

## REGULAR MEETING of the ROSS TOWN COUNCIL THURSDAY, MARCH 12, 2009

**1. 4:32 P.M. Commencement.**

Present: Mayor Cahill; Mayor Pro Tempore Strauss; Council Member Hunter; Council Member Martin; and Council Member Skall.

**2. Open time for matters pertaining to the closed session in agenda item 3.**

Mayor Cahill began the meeting by reading a statement regarding the closed session. He indicated that each Council member has a goal for the fiscal year and his goal is to develop job descriptions and performance review criteria. He believes that developing clear job descriptions and the criteria on which Town employees will be measured, will improve communication between the Council and the Town Manager and will improve negative perceptions of employee performance by some residents and actually improve employee performance. He stated that the Town had hired Patti DiVella, an experienced human resources advisor, to assist him with his goal. Ms. DiVella interviewed staff and Council members to help establish criteria for measuring employee performance.

Mayor Cahill indicated that he had sent two community-wide emails, the first last fall asking for resident input on the performance of Town employees and the second last month, asking for resident input on performance review criteria. He received many thoughtful responses to both email requests and thanked all who took the time to send in their comments.

In closed session, Ms. DiVella will report her findings to the Council and will solicit candid comments from Council members on the development of criteria to be used for the evaluation of the Town Manager's position. Mayor Cahill addressed the question that some residents have asked of why the evaluation of the Town Manager's performance is listed on the agenda by indicating that while the focus of this exercise is to establish performance review criteria for the Town Manager, invariably there will be comments about and an evaluation of the performance of the Town Manager. Such candid comments should be heard in closed session. He also addressed the question if now is the appropriate time to make comments on the Town Manager's performance by indicating that he preferred residents did not use this session to make comments about the performance of Town employees as it could be embarrassing to the employee and may intrude on his or her right to privacy. He further stated that the Town Council wanted to hear any and all comments about employee performance both positive and negative and encouraged any additional comments be sent to him or any of the other Council members by email or regular mail.

Mayor Cahill announced that Ms. DiVella's findings would be presented publicly (at the April or May Council meeting) to refine and hopefully adopt criteria for performance reviews.

Mayor Cahill opened the meeting for comments.

Carla Small, Duff Lane resident, commented on the early 4:30 time of today's meeting and preferred that in the future the time be later in the day so more people are able to attend. She indicated that the perception of having the meeting at 4:30 makes it appear that you do not want the public to attend. It is an inappropriate time and people have to make a special effort in order to attend.

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Ms. Small expressed confusion regarding Mayor Cahill's statement over job criteria. She agreed that any private comments on an employee should be done in closed session. However, she felt any discussion about job criteria, should be done in open session. She added that it was her opinion that Council was violating the Brown Act by having that conversation in closed session. She said based on what Mayor Cahill had just stated, she found it difficult to understand that until the job criteria is finalized how you can then go and evaluate the Town Manager. She stated that she was not sure when the position of Town Planner became the Town Manager. She indicated you had a Town Manager position without a job description for 2-3 years and that some residents did not know that they even had a Town Manager. That in of itself she believed was a violation of the Brown Act. She further added that personal comments on employees should be discussed in closed session but actual job criteria and what these individual positions do, should be discussed in open session without having to send the Council an email.

Mayor Cahill stated that nothing would be finalized until the findings were presented in an open session. He explained that the reason for the way this is structured is so that Council can make candid comments that relate to an employee evaluation. He added that this is not a full evaluation of the Town Manager. He apologized for the meeting time indicating that the Council has had a number of special meetings lately and they have been trying to fit them all in. There was never any intention to exclude anyone and he was sorry that people had that perception. This was the only time they could fit it into their schedules.

Beth Minick, Wellington resident, requested that the April Council meeting not be scheduled during the week of spring break. Mayor Cahill agreed that the meeting date should be moved and asked Linda Lopez to poll the Council to find a new date in April.

Anne Brush, Laurel Grove Ave. resident, thanked the Mayor for clarifying the agenda item and inquired when the formal evaluation of the Town Manager would occur. Mayor Cahill indicated it would occur after they develop the performance criteria, which he hopes will be in April or May.

Council Member Martin asked for clarification why the agenda item was specific to the Town Manager and not the rest of the employees. Mayor Cahill responded that the relationship that the Council has is with the management of the Town through the Town Manager, and it is the Town Manager's responsibility to manage the employees since they are under his purview. He assumes the criteria that is being developed with Ms. DiVella's assistance, will then be applied to all employee positions. Mayor Cahill added that the public would have the opportunity to look at whatever criteria is being developed and considered.

Council Member Skall asked if there was any intention to coordinate the results of the community survey with the evaluation criteria that Ms. DiVella is presenting to Council. Mayor Cahill indicated he did not know and thought they should wait until they hear the results. Council member Skall added that he hoped that the citizens' survey would be weighed in with everything else they are looking at. Mayor Cahill agreed.

3. **Closed Session** – Personnel Matter, Government Code Section 54957, Town Council development of criteria to be used for the evaluation of the Town Manager position, evaluation of Town Manager's performance.
4. **7:00 P.M. Open Session.** The Council will return to open session and announce action taken, if any. Mayor Cahill announced that there was no reportable action.

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Mayor Cahill announced that criteria for performance review would be brought before the public at a future Council meeting .

*Town Attorney Hadden Roth joined the meeting.*

**5. Posting of Agenda.**

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

**6. Minutes – February 10<sup>th</sup> and 12<sup>th</sup>**

Mayor Cahill asked for a motion.

**Council Member Hunter moved and Council Member Skall seconded, to approve the Special February 10<sup>th</sup>, 2009 Town Council Minutes as amended.**

**Mayor Pro Tempore Strauss moved and Council Member Martin seconded, to approve the February 12<sup>th</sup>, 2009 Town Council minutes as submitted. Motion carried. Hunter abstained.**

**7. Demands.**

The demands were met.

**8. Open Time for Public Expression.**

Kent Hauge, Santa Rosa resident/electrical engineer, expressed concern for the hazardous conditions that exist at Ross School in regard to the portables. He filed a complaint against the licensing architects and engineers. He contacted Public Works Director Jarjoura who indicated that the Town Council has no jurisdiction in regard to the school, so he is present tonight to ask the Town Council to contact the School Board in regard to the hazardous conditions. He stated that they are clearly in violation, which creates a safety hazard. He noted that an 8-foot clearance is needed, which he brought to the attention of the School Board.

