as otherwise noted in this approval. If any changes are made to the approved plans, the applicant is responsible for clearly identifying all such changes and submitting them for review and approval by the planning department. Such changes must be clearly highlighted with a "bubble" or "cloud".
  13. The applicant shall submit a drainage plan for review and approval by the building department prior to issuance of the building permit. All site drainage shall be dissipated in a manner that prevents erosion and conforms to current storm water discharge practices in Marin County. The applicant is responsible for ensuring storm water runoff is maintained in its natural path.
  14. The applicant is responsible for obtaining any approvals necessary from Marin Sanitary Service, the Public Health Department, Marin Municipal Water District, and any other agency that may have jurisdiction over the project. The Town shall require the applicant to comply with any conditions imposed by those agencies prior to project final.
  15. Property lines must be physically identified (string line or equal) and must be certified by a surveyor at the time of the first foundation-related inspection.
  16. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
  17. Exterior lighting must consist of low wattage fixtures, and must be directed downward and shielded. The Building Plans shall include specifications (cut sheet) for all exterior lights.
  18. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice.
  19. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.

20. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final, including construction of a screening fence or wall on Circle Drive.
21. In order to confirm that the project complies with the approved plans, the applicant shall submit a letter or certificate from a surveyor confirming the height of the roof and finished grade elevations prior to project final.
22. There is the possibility that buried archaeological deposits could be present, and accidental discovery could occur. In keeping with the CEQA guidelines, if archaeological remains are uncovered, work at the place of discovery shall be halted immediately until a qualified archaeologist can evaluate the finds (CEQA Guidelines §15064.5 (f)). If the find is determined to be an historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work may continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.
23. The applicant shall comply with all requirements of the Marin Municipal Water District (contact Joseph Eischens (415) 945-1531)
  - a. Complete a Water Service Application
  - b. Submit a copy of the building permit
  - c. Pay appropriate fees
  - d. Comply with the District's rules and regulations
24. This project shall comply with the following requirements of the Department of Public Safety: 1.) Clear all brush impinging on access roadway; 2.) Roadway must have a vertical clearance of 14 feet; 3.) The property must be cleared of all dead or dying flammable materials; 4.) Access roadway must be increased to 18 feet wide to provide adequate fire or rescue operations; 5.) sprinklers are required for all new construction; and 6.) A 24-hour monitored alarm system is required.
25. The applicant shall complete installation of landscaping prior to occupancy (whether temporary or permanent) of the buildings. A final sign off on the building permit shall not be granted until the landscaping is installed.
26. Failure to secure required building permits and/or begin construction by September 11, 2008 will cause the approval to lapse without further notice.
27. The applicant 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 applicant and/or owners of any such claim, action, or proceeding, tendering the defense to the applicant and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.

Mayor Hunter called for a break at 8:46 p.m. and the Town Council reconvened the regular meeting at 8:55 p.m.

20. 63 Ivy Drive, Variance and Design Review No. 1667

Steve Daane and Sheryl Garrett, 63 Ivy Drive, Ross, A.P. No. 73-152-17, R-1:B-20 (Single Family Residence, 20,000 sq. ft. Minimum Lot Size). Variance and design review to expand the existing parking area located within the front yard setback (25 feet required, 0 feet proposed) and side yard setback (20 feet required, 6 feet proposed). Project includes construction of a new 3 to 7.5 foot tall retaining wall on the downhill side of Ivy Drive.

Senior Planner Semonian said the application is a request to extend a parking area in front of the applicant's property. The current parking area is in the right-of-way, but only supports a car parked parallel to the roadway which is not sufficient. There is a fire hydrant that requires vehicles to park a distance from it. The applicant is proposing to be able to build a wall into the parking area in order to get vehicles off the street and further away from the fire hydrant. She felt the existing area was not very attractive, she has added conditions for landscaping and said they will work with public safety to determine if vehicles are able to pull in properly around the corner and the applicant is completely willing to work with the Town. One neighbor submitted concerns about the engineering of the wall; however, staff will hold inspections to ensure the work is proper.

Mayor Hunter asked if the wall had been poured. The applicant indicated it had been done with bags of concrete and with a 2500 psi, electric mixer.

Steve Daane, applicant, said they had to address the stop work order and there was a permit for a different wall which is engineered and inspected for steel. Mr. Daane said his neighbor, Jerry Cruz and his concrete contractor, Dave Esparza, were present, he presented the map which showed the fire hydrant's location, parking and said the rock wall was falling apart. His car sticks out into the right-of-way, he received a ticket in August 2006, discussed his background, and agreed there may be a better solution. Since living there, they built a retaining wall and repaved the road. There is another large project further up Ivy which has been used as their communal off-street parking, and he felt the ideal thing would be to build a platform, but for now, the proposal was engineered and safe, it gets his car completely off the right of way, allows for fire safety and it does not stick out three feet. The house was in horrible shape, it had been a rental for 25 years and they bought it with the understanding it would be a cottage forever but they were not aware of the parking situation.

Council Member Strauss asked if there is a fence proposed on top of the wall. Mr. Daane said there is an old, beat up fence with plywood and they are putting up a new fence on top of the wall, and Ms. Semonian said the elevation was been submitted with the staff report and the fence was more of a railing.

Council Member Strauss asked if the plans were engineered and felt more details were needed. Council Member Durst voiced concern with building without permits and said she would want to see the engineering stamp because the design does not appear to be engineered at all. Ms. Semonian said the plans were engineered; however, she only photocopied certain sections.

Council Member Strauss questioned what the Council was actually approving and said the plans did not include height or dimensions. Ms. Semonian said the existing parking

situation was far worse than what the applicant was proposing. Council Member Strauss felt the Council requires applicants to present information and did not know what was being suggested for approval.

Council Member Durst said this is after-the-fact and she felt that the Council is obligated as part of the review process, to see more complete documents and had significant concerns about it. It has traditionally been a parking area, she went out to the site twice and saw that the road was only 14 feet wide at the location of the parking area and the original purpose for this was a turn-out.

