

REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, APRIL 9, 2015

1. 5:00 p.m. Commencement.

Present: Mayor Elizabeth Brekhus; Mayor Pro Tempore Katie Hoertkorn; Council Member P. Beach Kuhl; Council Member Elizabeth Robbins; Council Member Carla Small; Attorney Trisha Ortiz.

2. Posting of agenda.

Town Clerk Linda Lopez reported that the agenda was posted according to government requirements.

3. Open time for matters pertaining to the closed session items in agenda item 4 - None

4. Closed session.

a. Conference with Labor Negotiators

Town representatives: Town Manager & Glenn Berkheimer, IEDA

Employee organization: Ross Police Officers Association

b. Conference with Legal Counsel—Existing Litigation

Government Code Section 54956.9(d)(1)

Thomas Vallee v. Town of Ross, PSI, administered by York Risk Services Group, Inc.

Workers Compensation Appeals Board Case No. ADJ8893324

5. 6:05 p.m. Open Session. Council will return to open session and announce actions taken, if any. No reportable action.

6. Minutes - March

Mayor Brekhus asked for a motion.

Council Member Small moved and Mayor Pro Tempore Hoertkorn seconded, to approve the Regular Town Council Meeting Minutes of Thursday, March 12, 2015 as submitted. Motion carried unanimously.

7. Demands.

The demands were met.

8. Open Time for Public Expression.

Barbara Call, Redwood Drive resident, thanked the police and fire department for putting out the fire near her home, and indicated that she is extremely grateful. She expressed concern for the vacant house on Redwood Drive. The vacant house is part of the housing element and desired progress. She further believed the vacant house is a liability.

9. Introduction of Interim Town Manager Dianne Thompson.

Mayor Brekhus introduced Interim Town Manager Dianne Thompson and looked forward to the

Town benefiting from Dianne's knowledge. The Town is delighted to have her and thanked Dianne for taking the interim position. Interim Town Manager Dianne Thompson thanked the Council and staff and noted her appreciation for the position.

10. Introduction of Interim Planner Leann Taagepera.

The Town hired Leann Taagepera to serve as Interim Town Planner in the Planning Department. Leann is the sole-proprietor of a CA certified small business and certified women-owned business. She provides CEQA/NEPA-related services to both public and private sector clients as both a prime consultant and a subconsultant. She is a planner with over 20 years of experience in city planning, preservation planning, and CEQA and NEPA environmental analyses and document preparation. Leann holds a Master of Urban and Regional Planning, Land Use and Law Specialization, from UC Irvine, and a B.A. in Environmental Studies, City Planning Emphasis, from UC Santa Barbara. Leann will serve as Interim Planner until a permanent Town Planner is hired. Her schedule will be Monday, Wednesday and Thursdays from 10:00 - 3:00 p.m. (with a break for lunch). She can be reached via email at planning@townofross.org, or by phone at (415) 453-1453 ext. 121. Since Leann is on a part-time schedule, residents are encouraged to schedule an appointment with her first before coming to Town Hall. Once a permanent planner is hired, the planner's schedule will resume to full-time.

11. Recognition of former employee Buzz Doughty, Public Works Maintenance Worker, upon his retirement, and outgoing employee Elise Semonian, Senior Planner.

The Council recognized former employee Buzz Doughty upon his retirement, and outgoing employee Elise Semonian, for their years of service to the Town. Buzz worked in the Public Works Department as a Maintenance Worker for eight years. He was a familiar face in Town, often seen mowing the lawn, trimming hedges, raking leaves, sweeping, digging ditches, and doing whatever else was needed. His job consisted of hard, physical labor, eight-hours a day. Buzz carried out his duties in his quiet, unassuming way, and never complained. He was an extremely hard working employee and a joy to work with, and he is most definitely missed. The Town thanked him for his excellent work, and the Town is sad to see him go, and wish him all the best in his retirement.

Elise has been Senior Planner in the Planning Department for eight years. She is leaving Ross to become the Planning Director for the Town of San Anselmo. Being the only employee in the Ross Planning Department, Elise has faced many workload challenges. During her eight years, she has brought approximately 99 planning applications before the Council, amended numerous zoning ordinances including Hillside Lot regulations and basements and attics, oversaw the Advisory Design Review Group meetings since their inception, updated the draft Housing Element, the Hazard Mitigation Plan, and provided guidance with Flood Maps and Elevation regulations, just to name a few. Her knowledge of planning is extensive and many Ross residents have benefited from it, and will miss her expertise and guidance. The Town wished her all the best in her new position, and thanked her for a job well-done.

12. Council Committee and Liaison Reports.

a. Mayor.

Mayor Brekhus said goodbye to Senior Planner Elise Semonian, whose last day is Friday, April 10th. They also recognized and thanked Public Works employee Buzz Doughty, upon his retirement. The Town has hired Leann Taagepera to serve as Interim Planner. Since Leann is

April 9, 2015 Minutes

only available on a part-time basis, the Town will seek to hire an additional part-time temporary planner, so the Planning Office is covered five days a week. The Town will soon begin recruiting for a permanent full-time planner. A special Council meeting will be held on Thursday, April 23rd to interview and select a recruitment firm to oversee the hiring of a permanent Town Manager. The Council's annual budget workshop is set for Wednesday, April 29th at the Marin Art & Garden Center. The public is welcome to attend. The windows replacement and repair project in Town Hall is almost complete. The project included replacing all the windows in the Council chambers, one window in the conference room, and repairing all the rest of the windows in the building. The landscaping outside Town Hall and the Public Safety building is nearly completed. This was part of the Sir Francis Drake/Lagunitas Road Intersection Project. The new landscaping installed includes drought tolerant plants. The Governor recently issued an executive order mandating cutbacks in water usage, so it is especially important that we all continue to conserve water whenever possible. The Ross School PTA recently held their auction and raised an estimated \$270,000 for the Ross School. Well done, and congratulations to the PTA and all residents who volunteered and contributed to make the auction a success.

b. Council Committees. (Finance, General Government, Public Works, Community Protection) - No reports.

c. Town Manager – No report.

d. Marin Art & Garden Center.

Diane Doodha, MAGC representative, announced that the gardens are filling up with new drought resistant plantings. MAGC concert series starts June 25th and Marin Society of Artist will host several Marin artists for the countywide open studio, and welcomed all to stop by. Ross Valley Players play will start on April 12 and will start their local production on April 17th. Internal parking lot signage is being considered to encourage others to not use MAGC parking lot as an extension of their own. Parking can be arranged with their general manager for events. Master gardeners program started in March.

e. Ross Property Owners Association.

Diane Rudden, RPOA representative, reminded everyone about their green tote bag and many merchants downtown contributed to the bag. It is a great way to introduce the merchants downtown. Discussions have occurred in regard to a bike rack at the Post Office. RPOA email blasts continue once per month.

f. Ross School.

Chi Kim, Ross School Superintendent, reported that the Board reviewed several applicants for her position and they have a solid group of candidates being interviewed on April 20th. The Board hopes to have an approved contract by May.

13. Consent Agenda.

The following seven items will be considered in a single motion, unless removed from the consent agenda: Item 13g was pulled from the consent agenda for further discussion.

April 9, 2015 Minutes

- a. **Town Council consideration of adoption of Resolution No. 1892 supporting Arbor Day.**

Mayor Brekhus asked for a motion.

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

- b. **Town Council consideration of adoption of Resolution No. 1893 proclaiming April 2015 to be Fair Housing Month.**

Mayor Brekhus asked for a motion.

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

- c. **Town Council consideration of adoption of Ordinance No. 659, an Ordinance of the Town of Ross amending the Ross Municipal Code Chapter 12.24 to Update the Regulations Governing the Removal of Trees and Amending the In Lieu Tree Replacement Fee. The proposed ordinance: requires a certain inch of trunk diameter for tree replacement based on the condition of the removed tree, where the current ordinance does not specify tree replacement size; allows landscape screening as an alternative to tree replacement; includes criteria for when tree replacement is feasible; expands circumstances when fees may be paid in lieu of tree replacement; and enables the Town to obtain a financial security to ensure tree protection during construction projects establishing a policy for providing a fee waiver or reduction for Town Planning and Development Services.**

Mayor Brekhus asked for a motion.

Council Member Small moved and Council Member Kuhl seconded, to approve Consent Calendar Item "c" as submitted by staff. Motion carried unanimously.

- d. **Town Council consideration of adoption of Ordinance No. 661 an Ordinance of the Town of Ross Amending Title 13 "Water and Sewers" of the Ross Municipal Code Adding Chapter 13.08 "Water Efficient Landscaping" and Adopting by Reference Marin Municipal Water District Code Chapter 13.02 "Water Conservation and Dry Year water Use Reduction Program."**

Mayor Brekhus asked for a motion.

Council Member Small moved and Council Member Kuhl seconded, to approve Consent Calendar Item "d" as submitted by staff. Motion carried unanimously.

- e. **Town Council consideration of adoption of Resolution No. 1894 closing out the Building Permit Excess Fund account.**

April 9, 2015 Minutes

Mayor Brekhus asked for a motion.

Council Member Small moved and Council Member Kuhl seconded, to approve Consent Calendar Item "e" as submitted by staff. Motion carried unanimously.

f. Town Council consideration of adoption of Resolution No. 1895 approving payment of an additional \$150,000 to the California Public Employees Retirement System (CalPERS) before June 30, 2015, for prefunding of retiree health benefits through participation in the California Employer Retiree Benefit Trust Program (CERBT).

Mayor Brekhus asked for a motion.

**Council Member Small moved and Council Member Kuhl seconded, to approve Consent Calendar Item "f" as submitted by staff. Motion carried unanimously.
End of Consent agenda.**

Council Member Robbins recused herself from the next agenda item in order to avoid the appearance of a conflict.