Dick Bobo, Redwood Drive resident, expressed concern for the traffic problems on Redwood and asked the Council to consider parking along Ross Common, which he believed is easier than double parking and writing traffic citations. He believed the Town Council and the School Board should discuss the matter. Mayor Pro Tempore Strauss noted that the committee is meeting with the school on Monday at 4pm and he would report back findings at the April Town Council meeting.

Dan Bernhard, School Board President, explained that the school has a limited number of tools to address this issue that have been utilized, which are not working. They acknowledge it is the school construction causing the problem, but they are unable to resolve. He suggested that rather than continue having lengthy discussions and public meetings, to create a subcommittee with representatives from the School Board and Town Council in order to resolve the matter more efficiently. The Council agreed. Mayor Pro Tempore Strauss noted that SWA Group was invited to the Monday meeting. He then asked President Bernhard to bring plans in regard to the encroachment into the Common, elevations and so forth. President Bernhard responded in the affirmative.

**9. Report from Mayor Cahill.**

Mayor Cahill reported that the Community Survey Committee launched a comprehensive survey covering the following five major topics: quality of life and Town priorities; public safety;

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staff; Town Council and committees; and Town services. While the Town government is not involved in the community survey, he enthusiastically encouraged all residents to complete and submit the survey by its March 31<sup>st</sup>, 2009 deadline, which will provide valuable input to the Town Council and help improve Town services. He then commended the Community Survey Committee that included five hard working volunteers: Wendy Battey, Anne Brush, Ken Fineman, Carla Small and Stanley Stern.

**10. Report from Committee Heads.**

Public Works - Council Member Strauss

- Lagunitas Bridge update

Mayor Pro Tempore Strauss reported on the Lagunitas Bridge and noted that they held a special EIR meeting on February 10<sup>th</sup> and the consultant will respond to all comments received. He along with Council Member Martin have been working hard to expedite the bridge process in order to start this summer, but they are not sure if they will be successful. Letters were sent to Congresswoman Woolsey and Assemblyman Huffman as well as Marin County Supervisor Hal Brown to try and expedite the process. Costs are decreasing for materials and labor.

The fee passed for flood control was determined by the court of appeals not to be legally conducted, and therefore Supervisors are having a closed session on Tuesday morning. He along with Council Member Martin and staff will meet on Wednesday to discuss the next step.

Mayor Pro Tempore Strauss noted that another study was conducted, which determined that the height of the water was lower. They explored further and realized that the criteria established by Town Hydrologist Matt Smeltzer for the bridge is correct. In regard to the sidewalk, the committee recommended that the mid-block crosswalk be deleted and proceed with drawings. He noted that the Council desired a crosswalk, but the consultant is recommending against such crosswalk. The consultant expressed concern for the dangerous situation and believed it is better to walk the additional 25 feet to the signalized crosswalk. Mayor Pro Tempore asked the Council for a straw vote on how to proceed. He reiterated that the recommendation is to eliminate the existing mid-block crosswalk and utilize the signalized crosswalk.

Council Member Hunter stated that if their advisors and engineers are recommending against such crosswalk, then he would defer to them. Mayor Cahill agreed since it is a safety issue.

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

**Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to accept the recommendation of the consultant to not provide a mid-block crosswalk due to safety concerns. Motion carried unanimously.**

Finance Committee - Council Member Martin

- Marin Energy Authority

Council Member Martin reported on MEA, which is a JPA formed to collectively study, promote, develop and manage energy programs that will address climate change in Marin County by decreasing energy-related greenhouse gas emissions. It will also implement programs that aid in complying with AB32; the State's mandated global warming solutions act.

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The MEA is reviewing feasibility of purchasing renewable power directly, while PG&E would continue to be responsible for maintaining the transmission lines and billing. The MEA has established its committee structure, hired consultants and is preparing a RFP from energy service providers, which is to be released in May. The MEA is also seeking \$64 million from the Stimulus package to develop renewable energy and develop programs to increase energy conservation and efficiency.

This past Monday, the committee members spent the day on a fieldtrip to Folsom visiting the California Independent System Operator (CAISCO) and also a visit to a windmill farm operated by Florida Gas and Light. The farms had several hundred 415-foot next-generation wind turbine with three 130-foot blades, and it can generate up to three megawatts of electricity when the wind speed reaches 30 mph, which is enough energy to power at least 2,200 Bay Area homes over the course of a year for each windmill. Wind turbines may be included in Marin County's sustainable energy portfolio.

The MEA is organizing an April weekend workshop to hear more from industry experts and key partners from the industry on ratemaking, feed-in tariffs, procurement, smart grid, legal issues, and the RFP process. He will frequently report and shortly Interim Director Dawn Weisz will provide the Council with a presentation. Also, the response to the RFP will come back in August and the Council must make a decision as to whether this Town is involved or not in this process in September or October.

- Ross Recreation

Council Member Martin reported that the Ross Recreation Diamonds are Forever Fundraiser netted \$25,000.

### II. Report from Ross Property Owners Association.

Frank Doodha, RPOA representative, acknowledged Superintendent Robert Maccario for all his dedication and hard work on behalf of the Town. In terms of the traffic issues occurring on Redwood, RPOA suggested that whatever decision is made to please inform the residents by email, so all are aware of the implications. In terms of Item 19, which has been continued to a later date, the RPOA encouraged the Council to adhere to the hillside lot ordinances and safety issues involved in that project when it is discussed. RPOA further commended Superintendent Maccario for his work.

### 12. Report from the Ross School.

School Board President Bernhard provided a brief update on the construction process and reported that school construction is back on track and construction crews will start to mobilize on Monday, March 16<sup>th</sup>. The Board recently solicited bids for the second construction phase and, due to the poor economy, the 16 bids came in 30% to 40% under the \$18 million construction cost estimated last July. Starting April 1<sup>st</sup>, the College of Marin parking lot will be used for construction parking, so the short-term impact on the Town will be minimal.

