

**REGULAR MEETING of the ROSS TOWN COUNCIL**  
**THURSDAY, JUNE 16, 2022**  
*Held In-Person and Teleconference*

**1. 5:30 p.m. Commencement.**

Mayor Elizabeth Robbins; Mayor Pro Tem Beach Kuhl; Council Member Elizabeth Brekhus, Council Member Bill Kircher, Jr., and Council Member Julie McMillan; Town Attorney Benjamin Stock (*joined meeting via teleconference 6:00 pm*)

**2. Posting of agenda.**

Town Clerk 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. 6:00 p.m. Closed Session.**

**Conference with Labor Negotiators**

**Town representatives: Town Manager & Mark Wilson, Burke, Williams & Sorensen, LLP**

**Employee organization: Ross Police Officers Association**

**5. 6:00 p.m. Open Session. Council will return to open session and announce actions taken, if any.**

Mayor Robbins reported there was no reportable action.

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

Doug Ryan, 74 Sir Francis Drake Boulevard, submitted an email which was read into the record regarding potential liability for the Town of Ross relating to potential flooding due to the Town of San Anselmo's Baffles project in the Corte Madera Creek.

**9. Mayor's Report.**

Mass shootings do not need to be an inevitable part of American life. In the ten years between 2009 and 2018, 1,121 people were killed in mass shootings in the U.S. and 836 more were wounded. The annual toll of all gun violence in the U.S. is staggering: nearly 120,000 people are shot each year, with over 40,000 dying. The Centers for Disease Control reports that firearms have now surpassed car accidents as the number one cause of death for children and adolescents. Despite repeated mass shootings and other firearm violence, no meaningful steps have been taken by Congress to address these tragedies.

Citizens cannot simply accept this inaction around firearm violence prevention. Local and national groups continue to lobby for meaningful regulations to control access to firearms. Two Ross families, the Morris/Soltero family and McGuire family, recently launched a fundraiser for the Everytown for Gun Safety Support Fund. This fund is a 501(c)(3) organization whose mission is to improve understanding of the causes of gun violence and the means to reduce it. The organization, which has over 8 million members, was established as a merger of two groups focused on ending gun violence, Mayors Against Illegal Guns and Moms Demand Action for Gun

Sense in America. Its strategies include research, advocacy, litigation, and grassroots organization.

Some specific goals are:

- Background checks on all gun sales
- Regulate assault weapons
- Prohibit high-capacity magazines
- Raise the age to purchase a gun
- Waiting periods between gun purchase and possession
- Prohibit people with dangerous histories from having guns
- Extreme risk laws (temporarily prevent someone in crisis from accessing guns)
- Build awareness of the importance of secure firearm storage

Thank you, Emily Morris and Julie McGuire, for organizing the very successful event on Ross Common on June 2 to raise awareness about gun violence prevention. Please consider joining Emily and Julie in making a donation to Everytown at [Everytown.org](https://Everytown.org). If you'd like to be informed of local volunteer opportunities for Moms Demand Action, text ACT to 644-33.

#### **10. Council Committee & Liaison Reports.**

Council Member McMillan provided a report on the Marin Wildfire Prevention Authority Board's vote regarding the Greater Ross fuel break, the Cal Fire grant that will pay for more than half of the fuel break and its construction in 3 versus 6 years.

Mayor Robbins reported on her attendance at the MCCMC City and County Services Subcommittee.

#### **11. Staff & Community Reports.**

##### **a. Town Manager**

Town Manager Johnson provided the following updates:

- Fire crews responded to a 2-acre grass fire off of a trail near Bon Tempe Lake Loop outside of Fairfax which was contained at 11:00 a.m. Information on wildfire prevention can be found at [www.firesafemarin.org](https://www.firesafemarin.org).
- Planning and Building Director Rebecca Markwick and the Town's Housing Element consultant will provide a status report on the project and provide information on upcoming meetings.
- Next week's ADR Group will meet on June 21<sup>st</sup> will start one hour early at 6:00 p.m. via Zoom only. The July 11<sup>th</sup> meeting will be held in a hybrid format with options for participation at Town Hall or via Zoom.
- The Ross Common Pavement Project was released for bid today and the Public Works Director hopefully will be bringing a recommendation to the Council at its next meeting for award of contract.
- During the last May meeting a resident spoke about safety concerns regarding the use of mechanized scooters and bikes on the Common pathways, which is illegal. Staff has ordered new signage for installation relating to the prohibition.
- Data reveals that there have been 113 charging sessions at the new Post Office EV stations totaling 179 hours of charging, 891 kw hours, resulting in 632 kilograms of GHG savings. The pricing model and data regarding use were described, and stated staff will continue

to monitor what is an average of 28 sessions per month and will bring forward an agenda item in July or August regarding the pricing model and other items.