13g. 14 Norwood Avenue, Design Review No. 2000

Mark and Molly Gamble, 14 Norwood Avenue, A.P. No. 73-091-30, R-1:B-20 (Single Family Residence, 20,000 sq. ft. min. lot size), Low Density (1 - 3 units per acre), Zone A and X (lot partially within 100-year floodplain). Design review for work within 25 feet of a watercourse. The project involves replacement of approximately 70 feet of wood retaining wall, which has partially failed, with a new retaining wall along the west bank of Ross Creek, downstream of the Norwood Avenue Bridge. The existing wall would be removed and replaced in the same location and configuration with a new timber-lagging wall. A tree removal permit is requested to remove one maple growing through the existing wall. The Town Council will consider if the proposed project is categorically exempt from CEQA.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the replacement wall subject to the findings and conditions outlined in the staff report along with a further condition to require the applicant to remove a play structure near the creek.

Mark Gamble, applicant, desired clarification of a "play structure," because it is just a swing. Senior Planner Semonian noted that if it is not a structure it is potentially subject to design review because it is within 25 ft. of the creek. Staff further noted that this matter has not been noticed. It can be separated and handled as code enforcement or have the applicant apply for approval and allow staff to handle the matter.

Mayor Brekhus opened the public hearing on this item.

April 9, 2015 Minutes

Mark Kruttschnitt, neighbor, felt the wall is a great idea. As far as the structure, it is a violation of the property line setback and creek setback. It is visible from his family room and office, so it is a structure by the legal definition of a structure.

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

Council Member Small believed there are two separate issues and tonight they should just consider the replacement wall.

Mayor Brekhus asked for a motion.

Mayor Pro Tempore Hoertkorn moved and Council Member Kuhl seconded, to approve 14 Norwood Avenue, Design Review No. 2000 retaining wall subject to the findings and conditions outlined in the March 31st, 2015 staff report. Motion carried 4-0. Robbins recused.

14 Norwood Avenue Conditions of Approval:

Based on the project plans, supporting material, and staff report, staff recommends approval of the project based on the findings in the staff report and with the following conditions:

1. This approval is for removal of one tree and replacement of a creek wall as shown on plans approved by the Town Council on April 9, 2015.
2. A building permit is required. The conditions of approval shall be reproduced on the first sheet of the plans. The permit shall not be issued until all appropriate permits are obtained by applicable state, federal and local agencies with jurisdiction over the project.
3. No work is permitted on the 12 Norwood site without permission of that property owner, or an easement.
4. As proposed by the applicant, the work shall only take place when the creek bed is dry. No creek dewatering is permitted by this approval.
5. As proposed by the applicant, no mechanical equipment shall be located in the creek bed.
6. The applicant is responsible for obtaining any appropriate Federal, State and local permits prior to issuance of a building permit. The applicant shall comply with any additional requirements of the agencies.
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. 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. The project shall fall under the permit timeline for the project under construction at the site and shall not extend the 18-month construction period permitted for that project. Alternatively, the applicant may complete the current project and wait 9 months to secure a new permit for this project.

9. 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.

10. Failure to secure required building permits and/or begin construction by April 9, 2017 will cause the approval to lapse without further notice.

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.

Council Member Robbins resumed her position on the Town Council and Council Member Kuhl recused himself from the next agenda item in order avoid the conflict of an appearance.

14. Public Hearings on Planning Applications – Part I.

Public hearings are required for the following planning applications. Staff anticipates that these items may be acted upon quickly with no oral staff report, Council discussion, or public comment. If discussion or public comment is requested for any item, the Council may consider the item later in the agenda. The Council will act on each item separately.

a. 6 Chestnut Avenue, Variance, Design Review, and Demolition Permit No. 1996

John and Cristina Scarborough, 6 Chestnut Avenue, A.P. No. 73-301-06, R-1:B-10 (Single Family Residential, 10,000 sq. ft. min. lot size), Medium Low Density (3-6 Units/Acre). Application for design review, demolition permit, nonconformity permit and variance. The project includes an interior remodel and 48 square foot addition to the southwest corner of the house, within the south side yard setback (15 feet required, 8 feet proposed). The applicants would extend the primary roofline over the addition. Windows and doors would be modified on the south, north and west elevations. The project also includes reconstruction of the pool house and relocation of pool equipment to a covered vault west of the pool house, within the south side yard setback (15 feet required, 11 feet existing and proposed). The existing residence is nonconforming in setbacks and covered parking (one covered parking space required).

Lot Area	18,150 square feet
Existing Floor Area Ratio	3,551 sq. ft. 19.5%
Proposed Floor Area Ratio	3,599 sq. ft. 19.8% (20% permitted)
Existing Lot Coverage	2,404 sq. ft. 13.2%
Proposed Lot Coverage	2,452 sq. ft. 13.5% (20% permitted)
Existing/Proposed Impervious Surfaces	no change

April 9, 2015 Minutes

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

Mayor Brekhus 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 Brekhus asked for a motion.

Council Member Small moved and Council Member Robbins seconded, to approve 6 Chestnut Avenue, Variance, Design Review, and Demolition Permit No. 1996 subject to the findings and conditions outlined in the staff report. Motion carried 4-0. Kuhl recused.

6 Chestnut Avenue Conditions of Approval:

Staff recommends that the Town Council, after carefully reviewing the facts and the arguments presented after a public hearing, site visits, review of story poles installed at the site, staff reports, correspondence, and other information contained in the project file, approve the project as proposed subject to the following Conditions of Approval:

The following conditions of approval shall be reproduced on the cover sheet of the plans submitted for a building permit.

1. Except as otherwise provided in these conditions, the project shall substantially conform with the plans for the residence approved by the Town Council on April 9, 2015. Plans submitted for the building permit shall reflect any modifications required by the Town Council and these conditions.
2. The pool equipment venting shall be directed away from adjacent property as much as feasible (for example, vents or louvres directed on site) and the shed insulated for noise as much as possible.
3. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
4. No changes from the approved plans, before or after project final, including changes to the materials and material colors, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town for review and approval prior to any change. The applicant is advised that changes made to the design during construction may delay the completion of the project and will not extend the permitted construction period.
5. Exterior lighting of landscaping by any means shall not be permitted if it creates glare, hazard or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public right-of-ways is prohibited. No up lighting is permitted. Interior and exterior lighting fixtures shall be selected to enable maximum "cut-off" appropriate for the light source so as to strictly control the direction and pattern of light and eliminate spill light to neighboring properties or a glowing night time character.
6. Applicants shall comply with all requirements of PG&E prior to project final.
7. The applicant shall comply with all requirements of the Marin Municipal

April 9, 2015 Minutes

Water District (MMWD) for water service prior to project final including compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape plans shall be submitted, and reviewed to confirm compliance or exemption. The Code requires a landscape plan, an irrigation plan, and a grading plan. Any questions regarding District Code Title 13 - Water Conservation should be directed to the Water Conservation Department at (415) 945-1497. Should backflow protection be required, said protection shall be installed as a condition of water service. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559. For questions contact Joseph Eischens, Engineering Technician, at (415) 945-1531. Letter or email confirming compliance with MMWD’s requirements shall be submitted to the building department prior to project final.

8. Applicants shall comply with the requirements of the Ross Valley Sanitary District prior to project final. Applicants should contact RVSD to determine what work may be required at the site to comply with RVSD codes.

9. The applicant and contractor should note the Town of Ross working Hours are limited to Monday to Friday 8:00 a.m. to 5:00 p.m. Construction is not permitted at any time on Saturday and Sunday or the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. If the holiday falls on a Sunday, the following Monday shall be considered the holiday. If the holiday falls on a Saturday, the Friday immediately preceding shall be considered the holiday. Exceptions: 1.) Work done solely in the interior of a building or structure which does not create any noise which is audible from the exterior; or 2.) Work actually physically performed solely by the owner of the property, on Saturday between the hours of 10:00 a.m. and 4:00 p.m. and not at any time on Sundays or the holidays listed above. (RMC Sec. 9.20.035 and 9.20.060).

10. The project shall comply with the conditions in the Interdepartmental Memo from Coastland Engineering dated 3/31/15 and the Ross Valley Fire Department Memo dated 3/19/15.

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

Council Member Kuhl resumed his position on the Town Council.

b. 14 Madrona Avenue, Variance No. 1999

Michael and Erika Rosenbaum, 14 Madrona Avenue, A.P. No. 73-232-42, R-1:B-10 (Single Family Residence, 10,000 sq. ft. min. lot size), Medium Low Density (3-6 units per acre).

April 9, 2015 Minutes

Application for floor area and setback variance to add 57 square feet of floor area to family room, with the rear yard setback (40 feet required, 35.5 feet proposed).

Lot Area	18,677 square feet
Existing Floor Area Ratio	4,379 sq. ft. 23.5%
Proposed Floor Area Ratio	4,436 sq. ft. 23.8% (20% permitted)
Existing Lot Coverage	1,924 sq. ft. 10.3%
Proposed Lot Coverage	2,000 sq. ft. 10.7% (20% permitted)
Existing/Proposed Impervious Surfaces	no change

Senior Planner Elise Semonian summarized the staff report and recommended that the Council either deny the application or continue the item as incomplete to the May Town Council meeting so the necessary floor area information can be submitted to staff.

Elika Rosenbaum, applicant, indicated that they emailed neighbors in regard to their variance request. They received an email yesterday morning in regard to a neighbor hiring an attorney. Her neighbor wanted to find a global solution. The neighbor's intent is to resubmit to the Council, and desired one of their structures to be put back into their project. They are happy to discuss, but that was not germane to tonight's meeting. It is irrelevant to their agenda item.

Chris Skelton, attorney, representing Huck's, clarified that the Huck's submitted a letter which is substantial. It was submitted before he was engaged and to address the applicant's comments, this is a unique property. There are three parcels in the subdivision. A few aspects could be smoothed out. He reached out to engage and propose some solutions that would impact their request for a floor area variance. They are looking for a 30-day continuance to find some solution. In terms of the substance of the application, it is incomplete. There are no floor plans or dimensions. At this time, considering there are neighbor concerns, it would not be appropriate to make the findings. In particular, the substantial property right seems stretched. With the additional time requested they could certainly come back in support and hope with some additional solutions to the subdivision. Council Member Kuhl noted that his clients were in front of the Council last month, and it appears that they are trying to leverage the Rosenbaum's property in order to see if the Council will change their minds about their project. The addition being proposed is nothing. Attorney Skelton stated that it is not their intention to strong arm or get another crack at their attempt. There are some property issues that this subdivision is susceptible too. The history detailed in about ten pages of the staff report, there have been a lot of variances, setbacks and lot line adjustments. It can still be smoothed out a little more.