### 13. Flood Control Report.

Council Member Martin stated that other than the devastating news about the court of appeals decision that is regrettable and certainly continues to put the Ross Valley community at risk for flooding, the Urban Creeks Council (UCC) began a new program for streamside management that has been funded by the County of Marin. The UCC is offering free consultation services to a limited number of Ross Valley property owners with severe erosion problems on their creekside properties. UCC will identify the cause of the erosion problem, recommend solutions and, in

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some cases, assist with design and permitting of repair work. Currently, 12 Ross homeowners have expressed interest. He further noted that Ross residents fronting Ross Creek or Corte Madera Creek are encouraged to take advantage of the streamside management program offered by the UCC.

In terms of the fish ladder, which is the Army Corp of Engineer's project that falls within Unit 4, is in the process of the environmental review that can take two years. That review must be concluded before anyone can touch that ladder. Once completed, Ross received congressional money to address improvements in that channel, not talking about a concrete channel as seen in Kentfield, but a proper bank so fish can habitat and remain in a natural state. They are monitoring and pushing forward. The Army Corp is still trying to get money earmarked in order to stay on track. Part of the problem with all projects, including the bridge with Caltrans, is that stimulus package projects are being fast tracked. During an era when State agencies are furloughing people, their work is falling further behind, so they asked for both congressional and assembly help.

Mayor Cahill asked staff to add information about the new program offered by the UCC for creekside assistance to "*The Morning After*."

Mary Brown, Ross resident, noted confused as to what will occur and suggested having professionals come in and clean the creeks by removing blackberries, debris and make those creeks wider, which she believed is a good first step. Council Member Martin noted that the creeks are federally protected and are spawning grounds for coho salmon, steelhead and a number of endangered frogs. The Army Corp is working on clearance to open the channel up, creating better habitat and safer conditions for homeowners. Also, Ross does pull a permit for limited dredging around the bridge and the Council will look into appropriate measures. Mayor Pro Tempore Strauss added that monies were appropriated in the funds to do such clean up, and after the Wednesday meeting, the Town Council will know more because there are specific short-term goals with Flood Zone 9.

Mayor Cahill clarified that construction of the Lagunitas Bridge is independent of this lawsuit, so this monkey wrench of developing watershed-wide flood control of projects that may or may not move forward will not affect the bridge or fish ladder. Those projects received funding. They are just getting through the Caltrans and Army Corp process. He is confident that it will either happen this summer or next. Mayor Pro Tempore Straus added that the bridge is being done for seismic reasons as well, but they must do their due diligence to get this bridge project completed.

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

The Council reported progress on their five Council goals as follows:

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

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Mayor Cahill indicated that they are making good progress on performance reviews and he hopes to bring back the performance review criteria to the Town Council in an open session at the May Town Council meeting.

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

Council Member Skall reported that on Tuesday, March 10<sup>th</sup> the group met regarding emergency preparedness for Ross. He thanked Diane Rudden for opening up her home and Leslie Reidy for coordinating this meeting. He along with Fire Chief Vallee, Loraine Berry and Greg Myers attended. The purpose of the meeting was to come to terms with making sure all are well educated and informed in the event of a disaster and how residents can make awareness that much better. Mill Valley has a great model that could be used with a few modifications and they need budget help from Town Council on awareness. It would be a small amount initially to get better communication. The key area to communicate with the public is the Internet and through the Town's Website. Fire Chief Vallee is working with Linda Lopez on the appropriate links. He encouraged all to be signed up on the Town's email list in order to receive important information. Paper flyers are needed as well for those that do not use computers. Information will be placed at the Post Office and Town Hall to help educate the public. They are considering creating a committee that would include Fire Chief Vallee, a Council Member, a representative from the School Board and three or four volunteers from the community ideally trained in CERT from different quadrants of Town. They are still working on establishing such committee and are interested in hearing from members of the public who would like to participate. They are working on a timeline and hope to have it formalized in September. Also, on a quarterly basis, a representative from the Committee will report to the Town Council on findings and continue the process. The most important factor with emergency preparedness is for everyone to understand that during a real emergency, everyone must rely on themselves because several emergency personnel live outside of Ross.

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

Council Member Martin had nothing further to report.

### **Goal D - Downtown plan**

Mayor Pro Tempore Strauss reported that on February 26<sup>th</sup>, the Town Council and the ADR Group held a joint meeting to discuss downtown plans. The meeting included suggested design concepts from the landscape architects SWA Group and Transportation Planner Nelson/Nygaard. A committee workshop will be scheduled to discuss comments and ideas received and then the matter will come back to the Council. In regard to the house on Redwood, he desired guidance from the Council on the appropriate use of that house, which requires attention.

Mayor Cahill suggested agendaizing the matter in order to discuss options of different possibilities and provide a better framework for the Council and public to speak on this matter. Mayor Pro Tempore Strauss asked that enough time be allocated to this matter since it affects the whole community.

Council Member Martin desired an estimate from staff on the what upgrades are needed so the Redwood house can continue being used as employee housing, which he felt is critical in making a determination. The Council and staff agreed.

In regard to Bolinas Avenue, Mayor Pro Tempore reported that the Town of Ross and San Anselmo have jointly agreed to implement signage and striping improvements recommended by

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Traffic Consultant David Parisi who was retained by both communities. He noted that the trees that were near the church would be replaced with sycamore trees. Also, it was suggested that San Anselmo permit overnight parking on its side of Bolinas Avenue in order to narrow the street width and slow traffic speed.

The Council agreed to formally request that the San Anselmo Town Council implement the recommendations.

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

Council Member Hunter deferred his report to agenda Item 15.

**15. Town Council consideration/action on entering into an agreement with Ross Valley Fire District (RVFD) for RVFD to provide contract Battalion Chief coverage to the Town of Ross Fire Department.**

Fire Chief Tom Vallee summarized the staff report and recommended that the Council consider taking an action on entering into an agreement with Ross Valley Fire District for RVFD to provide contract Battalion Chief coverage to the Town of Ross Fire Department.