Mayor Hunter confirmed with Mr. Daane there was no other opportunity for a parking area, as the area was very steep. Council Members Strauss and Durst said they could not tell what the distance was from the street, felt fire trucks would want a wider distance and suggested continuing the item and improving the plans.

Council Member Durst said she drove her SUV up to the property, she tried to turn around and could not. The next day, she drove her mini Cooper and parked in front of the property on the western edge, she measured from where the tires of her car were to the edge of the pavement, which was 6.5 feet left, so the entire area was only 14 feet wide, and she does not see the area as being used for parking.

Mayor Pro Tempore Cahill asked how would Mr. Daane plan to park vehicles in the area, and Mr. Daane said he would park straight within the noses of the oak tree. He said the footprint is a U-shaped so that the island is part of Ivy Drive and all houses are off of the roadway.

Public Comments:

Jerry Cruz, said he has been in the construction industry for 45 years, said the wall was started and built without engineering, said there are footing and rebar, it took two days of people pouring from buckets, the wall is 12 inches thick, 8 feet high, and when they have heavy rains, he felt all of the energy would be transferred into the wall and it will fall into his property. The other concern is the fire hydrant. Other people have had troubles with parking, but have made it work. The previous owner had a Cadillac and one smaller car, and the Fire Department said if no one was home, they could not park by the fire hydrant. Since then, the only problem was when Mr. Daane was parking very close to it, and it is the only fire hydrant on the hill. Regarding aesthetics, the wall is 8 foot high looking into his dining room, from the road they live to the right side of the Daane's. The retaining wall is almost up to their property line 6 feet away. Their house is non-conforming and has been there since 1932. He said he is opposed to the wall, felt it should come down, it should be moved over 30 feet from the property line and a new walkway could be put in instead of it being on the left where it was not as steep.

David Esparza, general building structural engineering contractor, said the wall is not the prettiest thing, but it is a cantilevered retaining wall, it goes from 7.5 down to 3 feet, is not an eyesore, the neighbor's explanation of it being an eyesore from his window was inaccurate. The reason for building the wall is to avoid parking by the fire hydrant, he is

able to park at a 45 degree angle, he will not encroach on the road, and a better drawing could be provided. He felt the neighbor wants to move the retaining wall further down the hillside which will mushroom into something unrealistic for the property's value.

Mr. Daane said there may be other parking solutions, but a deck would need to be built in mid air 50 feet tall; however, if this is required, he will do that.

Council Member Hunter said with Mr. Daane's history in Ross and his 15 years in Marin, he questioned why he did not obtain a permit. Mr. Daane said he was not planning on building above 4 feet, but got carried away with the forms.

Mayor Pro Tempore Cahill felt the Council had a set of plans that are not dimensioned, there is no indication of how the applicant will park, felt a better permanent solution would be a structure that would allow both cars to nose in off the street because he does not see, given its size, how two cars could park in here, which should be the goal. He suggested continuing the project, ask that the applicant return with updated plans that accomplish the goal and said he would personally like to see two off-street parking spots on the site. Council Member Skall agreed.

Mayor Hunter said he would like to see a dimensioned plan, showing how the cars will park and address concerns of getting two cars off the road.

**ACTION: Mayor Pro Tempore Cahill moved, Council Member Strauss seconded, to continue the item; motion carried unanimously.**

**21. 23 Sir Francis Drake, Watercourse Design Review and Tree Removal No. 1663**

Edward Dong, 23 Sir Francis Drake Boulevard, Ross, A.P. No. 73-242-13, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). Design review for a creek bank stabilization project on the east side of Corte Madera Creek. The project includes removal of 8 trees. The project involves dewatering the creek near the site, installing boulder reventment and vegetated turf reinforcement mat over approximately 100 linear feet of the channel bank, and re-vegetating the disturbed slope with native groundcover, shrubs and trees.

Senior Planner Semonian said in an effort to move the item along, the applicant is satisfied with all conditions of approval, the public does not have concerns, and staff recommends approval of the project.

Council Member Strauss questioned why the Council should move ahead with approval of this project when the Town's hydrologist feels the bank is stable. Ms. Semonian said the owner is concerned regarding the bank stability and the Town does not know when the larger project will take place. The applicant would like to have the option to repair the bank.

Council Member Durst said she saw the yard where the County had come in on an emergency basis to shore up the land. She was sympathetic with the applicant's concerns

as he probably does not want to lose a large chunk of his yard in the rain. She felt it might be financially better to wait, but if the applicant wants to take on the project, she felt he should be able to as long as he is not impeding flow.

Edward Dong, owner/applicant said the next door neighbor's tree fell over and tore out half of his backyard. He had an arborist look at his trees who indicated 6 of the 8 should be removed and they recommended slope stabilization. He is looking to protect his children and his property, has spent tens of thousands of dollars with engineering costs, acknowledged they are too late for this year, but he wants to be prepared should they need to do emergency repair. The improvement will take 10 days, and he would like the option, given the 2008 rainy season might be bad.