Council Member Small stated this is very bothersome. There will be no impact in regard to proposed variance. The way this is packaged makes her very uncomfortable.

Mayor Brekhus felt the issue being raised was drainage and could understand resolving that matter. This addition is minor and could see grounds for a variance since it is a long, short lot.

Michael Rosenbaum, applicant, felt they are wasting a lot of precious time on this minor variance.

April 9, 2015 Minutes

Council Member Small stated with this minimal impact, they could come up with the proper findings. She did not see this being inconsistent with their other decisions.

Jared Polsky, architect, believed findings can be made. There are no impacts on the neighbors. It is a substantial property right. He agreed to a continuance to the next meeting.

Mayor Brekhus 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 Brekhus asked for a motion.

Council Member Kuhl moved and Council Member Robbins seconded, to continue 14 Madrona Avenue, Variance No. 1999 to the May Town Council meeting. Motion carried unanimously.

c. 83 Laurel Grove Avenue, Variance, Design Review, and Hillside Lot Permit No. 1992

John and Kary Chendo, 83 Laurel Grove, A.P. No. 72-092-16, R-1:B-A (Single Family Residence, 1 acre min. lot size), Low Density (.1-1 units per acre). Application for design review, Hillside Lot permit, variance and second unit exception. The project includes: 1.) remodel and two-story addition to the residence, partially within the required Hillside Lot Ordinance side yard setback (45 feet required, 30 feet proposed); 2.) new pool to the south of the residence, in a location where a pool was previously located; 3.) 340 feet of landscape retaining walls up to 5 feet tall; 4.) grading including 200 cubic yards of cut and 10 cubic yards of fill; 5.) new patio and sauna area; and 6.) 935 square foot, two story, second unit south of the residence, with a maximum roof ridge height of 21 feet. An exception is required for the second unit (one story permitted). A tree removal permit is requested to remove one 12" diameter oak and a 12" diameter loquat tree.

Lot Area	98,881 square feet		
Existing Floor Area Ratio	4,337 sq. ft.	4.4%	
Proposed Floor Area Ratio	5,842 sq. ft.	5.5%	(15% permitted*)
Existing Lot Coverage	3,175 sq. ft.	3.2%	
Proposed Lot Coverage	4,226 sq. ft.	4.3%	(15% permitted)
Existing Impervious Surfaces	13,544 sq. ft.	13.7%	
Proposed Impervious Surfaces	13,544 sq. ft.	13.7%	

*Under standard zoning regulations. Proposed project is also within maximum floor area permitted under Hillside Lot Ordinance.

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

Mayor Brekhus 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 Hoertkorn believed it is a great property.

Mayor Brekhus asked for a motion.

Council Member Small moved and Council Member Robbins seconded, to approve 83 Laurel Grove Avenue, Variance, Design Review, and Hillside Lot Permit No. 1992 subject to the findings and conditions outlined in the staff report. Motion carried unanimously.

83 Laurel Grove Avenue Conditions of Approval:

The following conditions of approval shall be reproduced on the cover sheet of the plans submitted for a building permit.

1. Except as otherwise provided in these conditions, the project shall substantially conform with the plans for the residence approved by the Town Council on April 9, 2015. Plans submitted for the building permit shall reflect any modifications required by the Town Council and these conditions.

2. The pool equipment venting shall be directed away from adjacent property as much as feasible (for example, vents or louvres directed on site) and the shed insulated for noise as much as possible.

3. A new, detached, second unit is approved and shall be identified as 83A Laurel Grove. The unit shall comply with all requirements of the Ross Valley Sanitary District and Marin Municipal Water District prior to project final. The applicants are permitted to eliminate the kitchen and maintain the studio as a pool house structure, which would also comply with all development regulations.

4. The Landscaping shall be installed in substantial conformance with the approved landscape plan prior to project final. The Town staff reserves the right to require modifications to the landscape to protect mature trees and to comply with MMWD water conserving landscape requirements or fire code clearance requirements. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final. The applicant may be required to provide additional screening if fire clearance requirements require removal of necessary screening landscaping. Staff may require additional screening landscaping of the second unit prior to project final if it is found to be necessary to screen the structure from adjacent site views.

5. No changes from the approved plans, before or after project final, including changes to the materials and material colors, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town for review and approval prior to any change. The applicant is advised that changes made to the design during construction may delay the completion of the project and will not extend the permitted construction period.

6. Exterior lighting of landscaping by any means shall not be permitted if it creates glare, hazard or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public right-of-ways is prohibited. No up lighting is permitted. Interior and exterior lighting fixtures shall be selected to enable maximum "cut-off" appropriate for the light source so as to strictly control the direction

and pattern of light and eliminate spill light to neighboring properties or a glowing night time character.

7. Applicants shall comply with all requirements of PG&E prior to project final.

8. The applicant shall comply with all requirements of the Marin Municipal Water District (MMWD) for water service prior to project final including compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape plans shall be submitted, and reviewed to confirm compliance or exemption. The Code requires a landscape plan, an irrigation plan, and a grading plan. Any questions regarding District Code Title 13 - Water Conservation should be directed to the Water Conservation Department at (415) 945-1497. Should backflow protection be required, said protection shall be installed as a condition of water service. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559. For questions contact Joseph Eischens, Engineering Technician, at (415) 945-1531. Letter or email confirming compliance with MMWD's requirements shall be submitted to the building department prior to project final.

9. Applicants shall comply with the requirements of the Ross Valley Sanitary District No. 1 in their letter dated February 26, 2015. A letter or email confirming compliance shall be submitted to the building department prior to project final.

10. The applicant and contractor should note the Town of Ross working Hours are limited to Monday to Friday 8:00 a.m. to 5:00 p.m. Construction is not permitted at any time on Saturday and Sunday or the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. If the holiday falls on a Sunday, the following Monday shall be considered the holiday. If the holiday falls on a Saturday, the Friday immediately preceding shall be considered the holiday. Exceptions: 1.) Work done solely in the interior of a building or structure which does not create any noise which is audible from the exterior; or 2.) Work actually physically performed solely by the owner of the property, on Saturday between the hours of 10:00 a.m. and 4:00 p.m. and not at any time on Sundays or the holidays listed above. (RMC Sec. 9.20.035 and 9.20.060).

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

End of Public Hearings on Planning Applications – Part I.

15. Ross Valley Flood Control update.

Marin County Supervisor Katie Rice and former Council Member Chris Martin briefed the Council on flood control. They cited that for over 100 hundred years the Town of Ross and other Ross Valley communities have been afflicted by devastating floods. Since 1950, flood flows have been recorded in calendar years 1951, 1955, 1958, 1967, 1969, 1970, 1982, 1983, 1986, 1994, and 2005. Following the destructive 2005 flood, which threatened lives and flooded homes, businesses, schools, fire stations, police stations, and other public facilities, as well as causing over \$100 million in property damage, then Supervisor Hal Brown responded to pleas from all our communities and proposed an integrated, watershed-wide program to reduce or eliminate the risk of flooding in Ross Valley.

Supervisor Brown was able to galvanize community support with the passage of the watershed storm drainage fee. The drainage fee along with State and Federal grants are the sources for funding the County's Ross Valley Flood Protection and Watershed Program. The Program consists of over 180 proposed measures, including creating detention basins, replacing bridges, and creek channel enhancements. These measures have been developed over several years with input from the public, engineering experts, county and local staff, environmental specialists, and community leaders and members. Mr. Martin noted that the effective leadership and perseverance of Supervisor Rice moved forward the two of the most critical projects of the Ross Valley Flood Protection Program. Both projects are in the Town of Ross. These projects are U.S. Army Corps of Engineers' Corte Madera Creek Unit #4 and the Phoenix Lake Detention Basin.

One month ago, the U.S. Army Corps of Engineers announced that it received \$400,000 in the Federal budget for environmental review and other preconstruction planning related to the Unit 4 project. This project includes removing the outmoded fish ladder near Lagunitas Road Bridge, which impedes creek flow, and replacing it with a more natural way for fish to travel. The project will also modify the downstream concrete channel to increase capacity. Project costs are estimated to be \$15 million and it may be completed by 2020, depending on funding at the Federal level.

The Phoenix Lake project involves modifying the reservoir, dam, spillway, and outlet to increase water supply for MMWD and to reduce flooding by using the lake as a detention basin during large storms. A number of required studies are being completed, including sediment and soil testing, geotechnical analysis for the California Division of Dams, a hydrologic study of the long-term yield of Phoenix Lake, a study of the in-stream flow of Ross creek, and baseline studies for both the Lake and Ross Creek. The Phoenix Lake Detention project is scheduled to be completed in 2017. The Unit 4, Phoenix Lake Detention Basin, and other Ross Valley Flood Protection projects will receive environmental and public review prior to implementation. Please visit <http://marinwatersheds.org/rossvalleywatershed-org/index.html> to keep informed or attend the public meetings.

Mayor Brekhus asked about the bridge replacement project and wondered where traffic will be detoured. Supervisor Rice believed there would be a construction plan that has to be approved just with the Lagunitas Bridge. There will be phases with constricted passage. These bridge replacements are critical elements of this workplan.

April 9, 2015 Minutes

Council Member Small asked about Phoenix Lake and the best estimate of starting construction. Mr. Martin responded that completion is scheduled for 2017-2018. Supervisor Rice pointed out that the annual report indicated 2020.

16. Recreation Department update.

Mike Armstrong, Recreation Manager, thanked Town Clerk Linda Lopez for all her help during this transitional period. They added additional programming such as carpentry classes that have been popular. They received approval for expansion at St. John's and they are moving forward with that expansion. He met with the Mayor in regard to special events such as Fourth of July and Town Dinner logistics. They formed a Recreation Advisory Committee in October with seven members that meet monthly.

Mayor Pro Tempore Hoertkorn congratulated Recreation Manager Armstrong on the success of bringing Ross Rec under the Town. She asked if he is comfortable about the transition to St. John's and quality of the program. Recreation Manager Armstrong is currently in conversations with the College of Marin in regard to using their swimming pool. He feels very confident with the direction they are going.