- The Town is looking forward to Ross's 4<sup>th</sup> of July celebration on Monday, July 4<sup>th</sup> starting at 11:00 a.m. with a parade and a picnic on the Common. Those interested in participating can contact Gretchen Castets at [gcastetsa@townofross.org](mailto:gcastetsa@townofross.org).
- She wished Gretchen Castets a Happy June 16<sup>th</sup> Birthday.

Police Chief Pata provided an update regarding the Town's partnership with the Ross Schools:

- The Police Department has been working with Ross schools on recent school violence activities, defensive training and a re-commitment for timely response;
- He met with the Superintendent and spoke about the recommendation and implementation to work with a special consultant on school security, which he described; and
- He participated in a School/Law Enforcement Partnership Program via Zoom and participated in a training on their response to schools, and he described another meeting held regarding activities for the coming year.

Council Member McMillan described her concerns regarding children playing along three sides of the road on the Ross Common. She asked and confirmed with Chief Pata that the report has been completed and will be discussed about ways to keep students on the property.

**b. Ross Property Owners Association**

Adrienne Liggett, RPOA, reported RPOA will restart the Monthly Leadership Council, will pilot a new Resident Welcome Kit, are working on Live on the Common and invited the Mayor and Council Members to participate.

**12. Consent Agenda.**

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

Mayor Robbins announced the request to remove Item a. She asked and confirmed there were no public comments or requests from the public to remove an item.

**b. Demands.**

- c. **Town Council consideration of adoption of Resolution No. 2248 approving the Ross Valley Paramedic Authority tax levy for fiscal year 2022-23.**
- d. **Town Council consideration of adoption of Resolution No. 2249 approving the regular Council meeting dates and annual Special Council meeting dates for 2023.**
- e. **Town Council consideration of adoption of Resolution No. 2250 Assembly Bill 361 Amending Open Meeting Laws to Expand Teleconference Meeting Options During Proclaimed State of Emergencies.**

- f. Town Council consideration of adoption of Resolution No. 2251 electing that the Town accepts the Transportation Authority of Marin (TAM) recommendation to opt out of the Marin County Congestion Management Program (CMP) in accordance with State CMP statute as authorized by California Government Code Section 65088.3.**
- g. Town Council authorization and appropriation of funds to purchase an Electric Powered Police Utility Vehicle.**

**Mayor Pro Tem Kuhl moved and Council Member McMillan seconded, to approve Consent Calendar Items b, c, d, e, f and g. Motion carried unanimously (5-0).**

- a. Minutes from 5/12/22.**

Mayor Robbins confirmed that an amendment was made to the minutes which was circulated to the Council.

**Mayor Pro Tem Kuhl moved and Council Member McMillan seconded, to approve Consent Calendar Item a, as amended. Motion carried (4-0, Brekhus recused).**

**End of Consent Agenda.**

**11. Public Hearings on Planning Projects – Part I**

- a. 15 Skyland Way, Design Review, Hill Lot Permit, and Variance, and Town Council consideration of adoption of Resolution No. 2256.**

Horatio LLC, 15 Skyland Way, A.P. No. 072-201-16, Zoning: R-1:B-A; Hillside Lot, General Plan: VL (Very Low Density), Flood Zone: X (Minimal risk area).

**Project Summary:** The applicant is requesting approval of Design Review and Hillside Lot Permit to construct new first-story and second-story additions to an existing attached garage at the west wing of the existing single-family residence. Variance is required to construct new building additions with a nonconforming south side yard setback for the Hillside Lot.

Rebecca Markwick, Planning & Building Director, provided a brief overview regarding the request for approval of Design Review and Hillside Lot Permit to construct new first-story and second-story additions to an existing attached garage at the west wing of the existing single-family residence, and a Variance is required to construct new building additions with a nonconforming south side yard setback for the Hillside Lot. She was available for questions.

Mayor Robbins opened the public comment period, and there were no speakers.

Mayor Robbins asked for a motion.