**ACTION: Mayor Pro Tempore Cahill moved, Council Member Strauss seconded, to approve the Watercourse Design Review and Tree Removal No. 1663 for 23 Sir Francis Drake Boulevard, based on the following findings in the staff report and the following conditions; motion carried unanimously.**

1. The applicant shall pay all required planning department fees and shall submit a check in the amount of \$1,800 made out to the Marin County Clerk to the planning department, for the Fish & Game Fee required by Section 711.4 of the California Fish and Game Code, so that a Notice of Determination may be filed with the County Clerk within 5 working days of the approval.
2. The Town Engineer shall conduct at least two construction supervision visits. Reimbursement to the Town for the cost of Town Engineer review of this project shall be paid in full prior to project completion and final.
3. Upon project completion, the applicant shall furnish surveyed as-built drawings containing and clearly displaying survey elevation point data which demonstrate that the new construction finished grades:
  1. Do not extend into the creek from the existing gabion basket wall at the upstream end of the new construction, where the new construction finished grades meet the downstream edge of the existing gabion basket wall-toe mattress/bench structure (at 25 Sir Francis Drake Blvd); and,
  2. Everywhere along the length of the new construction, the post-construction bank full channel width measured from creek bank to creek bank at the 10-ft elevation (NGVD29) is not less than 28.9 ft.
4. Non-biodegradable geotextile fabrics are not permitted and shall be substituted with biodegradable fabrics for the finished surface of the new construction.
5. The applicant is responsible for obtaining all appropriate Federal, State and local permits prior to issuance of a building permit, including a Streambed Alteration Agreement from the Department of Fish & Game, permit from the U.S. Army Corps of Engineers and the Regional Water Quality Control Board. The applicant shall comply with any additional requirements of the agencies.
6. No tree removal shall be permitted until a building permit for project construction has been issued by the Town of Ross.
7. The project reach of Corte Madera Creek may support the federally threatened steelhead trout and possibly Coho salmon, and any in-channel dewatering or stream flow diversion required to accomplish construction must be supervised by a qualified biologist with a valid collector's permit for steelhead and Coho collection and

relocation, to ensure that any adverse impacts on these species and other aquatic life is avoided. This shall be accomplished in the following way:

3. **Construction Timing Restriction.** All in-channel work will be performed during low-flow conditions in the dry season from June 15 to October 15.
4. **Pre-Construction Training.** All construction personnel shall receive a pre-construction training from the qualified biologist in advance of any in-channel construction-related activities. The training will include a discussion of the sensitive biological resources within the project reach and the potential for occurrence of special-status species, including steelhead, Coho, western pond turtle, and foothill yellow-legged frog. Habitat protection measures will be reviewed to ensure that species of concern are not impacted by project construction, and the methods to be used for stream flow diversion and dewatering will be reviewed.
5. **Construction Supervision.** The qualified biologist will be present during coffer dam and stream flow diversion installation and removal, and shall periodically inspect the construction site to confirm sediment avoidance and other habitat protection measures are being successfully implemented, and shall have the authority to modify construction practices as needed to prevent any adverse affects on creek habitat.
6. **Stream flow Diversion Procedures.** The stream flow diversion shall consist of three sandbag dams with a plastic lining on the upstream dam face or inflatable dams, or combination thereof. The dams shall be installed in such a way that surface flow does not pass under or around the dam. Summer base flow and groundwater seepage upstream of the project reach will be captured and diverted around the construction area via the installation of an in-stream sandbag/inflatable dam and the use of plastic diversion pipes. Due to the very low channel gradient through the reach, it may not be possible to utilize a gravity flow diversion.
  - i. If construction requires the pipe to be elevated above and outside of the work area, the diversion may require the use of a small submersible pump. The diversion pipe will discharge at the level of the existing channel bed, just downstream of the stilling basin described below. The diversion pipes shall be screened at both ends according to the latest fish screening criteria developed by NOAA Fisheries (National Marine Fisheries Service, Southwest Region, 1996, Juvenile Fish Screen Criteria for Pump Intakes, May 9, and 1997, Fish Screening Criteria for Anadromous Salmonids, January) to ensure that fish do not enter the pipes.
  - ii. If required, an approved screen pump intake will be used to divert water from the upstream end of the coffer dam and through the construction zone. Any pumps outside the construction reach will be screened in accordance with NOAA Fisheries standards. The upstream pump will be placed between a barrier seine and the upstream coffer dam in a large basin with holes to allow water to be drawn into the pump. Both the outside of the basin and the pump will be screened with 3/23-inch mesh to ensure fish are not allowed to enter the diversion structure. This system shall be inspected several times a day to ensure no individuals are

- iii. becoming enmeshed in the seine, and it is functioning correctly.
  - iii. A series of two sandbag/inflatable dams will be installed at the lower end of the project reach. The upstream dam in this series will collect groundwater seepage entering the project reach and will act as a settling pond to reduce the turbidity of these seepage waters. Seepage overflow from the project reach will flow into a stilling basin downstream of the construction reach for further settling. A sump pump may be required to keep the construction reach dewatered, and any surface water shall be discharged into the downstream stilling basin.
  - iv. The stilling basin will be created by installing a sandbag/inflatable dam 15-20 ft. downstream of the dam installed at the lower end of the project construction reach. The lowest dam shall be installed with an overflow notch or designed to allow water to overtop it once after desilting.
  - v. Once the construction is complete, accumulated sediment behind the dams will be removed from the channel, and any disturbed areas will be restored to pre-construction conditions. The dams and pipe will then be removed, and flow restored to the channel.
8. The applicant shall obtain all necessary permits from the Corps, USFWS, and the RWQCB as required by federal and State law to avoid, minimize or offset impacts to jurisdictional waters and any species listed under either the State or federal Endangered Species Acts or protected under any other State or federal Authorization for construction activities shall be secured from the Corps through the Section 404 permitting process and from the RWQCB as part of the Section 401 water quality certification process. Informal or formal consultation or incidental take permitting may be required under the ESA as part of the Section 404 process. A Streambed Alteration Agreement shall be secured from the CDFG.
9. Best management practices will be implemented to protect water quality, including but not limited to:
- 7. Soil and other materials will be temporarily stockpiled where it will not wash into the creek.
  - 8. In the event of rain, it shall be covered with plastic, secured in place, and surrounded with silt fencing or wattles.
  - 9. Trash, litter, construction debris, cigarette butts, etc., will be stored in a designated area or removed from the site at the end of each working day.
  - 10. Access to the site will be reviewed for location of access way and number of trips to select the lowest impact options.
  - 11. Vehicles and equipment shall be inspected and approved by the project manager before use to eliminate leaks of any type of hazardous material such as oil, hydraulic fluid, or fuel.
  - 12. Refueling shall take place outside the riparian corridor, and the contractor shall have emergency clean-up gear and fire equipment available on site at all times.
10. Protection of Cultural Resources:
- 13. There is the possibility that buried archaeological deposits could be present, and accidental discovery could occur. In keeping with the CEQA guidelines, if archaeological remains are uncovered, work at the place of discovery shall be halted immediately until a qualified archaeologist can

evaluate the finds (CEQA Guidelines §15064.5 (f)). If the find is determined to be an historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate mitigation should be available. Work may continue on other parts of the building site while historical or unique archaeological resource mitigation takes place.