Council Member Small noted that their wells could start to run dry. They are redoing medians in front and removing grass and installing drip systems. She suggested having a plan in place if they have to reduce their water usage. All attendees should be aware of the water restrictions. Recreation Manager Armstrong responded that a meeting is scheduled later this month in that regard.

17. Town Council consideration of adoption of Ordinance No. 662, an Interim Ordinance pursuant to California Government Code Section 65858 prohibiting Medical Marijuana Dispensaries in all zoning districts during the pendency of the Town's review and adoption of permanent zoning regulations.

Attorney Trisha Ortiz summarized the staff report and recommended that the Council adopt Ordinance No. 662, and interim ordinance pursuant to California Government Code Section 65858 prohibiting medical marijuana dispensaries in all zoning districts during the pendency of the Town's review and adoption of permanent zoning regulations.

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

The Council agreed to adopt an interim ordinance that would ban medical marijuana dispensaries in Ross. At the March 12th meeting, the Council directed the Town Attorney to prepare an ordinance to clarify that medical marijuana dispensaries are not a permitted use within any zone in the Town of Ross. The interim ordinance goes into effect immediately while permanent regulations are publicly noticed and prepared. The interim ordinance will be in effect for 45 days and will need to be extended after a public hearing at the May meeting when the permanent ordinance will be introduced.

Mayor Brekhus asked for a motion.

Council Member Small moved and Council Member Kuhl seconded, to adopt Ordinance No. 662, to adopt an interim zoning ordinance banning medical marijuana dispensaries within the Town of Ross. Motion carried unanimously.

Public Hearings on Planning Applications – Part II.

18. 3 and 5 Ross Common, Conditional Use Permit No. 1998

John and June Lord, 3 and 5 Ross Common, A.P. No. 73-273-13, C-L (Local Service Commercial), C (Local Service Commercial), Zone AE (1-percent annual chance floodplain). Application for Conditional Use Permit to expand real estate office, currently located in a 632 square foot space at 3 Ross Common, into 632 square foot vacant storefront space at 5 Ross Common. The 5 Ross Common space would be modified to create 4 offices and a conference room. A wall between 3 and 5 Ross Common would be opened to allow a walkway between the two spaces. The restroom at 3 Ross Common would be expanded. Proposed days and hours of operation are Monday through Saturday 10:00 a.m. to 4:00 p.m. The applicant estimates five to twenty five clients per day.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council deny the application. If the Council would like to approve the use permit, then approve subject to the findings and conditions outlined in the staff report.

Mayor Pro Tempore Hoertkorn asked staff if the Council approved this application, could the Council setup an annual review. Senior Planner Semonian believed an annual review would be a good idea. Council Member Small agreed with a condition in regard to an annual review. She objected to flyers at eye level, which is not very attractive. She would rather see the flyers lower. She did not want to see flyers all the way across 3 and 5 Ross Common. They must consider what is best for the downtown and the overall community.

Mayor Brekhus opened the public hearing on this item.

Steve Dickinson, Alain Pinel Realtors, stated that the initial concept did not work as planned. They were very excited to be a part of the community at 3 Ross Common. They came up with a grand plan, to have a real estate office, art gallery and designer showcase. They started with various gift items and small furnishings and now they just have accessory items for sale. The fact that this did not work is why they are before the Council tonight. The problem with having an open space that small, the agents do not spend as much time as they hoped since there is no privacy. They propose constructing four private offices and a conference room. He believed this would increase the population of agents in the building at one time. Part of the problem is that they need to draw people in, so they desired some small furnishings in the window and having opening houses with wine and cheese.

Council Member Small asked if there would be a receptionist on duty from 10am to 4pm. Mr. Dickinson responded in the affirmative.

Yael Putterman, interior designer, is very excited to bring retail to Ross. She will be selling furnishings, dishes, candles, pillows, creams and perfumes.

Ashley Boch, agent, noted that the receptionist would update the flyers in the window, so they will have more consistency.

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 Robbins suggested reviewing every two years since they are making substantial changes.

Council Member Kuhl added that there have been many problems with small retail operations coming in and being financially unsuccessful, so it is difficult to run a retail operation in downtown Ross. The Council should consider having an empty building or permit the immediate neighbors to expand into the space next to them that may otherwise remain vacant. He objected to preventing the landlord from making an economical use of the space.

Senior Planner Semonian suggested the following changes to the conditions of approval:

- Condition No. 1 - This approval shall allow the expansion of an existing real estate office and retail home furniture, accessory and gift business as described by the applicant at the public hearing on the application at 3 Ross Common to expand into 5 Ross Common, an existing commercial building, subject to compliance with all of the following conditions of approval. Hours of operation shall fall within Monday through Sunday from 8 a.m. to 8 p.m. (~~proposed~~ required hours are 10 a.m. to 4:00 p.m. Monday through Saturday). The business will have up to five on site individuals and estimated customer traffic of 5-25 people per day. A receptionist must staff the retail location during the open hours.
- Conditions No. 2 - Window treatments such as shades, blinds or curtains are not allowed in storefront windows, unless these are primarily decorative and do not obscure interior views. Window displays in the storefronts should relate to the retail business and real estate use. Desks and/or equipment shall not be placed where they interfere with a full view into the space. Real estate advertisements and signage in the windows at 3 Ross Common shall not be at eye level.
- Condition No. 7 - The applicant is responsible for ensuring that all improvements comply with disabled access regulations, regardless of whether a building permit is required for the work.
- Condition No. 11 - The applicant must return to the Town Council to review the use permit if the retail use at 3 Ross Common is discontinued for a period over 120 days. If the Planning Department finds evidence that any of the conditions of approval have not been fulfilled, or that the use has resulted in a substantial adverse effect on public health, safety, and/or general welfare or on public facilities or services, including the loss of the retail use at 3 Ross Common for a period of over 120 days, the Planning Department or any member of Town Council may elect to refer the Conditional Use Permit to the Town Council for review. If upon such review the Town Council finds that project has resulted in a substantial adverse impact on public health, safety, and/or general welfare or on public facilities or services, the Town Council shall reserve the right to modify or revoke the approval of the use.

April 9, 2015 Minutes

Barry Baltor, facilities director, indicated that it must be ADA compliant. It is a requirement. It is very expensive and requested that it be stretched out, at least six months because it takes time. He desired a reasonable amount of time.

Mayor Brekhus asked for a motion.

Mayor Brekhus moved and Council Member Kuhl seconded, to approve 3 and 5 Ross Common, Conditional Use Permit No. 1998, subject to the findings and conditions outlined in the staff report with the above modification to the conditions of approval as noted by staff. Motion carried unanimously.

3 and 5 Ross Common Use Permit Conditions of Approval:

Underline and strikethrough indicate modifications made to the conditions recommended by staff by the Town Council at the public meeting.

1. This approval shall allow the expansion of an existing real estate office and retail home furniture, accessory and gift business as described by the applicant at the public hearing on the application at 3 Ross Common to expand into 5 Ross Common, an existing commercial building, subject to compliance with all of the following conditions of approval. Hours of operation shall fall within Monday through Sunday from 8 a.m. to 8 p.m. (~~proposed~~ required hours are 10 a.m. to 4:00 p.m. Monday through Saturday). The business will have up to five on site individuals and estimated customer traffic of 5-25 people per day. A receptionist must staff the retail location during the open hours.
2. Window treatments such as shades, blinds or curtains are not allowed in storefront windows, unless these are primarily decorative and do not obscure interior views. Window displays in the storefronts should relate to the retail business and real estate use. Desks and/or equipment shall not be placed where they interfere with a full view into the space. Real estate advertisements and signage in the windows at 3 Ross Common shall not be at eye level.
 3. Any expansion or modification of the approved use (such as operation of only the real estate office at the space) shall be through a subsequent public hearing by the Town Council.
 4. These conditions shall be binding on the applicant and all successors in interest. In case of transfer of ownership, the new owner of the establishment shall provide the Town with written acknowledgement of these conditions of approval. Failure to comply with this requirement may result in revocation of this Conditional Use Permit.
 5. The applicant is notified that the site and ground floor office space is in a FEMA flood hazard area and the area periodically floods.
 6. Minor modifications to the Conditional Use Permit consistent with the Town of Ross Municipal Code may be made subject to review and approval of the Planning Department if the modifications are in keeping with the intent of the original approval.
 7. **The applicant is responsible for ensuring that all improvements comply with disabled access regulations, regardless of whether a building permit is required for the work.**
 8. A building permit is required and the project shall comply with all requirements of the Ross Valley Fire Department.
 9. Any encroachment into the public right of way, such as for installation or replacement of awnings, signage, seating, or lighting, requires prior approval of a revocable encroachment permit from the town manager or their designee.

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

11. The applicant must return to the Town Council to review the use permit if the retail use at 3 Ross Common is discontinued for a period over 120 days. If the Planning Department finds evidence that any of the conditions of approval have not been fulfilled, or that the use has resulted in a substantial adverse effect on public health, safety, and/or general welfare or on public facilities or services, including the loss of the retail use at 3 Ross Common for a period of over 120 days, the Planning Department or any member of Town Council may elect to refer the Conditional Use Permit to the Town Council for review. If upon such review the Town Council finds that project has resulted in a substantial adverse impact on public health, safety, and/or general welfare or on public facilities or services, the Town Council shall reserve the right to modify or revoke the approval of the use.

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

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

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

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

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

14. Any televisions, flat screens or monitors visible from the street shall be turned off at night.

19. 63 Laurel Grove Avenue, Amendment to Design Review, Demolition, and Hillside Lot Permit No. 1914

Brad Oldenbrook, 63 Laurel Grove, A.P. Nos. 72-131-19, 72-131-25, R-1:B-A (Single Family Residence, 1 acre min. lot size), Low Density (.1-1 units per acre). Public hearing for the Town Council to consider an amendment to approved design review, demolition permit, and hillside lot permit plans for demolition of a residence and accessory structures and construction of a 5,461 sq. ft. residence, attached 495 sq. ft. garage, and 204 sq. ft. pool cabana. The applicants request approval for a new pool and hot tub southeast of the residence, which would provide water supply for firefighting. Pool equipment and fire suppression equipment are proposed to be located under the approved deck, where water tanks were previously approved. The amended plans also include new landscape retaining walls to replace existing walls, which entails relocation

April 9, 2015 Minutes

of existing water lines. The proposed improvements comply with all development regulations.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the project based on the findings and conditions of the original approval and staff report. Staff also recommended an additional condition in regard to screening vehicles from view to address a neighbors concern.