Council Member Martin asked staff if this would impact the Town's budget, and are they able to afford a battalion chief. Fire Chief Vallee explained that the annual cost to the Town will be approximately \$24,000, which is far less than the \$200,000 originally budgeted for the battalion chief position under fire consolidation plans. Fire Chief Vallee explained that Ross would benefit from having a battalion chief who is trained with Ross fire personnel and knows the streets and fire water system of Ross. Also, the additional battalion chief coverage could also improve the Town's rating with the ISO, which could potentially save residents 5-10% on their insurance premiums. Fire Chief Vallee suggested that they request a review from the ISO to rate the Town because points have changed and the rating should be improved.

Mayor Cahill opened the public hearing on this item.

Dick Bobo, Redwood Drive resident, believed it is a tremendous bargain and noted his support.

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

Council Member Hunter strongly supports the hiring of a battalion chief. He felt Fire Chief Vallee did an excellent job negotiating. They spent a tremendous amount of time on fire consolidation and now they are getting what is desired for a bargain price. He strongly recommended that the Council support. The Council agreed and asked staff to immediately request ISO to re-rate the Town's fire protection services in order to reduce the Town's insurance rate.

Mayor Cahill asked for a motion.

**Mayor Pro Tempore Strauss moved and Council Member Skall seconded, to enter into an agreement with Ross Valley Fire District (RVFD) for RVFD to provide contract battalion chief coverage to the Town of Ross Fire Department. Motion carried unanimously.**



16. **Town Council Consideration of Civic District (CD) Use**  
Town Council consideration of again holding a Thursday afternoon Farmers Market in the existing parking lot on the east side of the Ross Common roadway between the Ross Post Office and the downtown commercial area (A.P. No. 73-242-05). The market would be open from approximately 3 p.m. to 7 p.m. and feature produce sold by various California farmers and may include some additional vendors, music, entertainment, etc., as often associated with farmers markets. The market will run from May to September.

Town Manager Broad summarized the staff report and recommended that the Council consider again holding a Thursday afternoon Farmers Market in the existing parking lot on the east side of the Ross Common roadway between the Ross Post Office and the downtown commercial area. The market would be open from approximately 3 p.m. to 7 p.m. and feature produce sold by various California farmers and may include some additional vendors, music, entertainment, etc., as often associated with farmers markets. The market will run from May to September.

Market Organizer Lynn Bagley thanked the Town for participating in the farmers market, which was a great success last year and she is very excited to come back. She desired some signage along Sir Francis Drake in order to identify the farmers market. She suggested using boilerplate street signage to be up 24-hours during the market season. Town Manager Broad recommended that the Public Works Subcommittee explore locations for signage.

Council Member Martin asked if there are other methods to strengthen the farmers market. Market Organizer Lynn believed if information is included in all parks and recreation brochures, Town emails and newsletters discussing the farmers market that would be beneficial.

Marin Art & Garden Center President Nancy Vernon explained that their goal is to increase collaboration with the Town of Ross. They plan on moving their successful summer concert series, which was sponsored by Wells Fargo last year to Thursday nights to coincide with the market and allow residents to enjoy farmers market treats with live music. They propose expanding their concert series to six, so June through August.

Mayor Cahill opened the public hearing on this item.

Frank Doodha, Glenwood Ave. resident, expressed concern for the farmers market overlapping with the Ross School calendar in terms of traffic conflicts. Council Member Martin noted that Public Works would be working with the school to alleviate conflicts on Redwood Avenue. Parents are encouraged to park along Lagunitas Avenue to alleviate some stress to the downtown district.

Dick Bobo, Redwood Drive resident, suggesting having an area along Ross Common to drop-off and pick up children in order to free up space and alleviate the parking problem. Ideally, have limited parking during morning and afternoon commute. He further noted that the School Board and Town Council must address the matter.

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

Mayor Pro Tempore Strauss indicated that they are exploring solutions downtown to address the parking and drop-off problems.

Council Member Hunter encouraged parents to walk or bike with their children to school on market days, and pick up some fresh fruit and vegetables on the way home. Mayor Pro Tempore believed interface might be more communication. Town Manager Broad pointed out that free parking would be available at the Marin Art & Garden Center.

Mayor Cahill asked for a motion.

Council Member Hunter moved and Mayor Pro Tempore Strauss seconded, to again agree to hold a Thursday afternoon farmers market in the Ross Post Office parking lot over the summer. The market will run from late May through mid September, adding two weeks to the market schedule. Market hours will be shifted from 3 to 7pm and the parking lot will be closed at 2pm to enable vendor set-up. Motion carried unanimously.

17. Town Council consideration of introduction Ordinance No. 613 to amend the following Municipal Code chapters: Chapter 18.12, Definitions, to add definitions for emergency shelter, transitional housing and caretaker unit; Chapter 18.24, Civic District, to allow emergency shelters and transitional housing as a permitted use; Chapter 18.28, Community Cultural District, to allow limited, ancillary residential development as a conditionally permitted use; and Chapter 18.16, Single Family Residence District to allow accessory residences for school faculty and staff as a conditionally permitted use on lots containing public and private schools.

Project Planner Christine O'Rourke summarized the staff report and recommended that the Council consider introduction Ordinance No. 613 to amend the following Municipal Code chapters: Chapter 18.12, Definitions, to add definitions for emergency shelter, transitional housing and caretaker unit; Chapter 18.24, Civic District, to allow emergency shelters and transitional housing as a permitted use; Chapter 18.28, Community Cultural District, to allow limited, ancillary residential development as a conditionally permitted use; and Chapter 18.16, Single Family Residence District to allow accessory residences for school faculty and staff as a conditionally permitted use on lots containing public and private schools.

Town Manager Broad then discussed a letter from the President Nancy Vernon of the Marin Art & Garden Center that indicated that, at this time by identifying the Center as a housing site, there might have some ramifications that must be considered. He walked the site with Dick Van Meurs and the Center had given concurrence to be included as a potential site and language in the Housing Element was included having up to three units with a conditional use permit. A few days ago, staff spoke to the Marin Art & Garden Center President Vernon about moving beyond the Housing Element and proposing zoning amendments as mentioned in the Housing Element. In the letter submitted by the Center it is not that they necessarily object, but desired additional time to review ramifications to their property if the zoning is changed to allow for up to a triplex development with a conditional use permit. By amending the zoning to allow this as a conditionally permitted use, it does not create a situation that the Town is forcing the Center to develop housing. The Town has no authority to mandate simply because it is listed. Tonight the Council can consider introducing the ordinance as written, which gives the Town and Center another month to work through any issues with the proposed zoning language, and then adopt the ordinance as drafted. Or the Council could introduce the ordinance removing the language related to the Center and have that potentially come in as a separate ordinance, if the Town is able to make the Center comfortable with the proposed zoning change. Staff's recommendation tonight is for the Council to introduce the ordinance as written with the understanding that

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before adopting, the Council will have an opportunity to make final consideration for the Center.