14. Archaeological excavation should focus on selective recovery of important remains. Emphasis should be placed on retrieval of human skeletal remains, items that are or could have been associated with graves, and artifacts. If features (e.g. hearths, house floors) are encountered they should be investigated according to standard archaeological practices. The abundant shellfish remains should be sampled by taking column samples, and not collected in their entirety.
15. Pursuant to CEQA Guidelines Section 15064.5(d), if human remains are encountered, excavation or disturbance of the location must be halted in the vicinity of the find, and the county coroner contacted. If the coroner determines that remains are Native American, the coroner will contact the Native American Heritage Commission. The Native American Heritage Commission will identify the person or persons believed to be most likely descended from the deceased Native American. The most likely descendent makes recommendations for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods. If requested by the most likely descendants, human remains and associated grave goods discovered during ground disturbing activities shall be reburied on site in an area which will be protected from future earthmoving activities after the placement of concrete for the foundation, but before any additional structure is put into place.
11. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
12. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice. Construction shall be complete upon the final performance of all construction work, including total compliance with all conditions of application approval, installation of required landscaping, and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and approval of the applicable work by town staff shall mark the date of construction completion.
13. No changes from the approved plans shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town Planner for review and approval prior to any modification.
14. Failure to secure required building permits and/or begin construction by September 11, 2008 will cause the approval to lapse without further notice.

15. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
16. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
17. 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. 92 Shady Lane, Variance, Design Review, Demolition and Extension of Time No. 1603**

Steven and Valerie McKinney, 92 Shady Lane, A.P. No. 73-052-26, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). A one-year time extension to September 14, 2008, for a variance and design review application approved September 14, 2006, to allow the existing residence to be raised approximately 3 feet, to a new maximum ridge height of 28 feet 6 inches within the front yard setback (25 feet required, 23 feet proposed), north side yard setback (15 feet required, 12.5 feet proposed) and rear yard setback (40 feet required, 34 feet proposed). The approval also included setback variances to permit a 90 square foot landing and stairs within the front yard setback (25 feet required, 20 feet proposed) and a 144 square foot deck and stairs in the rear yard setback (40 feet required, 29 feet proposed).

A design review and variance request is also proposed to elevate the finished floor of the existing residence as described above and for significant demolition and remodeling including: 1.) lowering the ceiling in the living room to create 400 square feet of new 2<sup>nd</sup> floor living space; 2.) new siding and windows on each elevation; 3.) roof modifications including extension of roof eaves; 4.) cross gable bay window projections on the east and west elevations; and 5.) setback variances for a 220 square foot covered porch and stairs within the front yard setback (25 feet required, 20 feet proposed), 144 square foot deck and stairs in the rear yard setback (40 feet required, 29 feet proposed), and 60 square foot landing and stairs in the north side yard setback (15 feet required, 9 feet proposed).

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

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

Senior Planner Semonian said the application was considered last year; the owners received approval to elevate their home 3 feet, to protect it from flooding. In the past year, the owners looked at how to improve the appearance of the home and have arrived at a plan that does this well. It adds more character, replaces windows, siding, it adds some bay additions to break up the mass and a covered entry porch and entry. Staff is in favor of the project, however, it will involve a significant amount of demolition and she presented the Council with a marked up version of areas to be demolished. She said most of the framing will be replaced, the roof will be re-roofed, some of the foundation will be retained with something built up on it to elevate the house and it will essentially be a new home that will undergo significant remodel. Staff has questioned whether it would comply with regulations in terms of setbacks and FAR. Because it is set back so far from Shady Lane a lot of the project is not seen, and staff does see a benefit by requiring added parking as vehicles are not visible. There is some cost savings to not constructing a new house, but it is expensive enough so this was the better solution.

She said the new house will not have 8-foot plate height but things will change for the end product to be a larger structure, so the remodel updates an old residence. Staff's concern is that they are adding impervious surfaces, and it makes sense to take out hard scape in the yard and replace it with more landscaping. Therefore, staff is recommending a landscape plan that removes impervious paving which would create runoff. The applicant wants to remove the pool themselves, but she did not make it a specific requirement as a condition.

Screening and landscaping has been a concern of neighbors on the south side. They do want the current screening, and request the option to plant something new. A condition was included to have staff review screening, but does not specifically mandate the fence to be retained. She noted there are many beautiful oak trees and existing landscaping which will be maintained. A condition has been included for a chain link fence during construction in order to protect the oak trees.

The neighbors at 90 Shady Lane have concerns about the enclosed porch causing added congregations of people, noise or visible storage. Staff recommends the covered porch be eliminated because findings cannot be made to approve the structure, it encroaches into the setback and maintains impervious surface area. There also is a new deck and stairs, which staff felt was reasonable as another entry to the home which would not create much of a noise concern, and added conditions include a landscape plan and a drainage plan.

Council Member Strauss confirmed with Ms. Semonian that the application includes a demolition permit. She said a condition she would like to add is that a detailed demolition plan be submitted to the Building Department to ensure additional items not be demolished during the process.