Council Member Robbins expressed concern for not having a drawing depicting the road where the vehicles will be located and is unable to approve without viewing a photograph or drawing. She felt the walls would be visible and is having trouble understanding.

Mayor Brekhus felt the plans are not great, sheet 1 of 1 shows a pool, but no hot tub and the page before shows a pool and hot tub. She is having trouble visualizing the appearance as well. She was underwhelmed by the visual. She voted against this project before and continues to be concerned. She is disappointed with all the broken glass on site and wanted the applicant to clean up their site.

Ed Blankership, architect, represents the owners of 63 Laurel and he is present to discuss four different issues. One of the issues is the pool, which is a component of the fire protection requirement. The owners have been working with the fire department to try and develop a solution. There are some landscaping issues. He proposes some augmented planning that will hopefully clarify some issues. The two retaining walls are failing wood walls. The goal is to develop a series of retaining walls. The first wall is 3 ft. out and drops down about 2 ft. The second wall is another 2 ft. down and drops down another 4 ft. It is reflected in the most visible area. Additional plantings are proposed in the retaining walls. In terms of the parking area, the revised plan is minimal, so they added ten additional plants at 15 gallons rather than 5 gallons. The color of the stucco has been changed to the darker color as well.

Council Member Kuhl expressed concern for not having such plans in front of the Council. He hates to drag projects out, but in this instance, the Council must continue in order for the correct documents to be in front of the Council.

Council Member Small felt after listening to the other Council members that they should continue this item. There is a lot of positive and the retaining walls will look better than the tanks. The view is not necessarily what someone is looking at. She further agreed there are to many last minute changes and items and the matter should be continued for further review.

Mayor Pro Tempore Hoertkorn appreciated the staggered walls to soften the appearance. She suggested a color drawing of what is proposed so it is easy to understand. Council Member Small suggested a small model, which would speak volumes to what is being proposed. It is dependent on the contractor and homeowner to clean the job site.

Mayor Brekhus agreed the item should be continued.

Mayor Brekhus opened the public hearing on this item.

April 9, 2015 Minutes

Carla Buchanan, neighbor, stated for the first time today she could view the parked vehicles, and is extremely concerned about having adequate screening. She is concerned about the landscaping, when they have no idea if such owners will maintain the screening. The neighbors have no idea how the project will appear and desired renderings and a model. Also, easy access must be available to her gardener and meter reader since her water meter is located on this property.

Council Member Small pointed out that this was approved before the Council adopted the ordinance with Marin Municipal Water District (MMWD). Senior Planner Semonian responded that they still are subject to all terms, water conserving and landscaping requirements. They should go through MMWD and receive approval. It would be good to know that what is being proposed would be installed and approved by MMWD.

Brandon Tyson, present with Jennifer Maxell, stated that Ross is great presenting ideas and developing solutions. They have been informed at the last minute and everything continues to change. They cannot view the story poles. The lack of communication has been the problem and agreed to continue the matter.

Jennifer Maxwell, neighbor, stated that what has happened at this property is a shame. It is embarrassing. This house was built out of greed and for profit. The plans for the pool and landscaping have not been provided to the neighbors. They need a second opinion in regard to the heritage oak tree. She was told that no digging can occur within the canopy of the tree, and the pool is located within the canopy of the tree. They need an expert opinion to understand what impacts the pool will have on the tree. There are privacy issues with this house. Screening is needed and should be a stipulation before any more development occurs on this property. The pool equipment must be discussed in terms of location and screening. She is completely saddened by what has occurred on this property.

Barbara Call, Redwood Drive resident, could not believe the Council approved this development with that size of a structure. That narrow driveway is scary. This is a spec home, not really going to be enjoyed by the person building it and the same person is asking for a pool. A water tank should protect the area from fire, not a pool. She expressed concern for the heritage trees being killed from this development. She does not understand the reason or the pool, she does not know why it is even being considered. She disagreed with the entire project. It is not appropriate and asked the Council to give serious consideration to what is happening.

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

Mayor Brekhus asked for a motion.

Council Member Kuhl moved and Council Member Robbins seconded, to continue 63 Laurel Grove Avenue, Amendment to Design Review, Demolition, and Hillside Lot Permit No. 1914. Motion carried unanimously.

The Council took a 15 minute recess.

20. 128 Winding Way, After-the-Fact Amendment to Variance, Design Review, and Demolition Permit No. 1919

Norman and Mette Hardie, 128 Winding Way, A.P. No. 72-250-03, R-1:B-5A (Single Family Residence, 5 acre min. lot size), Very Low Density (.1-1 units per acre). Town Council consideration of an after-the-fact request for an amendment to the hillside lot permit, design review, demolition permit, and variance application approved by the Town Council on July 11, 2013, for a remodel and addition to the residence, new pool and deck area, and new driveway area. The amendment is requested to permit 1.) retention of several areas of retaining wall that exceed the Hillside Lot Ordinance six foot height limit; 2.) modification to the landscape plan downslope of the residence, including modification to retaining walls and improvement of steps and new handrails; and 3.) variance for an unfinished pool equipment room with a ceiling height that exceeds 7 feet and constitutes additional floor area.

Senior Planner Elise Semonian summarized the staff report and recommended that the Council approve the variance from Hillside Lot wall height limit to allow areas of retaining walls to exceed six feet, floor area variance for pool equipment room, modifications to site retaining walls, and deny landscape stairs and railing in north corner of site. Staff recommended that the venting for all pool equipment is approved as installed so it minimizes the direction of noise toward the property to address the neighbors concern.

Council Member Kuhl asked staff if they had any knowledge that the stairs were present or did the applicant add the stairs. Senior Planner Semonian indicated that the stairs were significantly improved and replaced. Mayor Brekhus pointed out that the stairs are not encroaching on the right-of-way of the public. Senior Planner Semonian noted that no changes can be made to the project plans without review by the Town. This is now the time to have the public and Council comment on the stairs.

Council Member Small noted that the stairs at the bottom were put in by the applicant to make it more usable for his workers. She would never approve an encroachment permit for stairs to access a property from that area. Some of those stairs were underneath all that growth, but to make it a usable path, it was cleared and stairs were added at the bottom. She is not comfortable with approving any stairs in the right-of-way. She is uncomfortable with creating a dangerous situation.

Mayor Brekhus felt the definition of "*encroachment*" should be reviewed. She felt it is not fair for the Council to dictate what happens on this hillside when the public is not using it. The definition of walkway depends on how high above grade. This is serving a circulation function. She believed it does not make sense to restrict this unless they have a reason. Council Member Small noted that safety and drainage is considered in regard to an encroachment permit. She did not believe the stairs are safe. The stairs at the bottom do not meet code. She did not see any reason to approve the stairs. Anything in the right-of-way must be built to building standards.

Norman Hardie, applicant, stated that they put a huge amount of effort into their property. Those steps have been so far out of his mind and off his agenda. He has not changed anything about the right-of-way. This is all a surprise to him. He agreed the stairs should be made safer

April 9, 2015 Minutes

and the railings need to match or be removed. The stairs meet code from a landscape status. He felt the stairs have some charm and asked for additional time to make the stairs safer for his children and more attractive.

Mayor Brekhus opened the public hearing on this item.

Peter Nelson, Circle Drive resident, added that this is an example of the disconnect between the inspector and planning. It is clear that the height of the walls and reasons are completely justified. They are beautiful walls. These steps are not new steps. The steps have been there for 95 years. In his view, there is no encroachment issue.

Riley Hurd, attorney, representing Zara Muren, indicated that he stood in front of the Council during the approval period to ensure that the conditions as the ones that have been violated were in place, it feels a little disrespectful to the approval process from which the applicant now seeks relief. The Hillside Lot Ordinance (*HLO*) requires that applicants minimize disturbance to natural terrain. This is a road right-of-way and these stairs are an obstruction. It is a safety issue, these are non-code compliant stairs. There is no legal way to make these findings for the variance, but if so approved, he asked that the conditions he presented be included.

Zara Muren, neighbor, explained this is a hillside contiguous to the creek. It was never previously used. She expressed concern for the issue of parking. The adjacent parking is public parking and it is critical that it remain public parking. The pool equipment sound is very loud and the Hardies' found a fix by repositioning the vent and she desired that to be a condition in case matters change in the future. Given the present situation, she requested that the Council remove the stairs.

Mr. Hardie discussed the color copy presented to the Council and pointed out that the stairs have been present for a long time. He felt these are historic stairs and did not believe this is an encroachment issue. They did not ask to get this approved and it was not on the plan because it did not occur to him because this is a landscape issue. The building inspector indicated that the stairs are to code in terms of landscape status. It is a shame to tear something out that has been there for a long time. It does not look horrible, and next to his steps is the Muren's fence that has been smashed for years and not repaired. Their fence is 3 ft. from the road, so Muren's fence is on the Town's right-of-way. He is surprised that so much attention is on these stairs. He appreciated the time and effort the Council has given his project. He added that with additional time he could make the steps more attractive.

Town Attorney Trisha Ortiz suggested that the Council continue this item to come back with the appropriate findings before taking any action.

Council Member Kuhl added that the stairs were present. They were uncovered during the construction process and the applicant tried to improve the stairs to a certain extent, so he had no objection. In regard to an encroachment, the slope of the land encroached into the technical right-of-way. The applicant did not create the encroachment and he does not have an obligation to provide parking for his neighbors. He had no issue with the stairs.

April 9, 2015 Minutes

Council Member Small wanted to know the implication from the inspector in regard to “*landscape stairs*.” Mayor Brekhus added that “*landscape stairs*” is not a legal definition. The term “*walkway*” is not a structure. Council Member Robbins felt the last few steps are not attractive. It is a walkway and does not encroach. Council Member Small is only concerned about the stairs on the Town’s property.