Town Attorney Hadden Roth explained that anything more than a typographical change would require another meeting. Mayor Cahill suggested introducing these as two separate ordinances. Town Attorney Hadden Roth had no objection to introducing two separate ordinances.

Council Member Martin asked staff if other sites were considered. Project Planner O'Rourke responded in the affirmative. Sir Francis Drake and Branson School as well as the vacant parking lot site might be in the next Housing Element as a new opportunity.

Council Member Martin expressed concern for Assembly Bill 375, which is a new State law that would impact this legislation. There was an article in the Pacific Sun that explained that Bill 375 eases the path for lawsuits against jurisdictions that drags its heels in rezoning. Local jurisdiction must prove action or court sanctions could ensue. He expressed concern for unintended consequences of changing the zoning and putting a Housing Element in a cultural center and then not achieving housing. AB 375 has anti-nimbi according to the League of California Cities. If an affordable project is proposed and complies with the General Plan objective standards, the agency may not disapprove that project. They must further review this, if they move forward there may be unintended consequences. Town Manager Broad explained that the zoning change would allow a maximum of three units, not more. Zoning would only allow a tri-plex. Council Member Martin is comfortable if there are provisions in that regard.

Project Planner O'Rourke read into the record Section 18.28.035 – Conditionally Permitted Uses as follows: *“Conditionally permitted uses. The following uses may be permitted with a use permit from the Town Council: single-family, duplex and tri-plex residential uses ancillary to permitted uses enumerated in 18.28.30.”* Also, as stated in Section 18.28.100 Residential Development: *“a) Residential units shall not exceed 700 sq. ft. in living area; b) Total residential development shall not exceed 2,100 sq. ft. in living area; and c) In developments of three or more residential units, at least one unit shall be affordable to very low income households.”* Town Manager Broad agreed to review AB 375 before adoption.

Mayor Cahill opened the public hearing on this item.

Marin Art & Garden Center President Vernon desired more time to have a better understanding of the amendment of the rezoning to make sure there are no implications in the future. They will move quickly to work with staff and respond before the next Town Council meeting.

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

Council Member Hunter agreed with the suggestion of having two separate ordinances.

Mayor Cahill asked for a motion.

**Council Member Hunter moved and Mayor Pro Tempore Strauss seconded, to waive the reading and introduce Ordinance No. 613 as written.**

Council Member Martin noted that he would abstain from this motion since it is a significant change of use for an arts and cultural center. To introduce housing that could pave the road for

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more housing, more than just three units is a serious departure from what has been a jewel for the community and should be preserved for arts and garden type uses. He further expressed concerns for unintended consequences of Senate Bill 375 of possibly impacting and constraining actions by the Town in the future. Mayor Pro Tempore Strauss shared Council Member Martin's thoughts and withdrew his second to the motion.

Mayor Cahill asked staff if they end up deciding, as a Council, to choose the alternate without the Center, is there an alternative spot to meet the Housing Element by June. Town Manager Broad responded that they could amend the Housing Element and send it back to HCD for approval, but that would not occur between now and June. The Center was identified because HCD likes to see larger land based new projects. Staff further noted that Sir Francis Drake and 6 Redwood have been committed.

Mayor Cahill then seconded the motion of waiving the reading and introducing Ordinance No. 613 as written.

**Motion failed. 2-2-1. Skall/Strauss opposed. Martin abstained.**

Mayor Cahill asked for another motion.

**Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to waive the reading and Introduce Ordinance No. 613 without language pertaining to Marin Art & Garden Center. Motion carried unanimously.**

**18. Planning Consent Agenda.**

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

*Item C was removed from the Planning Consent Agenda.*

**a. 8 Norwood Avenue, Variance No. 1733**

Philip and Susanna Rice, 8 Norwood Avenue, A.P. No. 73-091-39, R-1:B-20 (Single Family Residence, 20,000 Sq. Ft. Minimum Lot Size), Low Density (1-3 Units/Acre). Setback variances to relocate a pool equipment shed within the rear yard setback area (40 feet required, 35 feet proposed) and along the west side property line (20 foot setback required, 0 feet proposed). Existing concrete patio areas within the rear yard would be removed and new patio areas are proposed as close as 5 feet from the west side and rear property lines.

Mayor Cahill asked for a motion.

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

**Conditions 8 Norwood**

1. The project shall be constructed in substantial conformance to the approved plan, a copy of which is on file with the Ross Planning Department.
2. The pool equipment shed shall be no greater than 6' tall and insulated to reduce noise.
3. **NO CHANGES FROM THE APPROVED PLANS SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL.**

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4. This project shall comply with all requirements of the Department of Public Safety. A street number must be posted (minimum 4 inches on contrasting background).
5. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
6. Any person engaging in business within the Town of Ross must first obtain a business license from the Town and pay the business license fee. Prior to the issuance of a building permit, the owner or general contractor shall submit a complete list of contractors, subcontractors, architects, engineers and any other people providing project services within the Town, including names, addresses and phone numbers. All such people shall file for a business license. A final list shall be submitted to the Town prior to project final.
7. 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. 39 Fernhill Avenue, Variance No. 1661**

The Branson School, 39 Fernhill Avenue, A.P. Nos. 73-082-01, 73-082-12, 73-141-03 and 73-151-05, R-1:B-A (Single Family Residence, One Acre Minimum Lot Size). Amendment to plans approved by the Town Council on September 11, 2007, for new buildings and related site improvements at the private high school campus to modify the approved roof material on the new Student Commons and Fine Arts Center buildings from simulated slate to grey standing seam metal.