Steve McKinney, owner/applicant, said he respectfully requested the Council approve the front porch. They feel they would be significantly impacted, both by the project's aesthetic beauty as well as their enjoyment of the property if they were not able to have the porch. They are willing to add about 1500 square feet of impervious surface by

removing the pool, as well as many pavers in the front yard and adding landscaping. They feel the porch provides a residential scale whereas currently the home is boxy and the porch ties the entire building together. There is a concrete slab currently and they are removing this, putting in crippled walls and drainage, which will increase the impervious surface and allow drainage in the area. They also feel porches build community. They also want to participate in Halloween celebrations and feel the porch would be a significant addition to the house. They have three girls and they will one day want to ride bikes, Shady Lane is not a safe place to ride, and having a porch will enable them to watch them ride up and down the drive. He felt there was a lot of screening between the two properties, they were willing to install more screening, and they do not feel noise would be a big concern. With the deck going in the backyard, most of the activity will be in the backyard. The time they would be in front would be between 3:00 to 5:00 p.m. when the neighbors would be at work, so having the porch would not increase noise and activity in the front. Lastly, one neighbor was opposed to the porch. Their comment in their letter was that the master bedroom was close to that piece of our property. He pointed out that they recently had a remodel on their house, raised it for flood purposes, they moved the master bedroom from the southwest corner which is the furthest distance from their property to the closest area to their property, or the second floor above the garage. So they moved it very close to our driveway and he felt it was unfair to deprive them enjoyment of their driveway when they had the choice to leave their master bedroom in front.

Public Comments:

Brian Salmen, resident at 90 Shady lane, referred to the initial approval one year ago, he read an excerpt from the staff report which indicated the proposed decks encroached into the setback, said the 144 square foot deck has 90 feet of property between it and the single family dwelling, which should not cause privacy issues. He acknowledged the parcel was about ¼ acre, but he did not believe there would be any hardship that would exist in not allowing an additional 220 square feet of indoor/outdoor living space. He said the 250 square foot living space in the front yard setback is extremely close to their property. The impervious surface was put in 5 years ago by the previous owner, the driveway portion most likely did not have a required permit. The driveway is 12 x 200 feet and is completely impervious, 2-3 inches above grade and contiguous with the entire space of their house and their property. He also said the drainage situation changed as a result, said water now comes in from the north side as well as in the rear of the garage off of the east side where the patio is. He also said the area has basically become a play court and the area will get a lot of use particularly if an additional 220 square feet of living space is there. He believed there should be a 40 foot setback and they strongly opposed the additional square footage for the porch which is added to an already large home.

Forna Meyer, presented a drawing to the Council, said she and her husband feel the project is beautiful, but voiced concern in that their side yards are close together, the applicant is relocating their everyday entrance from the front to the side of the house, adding a secondary entrance which is right next to their backyard deck. She said they live in a very small house and spend a lot of time in the family room. Relocating the entrance to the side would really infringe on privacy, both visual and auditory. She said

she and her husband are both architects and brought their concerns to the owners with two proposed schemes; A and B. Scheme A relocates their entrance around the corner, and Scheme B keeps that entrance on the side elevation but slides it down toward the front of the house. They tried to work and compromise, but were not able to come to an agreement. Regarding screening and planting a mature hedge between the two properties, her concern is this could take care of visual privacy but not sound and they want to have a good relationship with their neighbors.

Council Member Strauss questioned the existence of a garage, and Ms. Semonian said variances would have been required, that it appears the original structure had a one-car garage in the 1970's and was converted into a carport and the house probably conformed originally but over the years, has expanded. There is only one space required in the district and she confirmed there were cars parked in the carport, but it is awkward.

Council Member Strauss felt there was opportunity to clean up some of these issues before adding more area to the site.

Council Member Durst said she liked the look, but questioned the previous planning application in September, which showed a proposed FAR of 25.7%. Ms. Semonian confirmed the applicant did not include the attic space or carport, which were both now included, and the numbers identified on the attachment were correct. Council Member Durst said regarding the front porch and whether or not it provides a loss of privacy, if the applicant took out the pool, it would increase privacy and impervious surface in a flood plain. She felt this is very advantageous, so if the trade off is the front porch for the pool, she felt this was a good one. She felt that by taking out the front porch area, some of the presentation is lost in the face of the home. So, she would support approval of the design without the pool and with the added porch. She also felt the way the home is sited provides 90 Shady Lane with sound privacy. When she was in the backyard, she was surprised with the amount of noise from Sir Francis Drake Boulevard. When she was there, she was amazed at how lovely the home was in the front, felt it provides the advantage of being a sound barrier from what is heard on Sir Francis Drake and she did not feel revisions in scheme A and B by Ms. Myers would not make much difference.

Council Member Skall agreed with Council Member Durst's comments.

Council Member Strauss felt there was an opportunity to clean up the front yard. He said he did not know how the front yard would work with vehicles, there is no landscape plan and felt there was an opportunity to get covered parking. At some point in time this was converted, and he felt there was a part missing to the project which he felt was the front presence. He likes the way it the plan is drawn, he was amenable to approving removal of the pool and add the porch, but did not understand the parking area.

Mayor Pro Tempore Cahill said this is a project that has expanded the FAR and lot coverage well above the permitted levels. It has a couple of decks in the setbacks, he agrees the design is superior with the added porch, but it is in the front yard setback, it impinges on the neighbor's privacy and thinks the Town has made a point of protecting the neighbor's privacy in setbacks, particularly when they go over the FAR and lot

coverage. Therefore, he was not in favor of the porch, although he would like to see the pool come out, but this was up to the applicant. Also, the deck on the north side adjacent to the Myers residence is also in the setback. He felt one of the two scheme proposed by Ms. Myers would solve privacy issues and seems to also work well with the interior of the house on the first floor. He was in favor of the project, but would agree with the staff report to disallow the front porch and call for a different entry on the side in both setback areas.

Steven McKinney, said they had another architect look at the reconfigured drawings which do not work because of the flow of the home and because of the awkward entrance into the nook and kitchen. He did not see a significant difference in having the entrances 20 feet in one direction or the other and suggested a vestibule. He noted there are 8 entrances to the home, they are taking 4 away and they could put a vestibule on that entrance, which may address noise. Regarding the porch, they are willing to also remove the carport in order to keep the proposed porch. If they keep the carport, they plan on updating it, but if the concern is lot coverage, they would rather give up the carport. He said the porch is only 6 feet deep and does not have much room.