Mayor Brekhus asked the Council if there is support for a motion to approve the steps subject to the Hardies’ indemnifying the Town should there ever be a lawsuit related to the stairs and continuing obligation to landscape and soften the appearance of the stairs. If so, she is ready to make that motion. Council Member Kuhl agreed to second. Council Member Small noted that venting of the pool equipment must be discussed as well.

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 Brekhus asked for a motion.

Mayor Brekhus moved to approve 128 Winding Way, After-the-Fact Amendment to Variance, Design Review, and Demolition Permit No. 1919; with the added conditions that the pool venting remain in its current location now and forever; that the Hardies’ agree to indemnify the Town should there ever be litigation concerning those stairs; and within the next 90 days the Hardies’ work with staff to agree to some landscaping where the stairs are in the public right-of-way that would soften the appearance. Motion carried unanimously.

Mr. Hardie is not crazy about the indemnification, but the other choice is to completely remove the stairs and not have any liability.

Senior Planner Semonian pointed out that since staff recommended against the stairs, no findings were included for approval, so staff recommended that the Council is inclined to approve the stairs, but asked the Council to continue in order for staff to make the appropriate findings. Also, staff asked the Council to take into consideration that this may delay the project approval.

Mayor Brekhus moved and Council Member Kuhl seconded, to approve 128 Winding Way, After-the-Fact Amendment to Variance, Design Review, and Demolition Permit No. 1919 subject to the findings and conditions outlined in the staff report and the additional requirement that the venting for the pool equipment remain at its current location now and forever and continuing the stairs to the next Town Council meeting.

128 Winding Way Conditions of Approval:

The Council continues consideration of the north landscape stairs and railing to the regular May Council meeting to allow staff to consider any liability that the Town may have in association with approval of the stairs and to prepare any written findings that may be necessary.

Staff recommends that the Council, after carefully reviewing the facts and the arguments presented after a public hearing, site visits, review of as built improvements, staff reports, correspondence, and other information contained in the project file, approve a wall height

variance to permit the walls to exceed the six foot height limit, approve a floor area variance to permit the pool equipment room to have a ceiling height over 7 feet, and approve other site wall modifications, based on the findings submitted by the applicant, the findings in Resolution 1832, and subject to the following conditions:

1. The venting for all pool equipment shall be permanently relocated to the area northwest of the pool and shall be constructed in a manner to minimize the direction of noise towards the property at 10 Canyon Road including, but not limited to, doubling the vent output size as compared to the original location in the pool room. Furthermore, any and all venting from the existing pool room that exits the west wall shall be permanently decommissioned and removed via a masonry seal over the existing vent hole.

2. Prior to project final, the applicant shall remove the stone and concrete stairs and railings to Winding Way, located in the north corner of the site and partially within the right-of-way, and shall restore the area to a natural and unimproved state.

3. The pool equipment room is permitted to have a ceiling height in excess of 7 feet but shall not be used for habitable space and cannot be traded off for other floor area in the future.

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

21. 34 Poplar Avenue, Amendment to Variance and Design Review Permit No. 1933

Dante and Mouna Ghilotti, 34 Poplar Avenue, A.P. No. 73-272-05, R-1:B-7.5 (Single Family Residence, 7,500 sq. ft. min lot size), Medium Low Density (3-6 units per acre), Zone AE (High Risk Area with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30 year mortgage) and within Floodway. Public hearing to consider amendments to an application for design review and variances approved November 14, 2013. The proposed project includes the following: 1.) demolition of shed along the south property line; 2.) 189 square foot addition to the first floor of the residence, including a new den within the required north side yard setback (15 feet required, 2.5± feet proposed) and master bedroom extension partially within the required south side yard setback (15 feet required, 10.5 feet proposed); 3.) interior remodel; 4.) rear deck and stairs to grade; and 4.) new dormer on west facing roof and improvement of 439 square feet of attic area for a bedroom. A nonconformity permit is requested to relocate the garage, which is nonconforming in setbacks, approximately 11.5' to the east to permit development of two uncovered parking spaces between the garage and Redwood Avenue. If the dormer addition is not supported, the applicants request an Attic Exception to permit improvement of 390 square feet of the attic area as floor area, without the 49 sq. ft. dormer addition.

Lot Area	7,500 square feet
Approved Floor Area Ratio	2,092 sq. ft. 27.9%
Proposed Floor Area Ratio	2,482 sq. ft. 33.1%* (20% permitted)
Approved Lot Coverage	2,616 sq. ft. 34.9%
Proposed Lot Coverage	2,616 sq. ft. 34.9% (20% permitted)
Approved Impervious Surfaces	2,362 sq. ft. 31.5%
Proposed Impervious Surfaces	2,362 sq. ft. 31.5%

*Additional 390 floor area is for improvement of existing attic space
The existing residence is nonconforming in setbacks and parking.

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

Jared Polsky, architect, explained that if they keep the same depth size with the smaller addition they will have less lot coverage than previously approved. The master bedroom is actually narrow. He wanted to keep the 10 ft., but it will be slightly more than 128 sq. ft. because the deck is wider. He wanted to have a deep enough deck to provide a table and chairs. Senior Planner Semonian had no objection because it will be essentially the same.

Mayor Brekhus pointed out that the staff report states, *“approved floor area ratio 2092.”* Senior Planner Semonian noted that it included the garage space (1785 for living space, plus the garage. 390 sq. ft. of additional living space is in the attic). Prior approval for all that space was at the lower level because the garage is the same size on both. The difference is the 390 sq. ft. of attic area.

Council Member Robbins felt the decks should remain as approved. It is above grade. A large elevated deck is not appropriate. She did not support a curb cutout, which takes away neighborhood property.

Mayor Brekhus 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 Brekhus noted that it is 128 sq. ft. vs. 140 sq. ft. , it is next to the commercial district and houses all along that street are over built. She felt being able to have a usable deck with a table and chairs is reasonable. She had no objection because the neighbors are getting such an improved condition.

Council Member Small agreed with the 128 sq. ft. The shed structure has been a buffer and when that is gone it will open the area up. This is turning a very small home into a four-bedroom home. This will be an impact.

Council Member Robbins did not understand why story poles were not erected because it is a larger deck and they have no idea of the appearance. She felt an elevated deck will be impactful when the homes are so close together. She reiterated that the deck should remain as approved.

Mayor Brekhus asked for a motion.

Council Member Robbins moved and Mayor Pro Tempore Hoertkorn seconded, to approve 34 Poplar Avenue, Amendment to Variance and Design Review Permit No. 1933 subject to the findings and conditions outlined in the staff report; with the deck to remain as approved at 128 sq. ft.; with no curb cut; and the driveway to remain as sited.

34 Poplar Avenue Conditions of Approval:

Underline and strikethrough indicate modifications made to the conditions recommended by staff by the Town Council at the public meeting.

The following conditions of approval shall be reproduced on the cover sheet of the plans submitted for a building permit:

1. The project shall substantially comply with the plans approved by the Town Council on April 9, 2015, except otherwise approved by the Town Council.
2. The lot coverage of the site shall be maintained at the existing level by reduction of the proposed rear deck area. No increase in lot coverage is permitted, even if roof eaves were counted in 2013.
3. An encroachment permit is required from public works for any modification to the curb and curb drainage. The property owner shall repair the driveway approach over the gutter pan on Redwood Avenue prior to project final. The width of the curb cut on Redwood Drive and garage approach shall be ~~minimized~~ maintained ~~as necessary to prevent the loss of any street parking.~~
4. The property owner shall maintain existing perimeter screening. Additional landscape screening shall be required to replace cypress trees removed for fire clearance.
5. The garage doors shall be automatic and two additional onsite parking space shall be created prior to project final. The garage door openings shall be widened as far as practically feasible for an average sized vehicle.
6. Impervious surfaces shall be limited to existing conditions. Pervious surfaces shall not be converted to impervious surfaces, even after project final, without prior Town Council approval.
7. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final.
8. No changes from the approved plans, including changes to the materials and material colors, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town for review and approval prior to any change. The applicant is advised that changes made to the design during construction may delay the completion of the project and will not extend the permitted construction period.
9. Any exterior lighting shall be included on plans submitted for the building permit and is subject to the review and approval of the town planner. Lighting shall be shielded (no bare bulb light fixtures or down lights that may be visible from down-slope sites). Exterior lighting of landscaping by any means shall not be permitted if it creates glare, hazard or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public right-of-ways is prohibited. No up lighting is permitted. Interior and exterior lighting fixtures shall be selected to enable maximum

April 9, 2015 Minutes

“cut-off” appropriate for the light source so as to strictly control the direction and pattern of light and eliminate spill light to neighboring properties or a glowing night time character.

10. Applicants shall comply with all requirements of PG&E prior to project final. Letter or email confirming compliance shall be submitted to the building department prior to project final.

11. The applicant shall comply with all requirements of the Marin Municipal Water District (MMWD) for water service prior to project final including compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape plans shall be submitted, and reviewed to confirm compliance or exemption. The Code requires a landscape plan, an irrigation plan, and a grading plan. Any questions regarding District Code Title 13 - Water Conservation should be directed to the Water Conservation Department at (415) 945-1497. Should backflow protection be required, said protection shall be installed as a condition of water service. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559. For questions contact Joseph Eischens, Engineering Technician, at (415) 945-1531. Letter or email confirming compliance shall be submitted to the building department prior to project final.

12. Applicants shall comply with the requirements of the Ross Valley Sanitary District No. 1 prior to project final. The applicants are responsible for contacting the District and ensuring that all conditions are met prior to project final.

13. The project shall comply with the Fire Code and comments of the Ross Valley Fire Department during their review of the building permit plans.