The applicant has withdrawn their request to demolish the entry structure at Circle Drive and Fernhill Avenue (described in the mailed notice).

Mayor Cahill asked for a motion.

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

**Conditions Branson 39 Fernhill**

1. This approval allows a modification of the approved roof material to standing seam metal. The request to demolish the entry structure has been withdrawn by the applicants.
2. The project shall be subject to all conditions of the September 11, 2009, Town Council approval.
3. This project is subject to the conditions of the Town of Ross Construction Completion Ordinance. No extension of the construction time is granted by this approval and the proposed modifications shall fall under the existing building permit for the project. 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. As

detailed in Municipal Code Section 15.50.040 construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.

4. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
5. NO CHANGES FROM THE APPROVED PLANS, BEFORE OR AFTER PROJECT FINAL, SHALL BE PERMITTED WITHOUT PRIOR TOWN APPROVAL. RED-LINED PLANS SHOWING ANY PROPOSED CHANGES SHALL BE SUBMITTED TO THE TOWN PLANNER FOR REVIEW AND APPROVAL PRIOR TO ANY CHANGE.
6. 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.**

*Town Attorney Hadden Roth excused himself from the Town Council meeting at 9:01pm.*

**c. 109 Bolinas Avenue, Variance and Design Review No. 1727**

Mark Millstein, 109 Bolinas Avenue, A.P. No. 73-041-34, R-1 (Single Family Residence, 5,000 Sq. Ft. Minimum Lot Size), Medium Density (6-10 Units/Acre). Design review and variances for the following: 1.) a 275 square foot addition to an existing residence for a pool equipment shed, family room, and master bedroom expansion within the side setbacks (15 feet required, 7 feet proposed); and 2.) a new 36-foot by 20 foot swimming pool and deck area within the rear yard setback (40 feet required, 25 feet proposed) and northeast side yard setback (15 feet required, 6 feet proposed).

Lot area	9,600 square feet
Existing Floor Area Ratio	20.9%
Proposed Floor Area Ratio	23.7% (20% permitted)
Existing Lot Coverage	20.9%
Proposed Lot Coverage	23.7% (20% permitted)

*The existing residence is nonconforming in setbacks.*

Mayor Pro Tempore Strauss was surprised to see this item on the consent agenda since there was so much discussion at their last meeting, and he wanted to explore the matter in more detail as well as provide Council Member Hunter an opportunity to comment.

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Mark Millstein, applicant, submitted revisions to satisfy the Council's concerns and is present to answer any questions of the Council.

Mayor Pro Tempore Strauss expressed concern for functionality in regard to the living room and family room in terms of light and air requirements. He believed there are impacts to the family room with the view being compromised. Also, the pool is in the setback and he felt the site is so small that the pool will impact the side yard setback. Mr. Millstein noted that he brought the pool back 25 feet from the fence. His neighbors on both sides submitted letters of support for the pool and the addition, so they have taken into account all those impacted and there have not been any concerns in that regard.

Council Member Martin asked if the bio retention facilities are still going to be implemented. Mr. Millstein responded in the affirmative. He noted that Town Hydrologist Matt Smeltzer provided a full report along with guidelines that are incorporated into the conditions of approval, which will reduce drainage and runoff from the site.

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

Mayor Pro Tempore Strauss asked the building department to make sure the light and air requirements are met. Mayor Cahill recommended adding a condition that this project meet the code requirement for light and air, which he felt is reasonable. The Council agreed.

Mayor Pro Tempore Strauss continued to feel that the site is over impacted with the pool.

Council Member Skall expressed concern for the fact that the applicant suggested that all properties in the area would be over the 20% floor area. Other properties along Bolinas had to stay within the requirements when they built their homes. He is concerned about this project setting precedence for others potentially getting more FAR for future projects. He is not sure about approving this project since other applicants adhered to the exact requirements.

Mayor Cahill objected to the square-footage last month because it was excessive to solve the problem. The problem with this house is that the living space is quite awkward. Relation of the rooms is not appropriate for the use in the house. The master bedroom is the smallest bedroom and yet it is adjacent to the master bath and associated configuration, which made no sense. His view was that bringing out the house a few more feet, which has been done, does not impact the neighbors in any significant way. Impacts are negligible. Most properties in this neighborhood are at a larger percentage of FAR than this project. He did not think this is a message to anyone who comes along on Bolinas Avenue to set precedent for 23%. It depends upon particular circumstances of each lot. The addition proposed does not have impacts and it allows the residence to be much more usable, so he favored the project for that reason. Council Members Hunter and Martin concurred. Mayor Pro Tempore Strauss had no objection to the increased floor area, but expressed concern for the design.

Mayor Cahill asked for a motion.

Council Member Martin moved and Council Member Hunter seconded, to approve the project subject to staff's findings and conditions as outlined in the staff report and conditionally meeting code requirements for light and air. Motion carried. Strauss opposed.

Conditions 109 Bolinas

1. The project shall be constructed in substantial conformance with the plans dated 2/23/09, on file with the Planning Department. A building permit is required for the work. The project shall comply with the light and air requirements of the building code.
2. The pool equipment shed shall be no greater than 6' tall and insulated to reduce noise.
3. The pool is approved and shall be set back at least 25 feet from the top bank of the seasonal watercourse.
4. The project shall comply with the Marin Municipal Water District water conservation ordinance. The applicant shall submit evidence that the project complies with the ordinance (or is exempt) prior to final inspection on the project.
5. 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.
6. Any exterior lighting shall not create glare, hazard or annoyance to adjacent property owners. Lighting shall be shielded and directed downward.
7. This project shall comply with the requirements of the Department of Public Safety including: 1.) A street number must be posted {minimum four inches on contrasting background}; and 2.) a local alarm system required.
8. 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.
9. 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. As provided in Municipal Code Section 15.50.040 construction shall be complete upon the final performance of all construction work, including: exterior repairs and remodeling; total compliance with all conditions of application approval, including required landscaping; and the clearing and cleaning of all construction-related materials and debris from the site. Final inspection and written approval of the applicable work by Town Building, Planning and Fire Department staff shall mark the date of construction completion.
10. **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.**
11. **FAILURE TO SECURE REQUIRED BUILDING PERMITS BY MARCH 12, 2010 WILL CAUSE THE APPROVAL TO LAPSE WITHOUT FURTHER NOTICE.**
12. 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.
13. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
14. 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.