Mayor Hunter felt Council Member Durst made some good points; the porch in exchange for the pool seems reasonable for a couple of reasons--noise in the backyard versus solitude in the front yard, there is a substantial amount of screening between the two properties, and architecturally, he felt the porch will help pull the design together. Also, the concrete under the porch will be removed allowing for more pervious area as well as the pool. So, he was in favor of the proposed porch. He felt that in order to cut down on lot coverage, taking out the carport would not the way the Town wants to go. There should be at least one covered parking area and hoped this could be redesigned at some point. The willingness to do a vestibule on the stairway would cut down on the noise carryover, so if that was added as a condition, as well as removing the pool and adding the porch, he would support approval of the project.

Council Member Strauss felt 5% in lot coverage was significant, he was struggling with the side yard setbacks, and the plan was a significant remodel and demolition. Council Member Durst said the ceiling is being dropped and they do not increase the number of bedrooms.

Council Member Durst felt the bulk and mass was not being increased, felt the design was a lot better and said she could make the findings for the additional FAR and lot coverage. Council Member Strauss confirmed there were a total of 4 bedrooms, one of the original two bedrooms downstairs was being eliminated and there were three bedrooms upstairs.

Town Manager Broad asked for clarification of the pool, stating the existing pool would be removed and asked whether a future pool would be placed on the property as part of the conditions. Council Member Durst said she could not see putting in a pool in the area, and Ms. Semonian noted that any new pool would need to go through a variance procedure and would be reviewed by the Council.

**ACTION:** Council Member Durst moved, Council Member Skall seconded, to approve the Variance, Design Review, Demolition and Extension of Time No. 1603 at 92 Shady Lane, based on staffs conditions, with the additional condition of the porch remaining as drawn, the applicant removing the pool in the rear yard, creating a vestibule in the north corner of the property and for a demolition plan to be submitted. Vote: 3-2 (Strauss and Cahill voted no).

1. The approval is for the plans dated July 25, 2007, except as otherwise provided herein.
2. The applicant shall remove the existing pool prior to project final. Plans submitted for building permit shall reflect the pool removal. As agreed to by the property owner, no future pool is permitted on this property.
3. The applicant shall submit a detailed demolition plan with the building permit application. The demolition shall not exceed the approved demolition plan.
4. A tree protection plan is required prior to the issuance of a building permit. The applicants shall submit evidence that a certified arborist has been retained for independent on site monitoring of tree protection during construction.
  - a. Before the start of any clearing, excavation, construction, or other work on the site, every significant and/or protected tree on site, and those that may be affected on adjacent sites, shall be securely fenced-off with chain link fencing or otherwise securely protected at the non-intrusion zone, or other limit as may be delineated in the required tree protection plan. Such fences shall remain continuously in place for the duration of the work undertaken in connection with the development.
  - b. If the proposed development, including any site work, will encroach upon the non-intrusion zone of a significant and/or protected tree, special measures shall be utilized, as approved by the project arborist, to allow the roots to obtain necessary oxygen, water, and nutrients.
  - c. Underground trenching shall avoid the major support and absorbing tree roots of significant and/or protected trees. If avoidance is impractical, hand excavation undertaken under the supervision of the project arborist is required. Trenches shall be consolidated to service as many units as possible.
  - d. Concrete or asphalt paving shall not be placed over the root zones of significant and/or protected trees, unless otherwise permitted by the project arborist.
  - e. Artificial irrigation shall not occur within the root zone of oaks, unless deemed appropriate on a temporary basis by the project arborist to improve tree vigor or mitigate root loss.
  - f. Compaction of the soil within the non-intrusion zone of significant and/or protected trees shall be avoided.
  - g. Any excavation, cutting, or filling of the existing ground surface within the non-intrusion zone shall be minimized and subject to such conditions as the project arborist may impose. Retaining walls shall likewise be designed, sited, and constructed so as to minimize their impact on significant and/or protected trees.
  - h. Oil, gas, chemicals, or other substances that may be harmful to trees shall not be stored or dumped within the non-intrusion zone of any significant and/or protected tree, or at any other location on the site from which such

- substances might enter the non-intrusion zone of a significant and/or protected tree.
- i. In no case shall construction materials or debris be stored within the non-intrusion zone of a significant and/or protected tree.
  - j. The applicant shall comply with any recommendations of the Town arborist.
5. A landscape plan is required to be submitted for review and approval of the planning department that incorporates the recommendations in the staff report including elimination of paved areas in the front yard and replacement with landscaping; evergreen privacy screening between the sites; removal of the concrete patio area in front of the residence and replacement with landscaping. Staff will require arborist review of landscaping proposed within the drip line of a protected tree.
  6. A drainage plan shall be submitted for review and approval of the planning and building departments that minimizes water runoff from the site.
  7. The construction shall comply with the Flood Damage Prevention Ordinance (Ross Municipal Code Chapter 15.36). The area below the finished floor shall be made of flood-resistant materials and shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. The structure shall be constructed with electrical heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  8. A FEMA Elevation Certificate shall be submitted to the town prior to project completion.
  9. There is the possibility that buried archaeological deposits could be present, and accidental discovery could occur. If archaeological deposits are uncovered, work at the place of discovery shall be halted immediately until a qualified archaeologist can evaluate the finds. Work may continue on other parts of the building site while historical or unique archaeological resource mitigation takes place. If human remains are encountered, excavation or disturbance of the location must be halted in the vicinity of the find, and the county coroner contacted.
  10. The applicant shall submit a plan for demolishing or improving the carport structure prior to project final. Council review will be necessary if covered parking is eliminated.
  11. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
  12. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.