**Council Member Brekhus moved and Mayor Pro Tem Kuhl seconded, to adopt Resolution No. 2256 and approve 15 Skyland Way, Design Review, Hill Lot Permit and Variance. Motion carried unanimously (5-0).**

**End of Public Hearings on Planning Projects – Part I.**  
**Administrative Agenda.**

**12. Housing Element Update.**

Rebecca Markwick, Planning & Building Director, stated the Town is in the process of updating the General Plan Housing Element for the 6<sup>th</sup> cycle, soliciting input and engaging residents of Ross. The first community workshop will be held on July 12<sup>th</sup>, and she introduced Andrew Hill, consultant.

Andrew Hill, Dyett & Bhatia, provided an overview of the July 12<sup>th</sup> event to raise awareness of the Housing Element, stating there will be 6 stations staffed with a person to answer questions, and with interactive activities to collect feedback. He then described the various station themes, interactive activities and a presentation of information which will be given to participants. He said they are planning an on-line Town survey, a Town-wide mailer, a pop-up event and was available to answer questions of the Council.

Council Member McMillan asked who will be staffing the pop-up event, and Mr. Hill said it would be staff from his firm.

Mayor Robbins opened the public comment period, and there were no speakers.

She closed the public comment period and thanked Ms. Markwick and Mr. Hill for the update.

**13. Public Hearing: Town Council consideration of adoption of Resolution No. 2252 adopting the Fiscal Year Ending (FYE) 2023 Budget, setting the Parcel Tax Assessment for FYE 2023, and amending the Town's Salary Schedule; and Town Council consideration of adoption of Resolution No. 2253 making certain findings and determinations in compliance with Section XIII(B) of the GANN Initiative and setting the appropriation limit for FY ending June 30, 2023.**

Town Manager Johnson recognized the Council and staff for the work towards development and processing of the budget and gave an overview of the budget which she emphasized focuses on providing high quality services to the community in a fiscally responsible manner. The emphasis continues to be to sustain financial stability as the Town continues to support its 7 goals. The overall budget is \$11.4 million for FY ending 2023, is an increase from FY ending 2022 at \$10.6 million.

She then described programs and services provided by the Town, the Town Council's budget message and Attachment 1 which lists all changes to the budget document made between April 28<sup>th</sup> and now. Staff recommends the Council receive the presentation, adopt Resolution 2252 which approves the FY 2023 Budget, sets the public safety parcel tax rate, and also amends the

Town's salary schedule. The Council is also asked to consider Resolution 2253 which sets the Town's appropriation limit for FY ending June 30, 2023.

Council Member McMillan questioned how the Ross Valley Fire Department labor agreement which was still being negotiated would be added into the budget. Town Manager Johnson stated Chief Weber will be bringing forward a new MOU for two bargaining groups at the Council's next meeting in July and staff should have this number at that time and anticipates being able to include it in the document. She clarified the budget would not have to return to the Council unless the amount in the adopted budget does not cover what the Town's expected share is.

Mayor Robbins opened the public comment period, and there were no speakers.

Mayor Robbins asked for a motion.

**Mayor Pro Tem Kuhl moved and Council Member Kircher seconded, to adopt Resolution No. 2252 adopting the Fiscal Year Ending (FYE) 2023 Budget, setting the Parcel Tax Assessment for FYE 2023, and amending the Town's Salary Schedule; adopting the Fiscal Year Ending (FYE) 2023 Budget, setting the Parcel Tax Assessment for FYE 2023, and amending the Town's Salary Schedule. Motion carried unanimously (5-0).**

**Mayor Pro Tem Kuhl moved and Council Member Kircher seconded to adopt Resolution No. 2253 making certain findings and determinations in compliance with Section XIII(B) of the GANN Initiative and setting the appropriation limit for FY ending June 30, 2023. Motion carried unanimously (5-0).**

**14. Town Council consideration of introduction of Ordinance No. 715, an Ordinance of the Town of Ross adopting a Military Equipment Use Policy per Assembly Bill 481.**

Police Chief Pata gave an overview of the Council's consideration for introduction of an ordinance regarding a military equipment use policy as set forth by AB 481. The law requires the Town adopt a policy specified by ordinance, a draft of which has been posted on the Town's website since April 30, 2022, as well as the 14 categories of qualifying equipment.

Chief Pata thanked the Town Attorney for his assistance in developing the ordinance and confirmed the Town does not have any qualifying military equipment as defined by AB 481. The department will provide an annual report of any military equipment used to the Town Council to ensure compliance and said he was available for questions.