*The Town Council took a short recess at 9:15pm and then reconvened with the last agenda item.*

19. **8 Fernhill Avenue, Review of Landscape Screening and Unfinished Construction, Variance No. 1583**  
P. Rupert and Sylvia Russell, 8 Fernhill Avenue, A.P. No. 73-051-17, R-1:B-10 (Single Family Residence, 10,000 Square Foot Minimum Lot Size), Medium Low Density (3-6 Units per Acre). Review of landscape screening issues associated with September 2006 Council design review and variance approval as well as a timeline for completing exterior work including French door railings and shingle siding.

*This item was withdrawn by Staff.*

20. **191 Lagunitas Road, Demolition, Variance, Design Review, Hillside Lot/Hazard Zone 3 Use Permit No. 1725**  
Paris and Martha Royo, 191 Lagunitas Road, A.P. No. 73-211-06, R-1: B-5A (Single Family Residence, 5 Acre Minimum Lot Size), Very Low Density (.1-1 Unit/Acre). Demolition permit to remove existing single-family residence, guesthouse, pool and cabana (5,885 square feet of floor area). Design review and hillside lot/hazard zone 3 use permit to allow construction of a new 2-story residence and basement level garage, swimming pool, and 1,116 square foot, detached, guesthouse/workout room. The applicants propose to retain the existing garage, located within the required east side yard setback. 1,241 cubic yards of cut and 1,168 cubic yards of fill are proposed. A variance is requested to build a trellis over the driveway proposed within the west yard setback (25 feet required, 3 feet proposed). A tree removal permit is requested to allow the removal of 5 trees less than 18" in diameter. Consideration of Mitigated Negative Declaration of Environmental Impact.

Lot area	136,289.2 square feet
Existing Floor Area Ratio	6,245 square feet (4.6%)
Proposed Floor Area Ratio	9,068 square feet (6.7%)*
Existing Lot Coverage	2.8%
Proposed Lot Coverage	3.9% (15% permitted)

*\*The slope of the lot is 33%. The Town Hillside Lot ordinance recommends a maximum floor area of 9,148 square feet.*

Senior Planner Elise Semonian summarized the staff report and recommended that the Council direct the applicant to address the issues outlined in the staff report and any additional issues

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raised by the Council. Staff also recommends that the item be continued after direction is provided to the applicant.

Marty Zwick, architect, submitted a letter in regard to the size of the site, a geotechnical letter on the geology report and structural engineering review. He noted that staff has been great and the ADR Group was terrific. It was a great process with great insight and it was very encouraging. They met with planners and reviewed the hillside design ordinance before starting and they are under the hillside guideline FAR. They met with neighbors. This house does not reach out in any aggressive way toward the neighbors. Most immediate neighbors support the project. They understand they cannot have a vote tonight, but they are present to listen to concerns and comments and then make modifications as desired to then receive approval of the project. He submitted an upgraded drainage plan, landscape plan, and front entry drawing to the Council for their consideration. He indicated that the cut and fill is necessary to repair the contours and drainage on the site. The original drainage will be reconstituted. There is 73 cubic yards of cut and they will re-manipulate some of the land to reduce massing and fit the house carefully on the site and repair damage that occurred before. He then submitted a diagram showing a turnaround for the Council's consideration. The landscape plan has plantings along that strip. They do not want a hedge since these are narrow lots and they want to avoid a "boxed in" feeling. Privacy screening will be planted in the line of sight. The trellis is in the side yard setback and vines will grow over it. They believe it is a variance worth requesting. They are under the FAR, within all setbacks, and under the height limit. Also, screening and plantings are provided on the outside edge of the site. He provided three-dimensional topography showing the small size of the development. The front entry tower has a fountain and detailing on the inside of the front entry. It is outdoors and once articulated with lantern and shade shadow, it was softened as desired by the ADR Group. They removed a spiral stair at the back end of the building as recommended by the ADR Group. They broke up the massing on the rear façade of both buildings facing the courtyard and patio with the pool. He provided a materials board for the Council's consideration. Sustainable wood siding is proposed. Primary material is sandstone that comes from Santa Barbara. In terms of green aspects of this project, they are 10 points over platinum for this house. Photovoltaic is a wonderful idea, but did not make sense at this site with the current technology. The roof is designed to accommodate future photovoltaic material. Underneath the roof is a layer of piping that is heated to pre-heat water for radiant floors and domestic hot water. Also, they are hoping to capture water from roofs. Two cisterns are shown and will be used during summer months for the garden and landscaping. Sheet L1 is the newest version of the landscape plan. Japanese maples will be used along with bamboo and a list of other plant materials. If plantings are desired at a lower level, some natives could be planted. Landscape plans were reviewed and accepted by neighbors Judy and Teri. In terms of the preliminary drainage plan, the site works well as is. Overall, they will capture water from the ground and capture water from around the garage as well. Perforated pipe will be provided, which is standard procedure. The cisterns are shown on Pages A-2 and A-3. The hillside is smooth, which increases runoff rate of water, so they propose terraces to help slow the water down.

Mayor Pro Tempore Strauss did not understand where the siding is located. Architect Zwick pointed out the location on the plans, between the two story elements. It is a panelized system. Panel sizes made with pulp trees only come in 8-foot lengths, so they must build the panel with a reveal painted to match. They will have several panels that will add a sense of scale. The height of those panels will be determined. Each piece is 11-inches high, so maybe 4 feet by 8 feet or half of that. He noted that the roof is standing seam and it is dark green.

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Council Member Martin asked if a hydrology report was submitted. Architect Zwick indicated that they only provided a drainage plan. They do not have a huge drainage problem on this site, but if desired, a hydrology study could be done. He further noted that water runs down hill, and it is not changed or intensified in a concentrated way.

Council Member Martin asked about the placement of the pool and why that is the preferred location. Architect Zwick responded that after talking to neighbors, it is the desired location due to noise. The neighbors prefer the pool further away. They desired flexibility for a project of this size to make the cistern project work better and improve the pool situation.