13. This project shall comply with the following requirements of the Department of Public Safety: 1.) Clear all brush impinging on the access roadway; 2.) A street number must be posted {minimum four inches on contrasting background}; 3.) The property must be cleared of all dead or dying flammable materials; 4.) A local alarm system is required; and 5.) the roadway shall have a vertical clearance of 14 feet.
14. Any portable toilets shall be placed off of the street and out of public view. Project development shall comply with the requirements of the Ross Valley Sanitary District.
15. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. If construction is not completed by the construction completion date provided for in that ordinance, the owner will be subject to automatic penalties with no further notice.
16. 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.
17. Failure to secure required building permits and/or begin construction by September 11, 2008 will cause the approval to lapse without further notice.
18. The project owners and contractors shall be responsible for maintaining all roadways and right-of-ways free of their construction-related debris. All construction debris, including dirt and mud, shall be cleaned and cleared immediately.
19. The Town Council reserves the right to require additional landscape screening for up to two (2) years from project final.
20. The applicants and/or owners shall defend, indemnify, and hold the Town harmless along with its boards, commissions, agents, officers, employees, and consultants from any claim, action, or proceeding against the Town, its boards, commissions, agents, officers, employees, and consultants attacking or seeking to set aside, declare void, or annul the approval(s) of the project or because of any claimed liability based upon or caused by the approval of the project. The Town shall promptly notify the applicants and/or owners of any such claim, action, or proceeding, tendering the defense to the applicants and/or owners. The Town shall assist in the defense; however, nothing contained in this condition shall prohibit the Town from participating in the defense of any such claim, action, or proceeding so long as the Town agrees to bear its own attorney's fees and costs and participates in the defense in good faith.
23. **18 Redwood Drive, Variance, Design Review and Demolition No. 1665**  
Lisa and Michael Gorham, 18 Redwood Drive, A.P. No. 73-271-05, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size). Demolition permit to allow demolition of the existing 1,282 sq. ft. residence. Variance and design review to allow construction of: 1.) new 2,510 sq. ft. residence with a maximum ridge height of 28.75 feet and attached 246 sq. ft. one car garage within the north side yard setback (15 feet required, 8.75 feet proposed), south side yard setback (15 feet required, 7 feet proposed) and watercourse setback (50 feet recommended, 8 feet proposed); 2.) deck and bridge over watercourse (25 foot setback recommended, 0 feet proposed) and within north side yard setback (15 feet recommended, 0 feet proposed); 3) 17 by 38 foot pool within watercourse setback (25 feet recommended, 8 feet proposed); and 4.) 10 foot tall wood trellis

within front yard setback (25 feet required, 21 feet proposed) and side yard setback (15 feet required, 0 feet proposed).

Lot area	13,792 square feet	
Existing Floor Area Ratio	9.3%	
Proposed Floor Area Ratio	19.9%	(20% permitted)
Existing Lot Coverage	17.1%	
Proposed Lot Coverage	18.8%	(20% permitted)

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

Senior Planner Semonian said the application is to demolish and replace the existing residence with a new structure. The site is constrained with a tree in the middle of it, the site is narrow, the setbacks and the recommended water setback is 15 feet by the creek, leaving a developable area restricted. Her first concern was the Watercourse and they tried to pull it back as much as possible from the street while maintaining an appropriate setback, and also to provide parking. In this case, staff is recommending parking behind the house due to not having options because of setbacks. The provided one covered parking space. Staff is satisfied with the front setback based on the narrowness of the lot and felt it was compatible with adjacent structures.

One concern that came up is archaeological issues on the site. Recently, she read the reports from another house on the same street where it was identified as a sensitive archaeological area and a report from a qualified archaeologist would be required to determine if there are any findings. If problems exist, staff would recommend additional soils testing. If there are no issues, staff can approve a categorical exemption from the project through CEQA. Also, staff has concerns with design of the home, she does not like the way the home follows and there is a flat roof section which is not a traditional roof form for the neighborhood. If the house was an original house it might have the front section, but it wouldn't look like a single wall. She said it creates unusual roof lines which are not tied well together. However, she noted the materials were appropriate. The rear elevation is appropriate, but more work could also be done to make it a better project.

She said hydrologist Matt Smeltzer visited the site, she requested a recommendation of how far the house should be moved back from the creek so that in the event that the wall is replaced, that it could be laid back naturally. She felt removal of the wall was extensive and not warranted right now. While staff would prefer not to see structures over the creek, it could be done later when the creek area is restored. Mr. Smeltzer also recommended that all landscaping be riparian-friendly, any retaining walls in the creek setback areas should be removed, which the applicants are amenable to. Therefore, the creek setback issues should be continued, more information should be obtained on whether the site is archaeologically sensitive, she suggested revising the roof form, to obtain input from Mr. Smeltzer on repair of the riparian area, and she recommended continuing it to next month.

Jared Polsky, architect, thanked neighbors who visited the site, said many were pleasant and supportive of the project, noted staff had some design comments, hoped the Council will see that the house fits into the neighborhood and discussed the following points raised by staff. Regarding setbacks from Murphy Creek, he presented a drawing that shows the portions of the house that are within 10 feet of the retaining wall at the edge of the creek. The existing house follows a certain line and the only portion of the proposed house is an additional 10 feet, which is 8 square feet of a corner. The house is extremely and efficiently designed and he felt there was not a lot of tweaking that could be done and the 8 square feet is a breakfast nook.

Regarding the roof being complex, he said the house has three gabled sections; one at the front, at the rear and a cross in-between. The flat portion which cannot be seen is only to prevent the middle gable coming up to a point over 30 feet tall. Porches and dormers are added to provide for the front elevation. For them, it is the way you make houses have a nice roof shape on a long narrow house and this was their methodology to bring the elements together that would be pleasing.

Regarding archaeology, he was the architect for 44 Redwood and when they dug their pool, they found native artifacts. They had been warned that should they come across any, they would be required to hire an archaeologist and deal with the findings. They did this, stopped construction, the project was delayed, and therefore, they are requested to do this prior to excavation. It seems unfair to excavate the pool area to see if there are artifacts beforehand, and should they encounter any, they would stop construction and hire an archaeologist. In summary, Mr. Polsky said they want to build a great looking home for a family and the neighbors are largely in favor that the home will respect the character.