Mayor Robbins confirmed the ordinance, if introduced tonight, would be brought back at the next meeting for consideration and vote for final passage at which time it would go into effect 30 days thereafter.

Mayor Robbins opened the public comment period, and there were no speakers.

Mayor Robbins asked for a motion.

**Council Member Brekhus moved and Mayor Pro Tem Kuhl seconded to introduce Ordinance No. 715 adopting a Military Equipment Use Policy. Motion carried unanimously (5-0).**

- 15. Staff presentation on the condition of various PG&E utility poles on Sir Francis Drake Boulevard and recommendation to authorize the Mayor to send a letter to PG&E requesting a safety evaluation of the utility poles in conformance with CPUC guidelines.**

Rich Simonitch, Public Works Director, gave a presentation and descriptive overview regarding the condition and concerns regarding various utility poles along Sir Francis Drake Boulevard which are leaning and may be shifting underground as a result of seismic activity. He described requirements of General Order 165 relating to PGE&E's annual visual inspections of potential hazards and inspections every 10 years for any intrusive inspections.

PG&E is and has been actively inspecting poles in the Town as evidenced by extensive encroachment permits for this purpose over the last few years, and he described various repairs and replacements.

Staff recommends the Town Council authorize the Mayor to send a letter to PG&E requesting a safety evaluation of the utility poles in conformance with CPUC guidelines, with specific consideration to liquefaction potential during a seismic event. The draft letter is included in the packet and he asked for Council comments, revisions and questions.

Mayor Pro Tem Kuhl referred to the protocol by PG&E and asked if these were the activities performed on the poles or whether PG&E is supposed to perform them.

Director Simonitch explained inspections were done in 2019 by PG&E and then the poles were visually inspected two weeks ago which passed the inspection profile.

Council Member McMillan asked if PG&E is aware of the last time an intrusive inspection was done on the poles.

Director Simonitch said they may have records of them but staff did not inquire as to when the last time an intrusive inspection was done on the poles. Staff anticipates PG&E will respond once they receive the Mayor's letter.

Council Member Kircher voiced frustration and suggested including a request to PG&E for additional information as to why the poles are leaning, the potential cause, and at what point PG&E would acknowledge this is something they should be concerned about. He also suggested copying Senator McGuire and Assembly member Levine on the letter.

Town Manager Johnson reported they have already received additional attention on this matter, noting that PG&E's North Bay representative, Mark Van Gorder contacted the Town and stated he will be working with the team to prepare a response. The draft letter can be amended to include issues voiced by Council Member Kircher, with copy to representatives and signed by the Mayor.

Discussion ensued and Mayor Robbins and Council Members requested when the last time PG&E completed the intrusive inspection, what is acceptable as safe and unsafe in terms of leaning poles, supported copying the letter to Senator McGuire, Assembly Member Levine and the CPUC, and also voiced concerns with integrity of not only the poles but the footings and what is occurring underground.

Director Simonitch then explained the CPUC General Order describes the design process which states the poles are designed to lean up to 10 degrees from vertical. They appear to be less than 10 degrees now, but the question is at what point would they become unsafe and hazardous. He asked whether the Council wished to send the letter directly to the CPUC or to PG&E. He noted the 10 degrees does not take into account a rotation but a bend from the base so it does not take into consideration the rotation and the failure of the subsurface structure.

Mayor Robbins questioned and confirmed Council direction was for staff to amend the letter, taking into account Council comments and ask the Mayor to sign the letter, copying legislative officials and the CPUC.

Mayor Robbins opened the public comment period, and there were no speakers.

Mayor Robbins asked for a motion.

**Mayor Pro Tem Kuhl moved and Council Member Brekhus seconded to authorize Mayor Robbins to sign the letter to PG&E, as amended. Motion carried unanimously (5-0).**

**16. Staff presentation on bicycle and pedestrian safety in Town of Ross and Town Council consideration of potential safety improvement action items.**

Rich Simonitch, Public Works Director, gave a PowerPoint presentation and overview regarding options for bicycle and pedestrian safety improvements for the Town. He presented collision statistics from 2018 to current, recently approved bike and safety projects vetted through the Council, other safety actions such as cost sharing, creating Safe Routes to School Task Force, Ross Police deployment during school drop-off, and effective traffic enforcement, education and public outreach.

He then identified locations of concern and several suggested new public improvement projects as identified by staff for consideration.