Council Member Martin expressed concern for the large redwood trees being trimmed for light into the pool and asked if there is a location that works better to avoid that conflict or can the applicant live under those conditions with a shady pool. Architect Zwick indicated that the applicant is comfortable with a shady pool.

Mayor Cahill asked staff if a hydrologist report is needed for this project. Senior Planner Semonian responded that a hydrology report is not required by the Town. However, the hillside requirement requires a drainage plan. Staff often asks the Town's Hydrologist to review when there are issues. Town Manager Broad noted that the Council has discretion to ask for additional review, but it usually is within a 100-year flood plain or near a creek. Senior Planner Semonian is concerned about drainage on this site due to the cuts and walls proposed. Architect Zwick noted that they are improving the drainage in a mild way. They are not increasing or intensifying drainage in anyway. They could do a hydrology report, if needed. Calculations are done during construction documents, so at this point it is preliminary. Senior Planner Semonian wanted to make sure there is sufficient land below the discharge points for water to be absorbed. Architect Zwick stated that they propose patios that will all be permeable, so they are increasing permeability of the site. In terms of disbursement systems, they are confident that it will be better than it is today.

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

Council Member Hunter was initially very concerned about the massive size of this development and minimizing the carbon footprint of this project. After visiting the site and hearing the presentation, he appreciated all the energy efficient measures. He asked the applicant to review the pool again because it will be in the shade, but that is a choice for the applicant to make. He wondered what ADR meant by commercial, which he now understands. He is not enamored with the appearance. The roof forms are all different shapes and sizes, so that must be reviewed from a design point of view. He appreciated the house as proposed with cisterns, recreating the original contours and keeping cut and fill at net zero. When they permit a demolition of a site to go back to a clean slate, in his mind that means the original garage on the property line should be removed. He was in favor of the proposed trellis on the other side to hide the entry to the garage, but was conflicted about the variance required for the structure.

Council Member Skall felt they are lucky to have the Royo Family work on this project. They put a lot of time and energy into this project. They are all getting a much better home. He believed some of the creative ideas for drainage and green features will be great. A lot of the projects seen do not necessarily have this look. It is more modern and if looked at daily it might

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have a different feeling, but since it is so tucked away, not visible and the neighbors support, he had no objection.

Council Member Martin concurred with Council Member Hunter's comments. His main concern is stewardship of the land. It has been impacted with severe cuts and commends the applicant for addressing some of them. He noted that the spotted owl is part of the character of this Town. He expressed concern for a shaded pool. He further believed it is important that the redwood trees grow back to what they were. Otherwise, he felt it is a good project.

Mayor Pro Tempore Strauss liked the project. He echoed previous comments made by the Council. He is pleased to see this is a platinum project. He shares the same concern for the pool as discussed. Roof forms have a lot going on and if simplified it might be stronger. He found the waterfall board conflicting with the stone and suggested exploring other materials. He expressed concern for the turning radius in the garage. Architect Zwick provided a diagram to the Council for their consideration in regard to the turning radius.

Mayor Pro Tempore Strauss agreed the trellis can work, but it must be 3 to 5 feet off the property line. Architect Zwick stated that it is 6 feet. Mayor Pro Tempore Strauss agreed the existing garage should be removed. He estimated about 15 trucks of off haul, which he hoped can be reduced.

Mayor Cahill agreed the garage should be removed. The trellis is an excellent addition and warrants a variance. In looking at the elevations on the west and east ends of the house, except when up high, there is not much fenestration to preserve privacy, but it makes the elevations take on a commercial character that was objected to by ADR. The landscape plan mitigates the privacy issues, so he suggested improving those elevations, not only from the exterior look, but also improve the light coming into the house. It is a very dark site for a good portion of the year. Many rooms have blank walls and livability would be improved significantly if they looked at that elevation. The Council agreed.

Council Member Martin greatly appreciated how this project was presented.

Mayor Cahill asked for a motion.

**Mayor Pro Tempore Strauss moved and Council Member Hunter seconded, to continue Item 20 to a date uncertain. Motion carried unanimously.**

**21. 54 Baywood, Variance, Design Review, Hillside Lot/Hazard Zone 3 Use Permit No. 1669**

Ross and Ligia Parmenter, 54 Baywood Avenue, A.P. Nos. 72-072-29 and 72-072-30, R-1:B-20 (Single Family Residence, 20,000 sq. ft. minimum lot size). Design review and hillside lot/hazard zone 3 use permit to allow the construction of a new 894 square foot residence and attached 285 square foot one-car garage with a one-car lift to provide two covered parking spaces. The residence includes a mezzanine, living room, kitchen/dining room, two bedrooms, two bathrooms and rooftop, upper level and lower level decks. 51 cubic yards of cut and 77 cubic yards of fill are proposed. The exterior materials include fiber cement panel siding, aluminum-clad windows and doors, garden roofing, glass railings, and a painted wood sectional garage door. A variance is requested to locate the garage and pedestrian bridges within the front yard setback (25 feet required, 0 feet proposed) and to locate one required off-street parking space within the right-of-way

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and front yard setback (25 feet required, 0 feet proposed). An additional parking space, with a wire railing, is proposed further up Baywood Avenue within the right of way. A tree removal permit is requested to allow the removal of two 14" diameter bay trees and a 14" diameter oak tree.

Lot area	20,971 square feet
Present Floor Area Ratio	0%
Proposed Floor Area Ratio	1,179 5.6%*
Present Lot Coverage	0%
Proposed Lot Coverage	10.8% (15% permitted)

(\*The slope of the lot is 53%. The Town Hillside Lot Ordinance guidelines recommend a maximum floor area of 840 square feet. )

*The public hearing on the item was continued at the applicants' request.*

22. Correspondence

- Email from Karen Stern requesting permission to hang 3x5 banner across from Post Office

The Council agreed to allow a banner until April 1<sup>st</sup>, 2009.

- Email from Denise Ahrens regarding public restroom

The Council agreed to add a temporary restroom somewhere near the construction fence and work out a permanent solution near the gym with the School Board at a later date.

23. Other Business- None

24. Adjournment.

By order of Mayor Cahill, the meeting adjourned at 10:27pm.

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William R. Cahill, Mayor

ATTEST:

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Gary Broad, Town Manager