14. The project shall comply with the following conditions of the Town of Ross Building Department and Public Works Department:

a. The building department may require the applicant to submit a deposit prior to building permit issuance to cover the anticipated cost for any Town consultants, such as the town hydrologist, review of the project. Any additional costs incurred by the Town, including costs to inspect or review the project, shall be paid as incurred and prior to project final.

b. Prior to any demolition or issuance of a building permit, which was constructed prior to 1985, an asbestos and lead-based paint survey shall be provided to the Town building department for review by the Building Official. If asbestos-containing materials are determined to be present, the materials should be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District. If lead-based paint is identified, then federal and state construction worker health and safety regulations should be followed during renovation or demolition activities. If loose or peeling lead-based paint is identified, it should be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations.

c. The drainage design shall comply with the Town’s stormwater ordinances (Ross Municipal Code Chapters 15.54 and 12.28).

d. The plans submitted for a building permit shall include a detailed construction and traffic management plan for review and approval of the building official, in consultation with the town planner and police chief. The plan shall include as a minimum: tree protection, management of worker vehicle parking, location of portable toilets, areas for material storage, traffic control, method of hauling and haul routes, size of vehicles, and washout areas.

April 9, 2015 Minutes

e. The applicant shall submit a schedule that outlines the scheduling of the site development to the building official. The schedule should clearly show completion of all site grading activities prior to the winter storm season and include implementation of an erosion control plan. The construction schedule shall detail how the project will be completed within the construction completion date provided for in the construction completion chapter of the Ross Municipal Code (Chapter 15.50).

f. A copy of the building permit shall be posted at the site and emergency contact information shall be up to date at all times.

g. The Building Official and other Town staff shall have the right to enter the property at all times during construction to review or inspect construction, progress, compliance with the approved plans and applicable codes.

h. Inspections shall not be provided unless the Town-approved building permit plans are available on site.

i. Working Hours are limited to Monday to Friday 8:00 a.m. to 5:00 p.m. Construction is not permitted at any time on Saturday and Sunday or the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. If the holiday falls on a Sunday, the following Monday shall be considered the holiday. If the holiday falls on a Saturday, the Friday immediately preceding shall be considered the holiday. Exceptions: 1.) Work done solely in the interior of a building or structure which does not create any noise which is audible from the exterior; or 2.) Work actually physically performed solely by the owner of the property, on Saturday between the hours of 10:00 a.m. and 4:00 p.m. and not at any time on Sundays or the holidays listed above. (RMC Sec. 9.20.035 and 9.20.060).

j. Materials shall not be stored in the public right-of-way. 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. All loads carried to and from the site shall be securely covered, and the public right-of-way must be kept free of dirt and debris at all times. Dust control using reclaimed water shall be required as necessary on the site or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at site. Cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.

k. Flood resistant materials shall be used below the finished floor. All structural and non-structural building materials at or below the base flood elevation must be flood resistant. A flood-resistant material is defined as any building material capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. Flood-resistant materials must be used for all building elements subject to exposure to floodwaters, including floor joists, insulation, and ductwork. Any building utility systems within the crawlspace must be elevated above the base flood elevation or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the base flood elevation or sealed from floodwaters. (See FEMA Technical Bulletins 2-93 and 11-01 at <http://www.fema.gov/> for more information)

l. A FEMA elevation certificate shall be submitted to the Town with the building permit plans and prior to project final.

m. The Building Department may require a No Rise Certification prior to issuance of a building permit.

April 9, 2015 Minutes

- n. All cracked, broken or uplifted sidewalk fronting the property shall be replaced.
- o. Trees and vegetation shall be trimmed according to the Ross Municipal Code. Trees and shrubs shall be kept trimmed so that the lowest branches projecting over public properties provide clearance required by the Department of Public Works. Bushes and other vegetation shall be trimmed so no portion hangs over the sidewalk, or the road if no sidewalk is present.
- p. All construction materials, debris and equipment shall be stored on site. If that is not physically possible, an encroachment permit shall be obtained from the Department of Public Works prior to placing any construction materials, debris, debris boxes or unlicensed equipment in the right-of-way.

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

22. 32 Allen Avenue, Variance, Design Review and Demolition Permit No. 1982

Courtney Lynch, 32 Allen Avenue, A.P. No. 73-261-39, R-1:B-7.5 (Single Family Residence, 7,500 sq. ft. minimum lot size), Medium Low Density (3-6 units per acre), Zone AE (High Risk Area with a 1% annual chance of flooding and a 26% chance of flooding over the life of a 30-year mortgage) and Zone X (west side outside of High Risk Area). Review of application for demolition permit, design review, variance and nonconformity permit. The proposed project involves a significant remodel (potentially full demolition) and addition to the existing residence and modifications to the landscaping including: 1.) replacement of windows and doors on each elevation; 2.) modification of siding from painted horizontal siding to cedar shingles with a semi-transparent grey stain; 3.) elevating the residence 9” to prevent flooding; 4.) modification to the roof form, including an increase in the maximum ridge height; 5.) demolition of structures at the rear of the property (carport, covered patio, shed and cottage); 6.) new landscaping including a new pool within the rear yard setback, patios, arbors, fencing, gates, lighting and planting; and 7.) removal of four trees.

Lot Area	11,071 square feet	
Existing Floor Area Ratio	2,596 sq. ft.	23.4%
Proposed Floor Area Ratio	2,595 sq. ft.	23.4% (20% permitted)
Existing Lot Coverage	2,573 sq. ft.	23.2%
Proposed Lot Coverage	2,209 sq. ft.	20.0% (20% permitted)
Existing Impervious Surfaces	4,775 sq. ft.	43.1%
Proposed Impervious Surfaces	4,035 sq. ft.	36.5%

April 9, 2015 Minutes

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

Council Member Robbins discussed the landscaping in the right-of-way. Senior Planner Semonian explained that it does not interfere with the use of the right-of-way. Based on the discussion tonight, she is not sure an encroachment permit is required. Mayor Brekhus added that if it was a structure or retaining wall it would be a concern.

Charles Theobald, architect, explained that they plan on leaving the pavers or matching the material of the new driveway. Council Member Small added that ordinarily it should be gravel, so it would permeate. In a right-of-way, they want the water to drain properly. Mayor Brekhus had no issue with the pavers. Council Member Small stated when there is a situation to improve the drainage and safety when in the right-of-way that is the time to address. Glenn Dearth, drainage engineer, indicated that there are two parts of the drainage system in the public right-of-way that appear to be blocked. Both existing inlets are restricted and all located within the public right-of-way. It is a problem that needs to be solved, but it is not within the owners right to do work within the public right-of-way. To the extent there is some drainage there, they are proposing to eliminate that ponding area in front of their house by grading, so it all slopes along with a bio swale filtration system. He further stated that the drainage system in the public right-of-way needs to be improved, which would benefit the entire neighborhood.

Architect Theobald added that this property was performing before, and it has drastically improved. They are going above and beyond improving the performance of how rainfall on this property to the benefit of the neighbor. In a storm event, a lot of rain comes down the hill and finds the lowest point, which is this property. All adjacent properties need to address the problem. This design will not solve all issues, but the owner is doing her part to address the issue. A partnership is needed to address all the steps down the road. This issue has to be solved as far as where the water goes.

Senior Planner Semonian pointed out that all building permit applicants pay a percentage of the building permit fee into the drainage fund.

Council Member Small added that the properties across the street are on a much higher elevation with very steep slopes and driveways that have a lot of water runoff, far more than coming off this site. At some point they may have to address the drainage issues. She had no objection with the project.

Architect Theobald added that they propose an automatic gate, and wanted to make the Council aware.

Senior Planner Semonian expressed concern about the drainage system being connected to a problematic drain. Council Member Small recommended adding a condition that Public Works reviews this overall drainage system. Engineers must review and figure out the best way to address. Senior Planner Semonian suggested deferring the drainage plan to the Public Works Department.

April 9, 2015 Minutes

Drainage Engineer Dearth added that there are two ideas, one is to build a new pipeline and connect to the corner system. The alternative is to install a new pipe down Allen Lane. Council Member Small agreed with staff to allow Public Works to review the drainage plan. Senior Planner Semonian felt a drainage plan should be required for the project. This needs to be reviewed by in-house Public Works staff.

Council Member Robbins felt this plan is perfectly fine for this property, it is really the runoff from the hillside because the Town's drains do not work. Council Member Small expressed concern for what is going to happen in the right-of-way.

Courtney Lynch, applicant, expressed concern about her being responsible for the Town's drainage issues.

Interim Town Manager Dianne Thompson stated that the Town has not had sufficient review of the Town's infrastructure and changes related to the property and suggested continuing this item until staff had an opportunity to do adequate Town review and have full information to the Council prior to making a decision. Council Member Kuhl stated they might be waiting a long time. Council Member Robbins noted that it must be addressed whether this project moves forward or not. Mayor Brekhus added that legally the Town has required applicants to fix drainage, so it can legally be a requirement and it is not uncommon. She did not think that is the case in this situation.

Senior Planner Semonian added that the condition must be clear that the Council is not approving the drainage plan and that it must be reviewed by Public Works. Council Member Kuhl stated that whatever happens on this project, more water will not be put on Allen Lane, and the area will be slightly improved.

Mayor Pro Tempore Hoertkorn expressed concern for what happens in that right-of-way.

Mayor Brekhus opened the public hearing on this item.

Diane Rudden, Ross resident, stated historically in the neighborhood the water is coming down the driveways across the street. At the moment they are handling the water from those further up the hill. To require the applicant to address the water from neighbors further up the hill is not appropriate. Also, the turn can be very hard to do if the landscaping is too close to the blind corner, so that should be addressed in regard to visual impacts.

Peter Nelson, Circle Drive resident, felt there are mischaracterizations. It is very important to understand that the ponding acts as a detention pond. This is an issue of timing and if they take this site and raise it up and eliminate the detention pond that water will go somewhere else. The problem is the public drainage system. It is blocked and restricted and must be addressed. This entire site is basically a wet sponge. Having a bio swale has to do with water draining away and it will not drain away when the entire area is soaked. The drainage system should be improved.

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 Small added that the fact the subject property became the ponding area was not incurred by their property but all the properties across the street. If the drains are not working properly, then this applicant is stuck with the water. She has a really hard time requiring this applicant to fix the Town's drainage issue. The Town should use their drainage impact fees to fix the problem. They must deal with the runoff. The additional work must come from the Town.

Architect Theobald agreed to work with staff in regard to the entrance of the property.

Mayor Brekhus asked for a motion.