Council Member Kircher said the signage has an image of a bicyclist and an image of a car and asked if there were other signs available showing a person walking. He also referred to electronic signs showing speeds and asked if these could be developed so as to get drivers' attention. Director Simonitch said the Town contracts with a Marin County sign shop and they can develop any design desired.

Council Member McMillan asked and confirmed that the scope of these improvements are pedestrian and bike safety with respect to vehicular conflict, except for gap closures on Poplar and Redwood. She cited vehicles traveling 45 mph when trying to get out of Winship and coming



to this meeting, asked that this be a priority and suggested a sign going westbound on Sir Francis Drake Boulevard showing speeds. She also asked and confirmed that people are not supposed to ride bicycles on sidewalks.

Council Member Brekhus preferred the use of the wording in the staff report for the sign on Glenwood Avenue as opposed to the others. She also referred to the huge bush that grows out into the road which impacts driver traveling around the blind curve, thinks the police car parked there has been very effective, thinks Dibblee Road could be another place for pedestrians on roadways, and she was surprised the sharrows make any difference.

Mayor Pro Tem Kuhl asked and confirmed with Director Simonitch that Dibblee Road is a public right-of-way and anyone can use it as long as the gate is open. The property where the roadway lies on is owned by MMWD with the Town having a public easement over it. The Town would have to have any signage approved by MMWD. Mayor Pro Tem Kuhl suggested also having the Town Attorney review any signage prior to its installation.

Council discussion ensued regarding the five reported bicycle accidents over the last five years, removal or trimming of the bush/shrubs on Glenwood which they felt would solve most of the problem, the Chief's opinion and recommendation not to install stop light cameras for Sir Francis Drake as a solution, studies and effectiveness of certain signage relating to "ghost cars" and the effectiveness of signage for safety precautions.

Mayor Robbins opened the public comment period.

Robert Balmaseda, 61 Sir Francis Drake, invited and encouraged Council Member Brekhus to walk with him throughout the neighborhood, stating he has almost been hit many times on Dibblee Road where people never travel 5 mph. He voiced support for signs that add to safety, believes a "Share the Road" sign would have a substantial impact, cited the numerous "no parking" signs in the Town, a lack of barrier between the road and sidewalks in several instances around 73, 71 and 69, and said road dots are often knocked off by vehicles. He also voiced support for the "S" turn sign on Glenwood and asked the Council to implement something before a pedestrian is hit.

Mayor Robbins closed the public comment period.

She asked Director Simonitch to display the list of the streets. Beginning with Sir Francis Drake Boulevard, suggestions are to add another sign that is 30 mph, add reflective lights along the barrier, add an "S" curve sign below the 30 mph sign and add reflectors all the way on both sides of the bridge. .

Council discussion ensued regarding recommendations for reflectors and other safety devices, the response to complaints and concerns from the public, police staffing costs for enforcement, and concerns about litigation. Mayor Robbins confirmed all Council Members were supportive of the reflectors, painting "30 mph" on the road, a majority of support for the "S" curve sign, Shady Lane signage, and Glenwood Avenue signage of "Caution-Pedestrians on Roadway" in approximately four locations in either directions at the blind curves, and for staff to work with the property owner regarding the overgrown hedge on Glenwood Avenue.

Council Members then held discussion regarding Town aesthetics and proliferation of signage versus the need for safety and a balance for both and complaints made to staff and to Council Members relating to signage, safety, and speeding.

Director Simonitch summarized Council direction to have staff to: 1) Install 30 mph sign on Sir Francis Drake and road striping for the entry from Bolinas; 2) install the new regulatory “S” turn sign at the radar sign; 3) install reflective markers on top of the guard rail barriers; and 4) for DPW to send a friendly letter to the property owner reminding him the hedge needs to be trimmed for clearance; 5) install one “Caution-Pedestrians” sign at the entry to Natalie Coffin Greene Park right at the gate on one of the existing poles. (This was agreed on after discussion ensued regarding installing a sign on Glenwood Avenue close to Glenwood and Fernhill heading towards Lagunitas at the other blind curve which is on a hillside further up from the hedge going each way); 6) no sharrows on Shady Lane; and 7) he will defer the sidewalk gap closures for another Council item.

Town Manager Johnson thanked the Council for their input, patience and direction to staff.