Mayor Hunter questioned the process for an archaeologist's review, and Town Manager Broad said the Town did not do the proper process for the Wynne's at 44 Redwood, which involved archaeological resources. In the general plan, the Town is committed to doing them right, but the process is to have an archaeologist to visit the site, walk the site, do some evaluation of the surface excavation and probing to see if they believe there is a high probability or anything that causes them to have a concern for preventative measures to be taken. We have done this on other projects, it is not burdensome, and as part of this, they put into place mitigation measures which then follow the project through the approval stage. On the Wynne's project, they did not have an archaeologist on the site, but put in conditions of approval and when they excavated down for their pool, they discovered an Indian burial ground. Regarding the CEQA process, if you have not had an archaeologist out there without any basis, you are saying there are no archaeological situations. They know 6 doors down there was an Indian burial site, so if this is not done properly, the Town would go against its general plan and the process.

Mr. Polsky said they were told of this requirement on Friday, and Ms. Semonian apologized for the late notice. Mayor Pro Tempore Cahill questioned if this could be made a condition of approval to go through the process rather than having to go through the Council, and Ms. Semonian said the project cannot be approved without going through the CEQA process.

Public Comments:

Lisa Gorham, introduced her husband and daughter as the owners of the project, said they are thrilled to be moving to the area, discussed the sense of community and the Ross school system, said neighbors have been amazing and they were looking forward to getting the project started.

Jean Rothenberg, said she and her husband Jake they live across the project, said they submitted a letter to staff today about their thoughts and concerns about the project, noted the two windows on the second story would look straight into their backyard, which is their only private area where they congregate. She said they met with the Gorman's and are willing to go along with the plans, respect their family needs and discussed the importance of landscaping. She asked that the type, size and species of landscaping be included so that they address privacy and screening and asked for these to be incorporated into the approved conditions. She noted the presence of power lines and voiced concern about appropriate trees for screening, said they would like to be informed of what is proposed, and asked the Council to be sure to read their letter.

Brad Iegsti, Imprints Landscape Architecture, said they propose to plant a 40 inch box magnolia tree, said the tree once mature would get 35-40 feet tall, it is an evergreen tree and is 12-15 feet out of the box. He said they could work with neighbors, forward them images, invite them to the nursery to select the tree, and said they were willing to work with neighbors.

Council Member Strauss said he liked the project, agreed from the need for the archaeologist report, said he was struggling with the lower right hand elevation where the roof was coming back to the left, and the architect said this could be fixed. Regarding off street parking, Council Member Strauss confirmed there was one covered and one uncovered required. Regarding the covered porch, he confirmed it was on the second story deck. He asked staff to be aware of the terrace in the back and questioned whether it should be deleted from the plans. He also felt the roof looked flat on the back patio, but confirmed with the architect that it did have an angle but the drawing did not represent it well. Council Member Strauss asked if both sides could echo the other side, and the architect agreed to raise a window sill and confirmed it was a 25 foot wide home.

Council Member Skall said he likes the design as well and agreed with Council Member Strauss' requests for changes.

Council Member Durst said she did not like the design. She understands there were constraints with the side yard setback and watercourse setback, but felt the home was bulky and massive. She did not like the height of the rear deck and felt the neighbors would be impacted from people looking down into their yard which was unacceptable. She felt this would cause friction and she could not find it acceptable. She said she did not like the roof plan and felt it was not proper to put a swimming pool on a named creek within 8 feet of a watercourse. Her main issue was bulk and mass and the history of the neighborhood suggests smaller cottages as appropriate and doubling the square footage was not justified, and suggested a design that is more proportionally flat.

Mayor Pro Tempore Cahill said he likes the house, feels it is a good design, agreed with Council Member Strauss' comments, said he particularly likes the front façade, felt it fits in well with the neighborhood, felt the applicant and neighbors can work out screening issue since the project must be continued to come to some resolution. He has not focused on second floor deck issue, but he felt it would depend upon what is next door.

Council Member Durst noted the deck is in the side yard setback, and Mayor Pro Tempore Cahill still felt the house fits in well with many other houses in the neighborhood and felt it was well-designed.

Mayor Hunter agreed and felt the architect has done a good job on design, but shared Council Member Durst's concerns with the bulk and mass, hoped some tweaking could take place for some reduction. Based on other properties approved, they were surprised on how they did actually fill the lot. He hoped that in working through the roof forms, some reduction could take place so that the design would better fit the site. He noted the need to obtain the hydrology and archaeology reports.

Jean Rothenberg asked about the landscape plan process and Mayor Hunter said there will be a landscape plan which is approved by staff and he asked Ms. Semonian to be sure to notify neighbors. He said any project could be revisited for up to 3 years.

Lisa Gorham, said the creek in the back forces them to keep their distance, and questioned if the Council was satisfied with the positioning of the house or whether they should move it further away from the creek. Mayor Hunter said it depends on what the hydrology report states. Town Manager Broad suggested Ms. Gorman monitor the staff report to be able to see the hydrologist's recommendation.

Council Member Durst felt a landscape plan was very important, said from Ms. Rothenberg's home, she saw the side poles, felt it was a significant impact and suggested the applicant provide screening in the landscape plan. Mayor Pro Tempore Cahill encouraged the neighbors to get together and arrive at a solution prior to the next meeting.

**ACTION: Mayor Pro Tem Cahill moved, Council Member Strauss seconded, to continue the item; carried unanimously.**

24. Correspondence - None

25. Other Business - None

26. Adjournment.

By order of the Mayor, the meeting adjourned at 10:41 P.M.

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R. Scot Hunter, Mayor

September 11, 2007 Minutes

ATTEST:

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Gary Broad, Town Manager