Mayor Pro Tempore Hoertkorn moved and Council Member Robbins seconded, to approve 32 Allen Avenue, Variance, Design Review and Demolition Permit No. 1982 subject to the findings and conditions outlined in the staff report, with the architect working with staff on the entrance to the property. Motion carried unanimously.

32 Allen Avenue Conditions of Approval:

The following conditions of approval shall be reproduced on the cover sheet of the plans submitted for a building permit.

1. Except as otherwise provided in these conditions, the project shall substantially conform with the plans for the residence approved by the Town Council on April 9, 2015. Plans submitted for the building permit shall reflect any modifications required by the Town Council and these conditions.
2. The architect should work with staff to revise the entry to the residence as recommended in the staff report.
3. The pool equipment venting shall be directed away from adjacent property as much as feasible (for example, vents or louvres directed on site) and the shed insulated for noise as much as possible.
4. The garage attic stairs shall be pull down only, to permit full use of the garage area.
5. The Landscaping shall be installed in substantial conformance with the approved landscape plan prior to project final. The Town staff reserves the right to require modifications to the landscape to protect mature trees and to comply with MMWD water conserving landscape requirements or fire code clearance requirements. The Town Council reserves the right to require additional landscape screening for up to three (3) years from project final. The applicant may be required to provide additional screening if fire clearance requirements require removal of necessary screening landscaping. Staff may require additional screening landscaping of the second unit prior to project final if it is found to be necessary to screen the structure from adjacent site views.
6. No changes from the approved plans, before or after project final, including changes to the materials and material colors, shall be permitted without prior Town approval. Red-lined plans showing any proposed changes shall be submitted to the Town for review and approval prior to any change. The applicant is advised that changes made to the

April 9, 2015 Minutes

design during construction may delay the completion of the project and will not extend the permitted construction period.

7. Exterior lighting of landscaping by any means shall not be permitted if it creates glare, hazard or annoyance for adjacent property owners. Lighting expressly designed to light exterior walls or fences that is visible from adjacent properties or public right-of-ways is prohibited. No up lighting is permitted. Interior and exterior lighting fixtures shall be selected to enable maximum "cut-off" appropriate for the light source so as to strictly control the direction and pattern of light and eliminate spill light to neighboring properties or a glowing night time character.

8. Applicants shall comply with all requirements of PG&E prior to project final.

9. The applicant shall comply with all requirements of the Marin Municipal Water District (MMWD) for water service prior to project final including compliance with all indoor and outdoor requirements of District Code Title 13 – Water Conservation. Indoor plumbing fixtures must meet specific efficiency requirements. Landscape plans shall be submitted, and reviewed to confirm compliance or exemption. The Code requires a landscape plan, an irrigation plan, and a grading plan. Any questions regarding District Code Title 13 - Water Conservation should be directed to the Water Conservation Department at (415) 945-1497. Should backflow protection be required, said protection shall be installed as a condition of water service. Questions regarding backflow requirements should be directed to the Backflow Prevention Program Coordinator at (415) 945-1559. For questions contact Joseph Eischens, Engineering Technician, at (415) 945-1531. Letter or email confirming compliance with MMWD's requirements shall be submitted to the building department prior to project final.

10. Applicants shall comply with the requirements of the Ross Valley Sanitary District No. 1 prior to project final.

11. The applicant and contractor should note the Town of Ross working Hours are limited to Monday to Friday 8:00 a.m. to 5:00 p.m. Construction is not permitted at any time on Saturday and Sunday or the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. If the holiday falls on a Sunday, the following Monday shall be considered the holiday. If the holiday falls on a Saturday, the Friday immediately preceding shall be considered the holiday. Exceptions: 1.) Work done solely in the interior of a building or structure which does not create any noise which is audible from the exterior; or 2.) Work actually physically performed solely by the owner of the property, on Saturday between the hours of 10:00 a.m. and 4:00 p.m. and not at any time on Sundays or the holidays listed above. (RMC Sec. 9.20.035 and 9.20.060).

12. The project shall comply with the following conditions of the Town of Ross Building Department and Public Works Department:

a. The building department may require the applicant to submit a deposit prior to building permit issuance to cover the anticipated cost for any Town consultants, such as the town hydrologist, review of the project. Any additional costs incurred by the Town, including costs to inspect or review the project, shall be paid as incurred and prior to project final.

b. Prior to any demolition or issuance of a building permit, which was constructed prior to 1985, an asbestos and lead-based paint survey shall be provided to the Town building department for review by the Building Official. If asbestos-containing materials are determined to be present, the materials should be abated by a certified asbestos abatement contractor in accordance with the regulations and notification requirements of the Bay Area Air Quality Management District. If lead-based paint is identified, then federal and state construction worker health and safety regulations should be followed during renovation or demolition activities. If loose or peeling lead-based paint is identified, it should be removed by a qualified lead abatement contractor and disposed of in accordance with existing hazardous waste regulations.

c. The drainage design shall comply with the Town's stormwater ordinances (Ross Municipal Code Chapters 15.54 and 12.28).

d. The plans submitted for a building permit shall include a detailed construction and traffic management plan for review and approval of the building official, in consultation with the town planner and police chief. The plan shall include as a minimum: tree protection, management of worker vehicle parking, location of portable toilets, areas for material storage, traffic control, method of hauling and haul routes, size of vehicles, and washout areas.

e. The applicant shall submit a schedule that outlines the scheduling of the site development to the building official. The schedule should clearly show completion of all site grading activities prior to the winter storm season and include implementation of an erosion control plan. The construction schedule shall detail how the project will be completed within the construction completion date provided for in the construction completion chapter of the Ross Municipal Code (Chapter 15.50).

f. A copy of the building permit shall be posted at the site and emergency contact information shall be up to date at all times.

g. The Building Official and other Town staff shall have the right to enter the property at all times during construction to review or inspect construction, progress, compliance with the approved plans and applicable codes.

h. Inspections shall not be provided unless the Town-approved building permit plans are available on site.

i. Working Hours are limited to Monday to Friday 8:00 a.m. to 5:00 p.m. Construction is not permitted at any time on Saturday and Sunday or the following holidays: New Year's Day, Martin Luther King Day, President's Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, and Christmas Day. If the holiday falls on a Sunday, the following Monday shall be considered the holiday. If the holiday falls on a Saturday, the Friday immediately preceding shall be considered the holiday. Exceptions: 1.) Work done solely in the interior of a building or structure which does not create any noise which is audible from the exterior; or 2.) Work actually physically performed solely by the owner of the property, on Saturday between the hours of 10:00 a.m. and 4:00 p.m. and not at any time on Sundays or the holidays listed above. (RMC Sec. 9.20.035 and 9.20.060).

j. Materials shall not be stored in the public right-of-way. 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. All loads carried to and from the site shall be securely covered, and the public right-of-way must be kept free of dirt and debris at all times. Dust control using reclaimed water shall be required as necessary on the site or apply (non-

April 9, 2015 Minutes

toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at site. Cover stockpiles of debris, soil, sand or other materials that can be blown by the wind.

k. Flood resistant materials shall be used below the finished floor. All structural and non-structural building materials at or below the base flood elevation must be flood resistant. A flood-resistant material is defined as any building material capable of withstanding direct and prolonged contact with floodwaters without sustaining significant damage. Flood-resistant materials must be used for all building elements subject to exposure to floodwaters, including floor joists, insulation, and ductwork. Any building utility systems within the crawlspace must be elevated above the base flood elevation or designed so that floodwaters cannot enter or accumulate within the system components during flood conditions. Ductwork, in particular, must either be placed above the base flood elevation or sealed from floodwaters. (See FEMA Technical Bulletins 2-93 and 11-01 at <http://www.fema.gov/> for more information)

l. A FEMA elevation certificate shall be submitted to the Town with the building permit plans and prior to project final.

m. The Building Department may require a No Rise Certification prior to issuance of a building permit.

n. All cracked, broken or uplifted sidewalk fronting the property shall be replaced.

o. Trees and vegetation shall be trimmed according to the Ross Municipal Code. Trees and shrubs shall be kept trimmed so that the lowest branches projecting over public properties provide clearance required by the Department of Public Works. Bushes and other vegetation shall be trimmed so no portion hangs over the sidewalk, or the road if no sidewalk is present.

p. All construction materials, debris and equipment shall be stored on site. If that is not physically possible, an encroachment permit shall be obtained from the Department of Public Works prior to placing any construction materials, debris, debris boxes or unlicensed equipment in the right-of-way.

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

Attorney Trisha Ortiz left the Town Council meeting at 11:07 p.m.

23. 1 Crest Road, Variance, Design Review and Demolition Permit No. 1995

*****This item has been continued.**

Zach and Meghan Adelman, 1 Crest Road, A.P. No. 72-011-18, R-1:B-20 (Single Family Residence, 20,000 sq. ft. min. lot size), Low Density (1-3 units per acre). Public hearing to consider application for design review, setback variance and demolition permit for substantial remodel of the residence, which is within the 20 foot side yard setback from

April 9, 2015 Minutes

Baywood Avenue, and landscaping improvements. The project includes: 1.) replacement of all exterior materials on main residence; 2.) reconstruction of roof; 3.) additions to the south and north ends of the residence; and 4.) landscape improvements, including new, low, retaining walls.

Lot Area	35,043 square feet
Existing Floor Area Ratio	4,128 sq. ft. 11.8%
Proposed Floor Area Ratio	5,254 sq. ft. 15.0% (15% permitted)
Existing Lot Coverage	2,660 sq. ft. 7.6%
Proposed Lot Coverage	3,554 sq. ft. 10.1% (15% permitted)
Existing Impervious Surfaces	10,350 sq. ft. 29.5%
Proposed Impervious Surfaces	10,350 sq. ft. 29.5%

End of Public Hearings on Planning Applications.

24. No Action Items:

a. Council correspondence

- Post Office – Winship residents will have a choice to continue home delivery or reserve a Post Office box.

b. Future Council items

- 6 Redwood fire update in May
- Meeting procedure/time limits

25. Adjournment.

Mayor Brekhus moved to adjourn the meeting at 11:20 p.m.

Elizabeth Brekhus, Mayor

ATTEST:

Linda Lopez, Town Clerk