**17. Update regarding Ross Valley Fire Department’s (RVFD) draft Request for Proposals for a Study to Develop Policy Options for the RVFD Board Surrounding Future Leadership/Governance.**

Mayor Pro Tem Kuhl reported the RVFD Board held discussion about four proposals, and they have not decided on any of them. Council Member Brekhus proposed eliminating one of them and the Board decided not to do that. The four include: 1) hire a Fire Chief; 2) contract for outside services which is what they have now with the County Fire Department for certain services; 3) a shared services arrangement to have their own Fire Chief; and 4) becoming a Special District, in which case there would be a separate elected board.

Council Member Brekhus added that the Council did not know when it made the decision to eliminate the Fire Station that Jason Weber was prepared not to renew the County Fire contract as Chief. There was not the savings thought to provide the services and this resulted in more complications. The one proposal for a Special District makes no sense because it is a 3 to 4 year process and they need a Fire Chief sooner than that.

Mayor Robbins opened the public comment period, and there were no speakers. She thanked Council Member liaisons for their update.

**End of Administrative Agenda.**

**RECESS**

Mayor Robbins called for a short recess at 8:07 p.m. and, thereafter, resumed the meeting at 8:11 p.m.

**Public Hearings on Planning Projects – Part II.**

**18. 3 Willow Hill Road, Design Review, Hillside Lot Permit and Variance, and Town Council consideration of adoption of Resolution No. 2254.**

Scott Fletcher, 3 Willow Hill Road, A. P. No. 073-252-13, Zoning: R-1:B-5A; Hillside Lot, General Plan: VL (Very Low Density), Flood Zone: X (Minimal risk area).

**Project Summary:** The applicant is requesting approval of Design Review and Hillside Lot Permit to construct a new pool and new decks at the back of the existing single-family residential property. Variances are required to construct new building projections with nonconforming side and rear yard setbacks; and to increase nonconforming building area.

Recusal: Mayor Pro Tem Kuhl recused himself from participating in Item 18 due to the proximity of his property which is within 500 feet of 3 Willow Hill Road and left the Zoom meeting.

Planning and Building Director Rebecca Markwick gave the staff report and overview of the project at 3 Willow Hill Road for Design Review, Hillside Lot Permit and Variance. The project was reviewed by the ADR Group twice and suggestions included increasing the distance from the new pool deck projection to the rear property line, reducing the elevation of the new pool and deck area, minimizing the profile, and improving the appearance of the pool and deck structure as viewed from off-site locations. The applicant implemented all suggestions and the project was unanimously recommended at the ADR's May 17, 2020 meeting.

Director Markwick said staff is able to support the findings for Design Review, Hillside Lot Permit, and the variance to encroach into the side and rear yard setbacks. Staff received public comments from 1014 and 16 Madrona who object to the project based upon potential noise, public safety and privacy impacts. She displayed the architect's rendering showing Willow Hill as approximately 150 feet away from Madrona Avenue. Comments in support include 47 and 9 Willow Hill and which surround the project site. Staff recommends the Council consider the matter and to adopt the resolution approving the Design Review and Hillside Lot Permit and Variance.

Mayor Robbins confirmed that the building coverage is non-conforming in that it increases from 14.3% to 15%. She also clarified that the deck at the rear setback goes from 13'3" from the rear property line to 13'5" so it is improving the non-conforming situation.

Council Member McMillan asked if the property owner on the downhill side on Willow Hill is objecting to the project. Director Markwick stated she has not received comments from 2 Willow Hill and she was unsure as to the owners of 4 Willow Hill.

Council Member McMillan said 4 Willow Hill would be most affected by this project and pointed out that it is important to note that they have not objected.

Council Member Brekhus asked what the green, purple and blue areas represents. Director Markwick replied those are the properties that surround 3 Willow Hill who submitted written comments of support of the project, and the property most affected does not have an objection reported.

Mayor Robbins opened the public hearing and comment period.

Adrienne Liggett, 10 Madrona, said she lives below the property and did not see how this is a case for hardship. The property already exceeds its building coverage, setbacks, and she asked that the project respect the standard setbacks.

Mayor Robbins called on the applicant for a presentation.

Andrew Fischer, architect, explained the owner renovated his home several years ago and he was the architect at that time, as well. They deferred work on the rear of the house and deck for a later phase which is being presented now. This project's only access to the outdoors is by the decks. The original deck has always been flagged as an issue both in terms of its function and use and as an eyesore to the hillside and beauty of the original 1913 Craftsman house. He described moving spaces down to the lower garden area and pool, reducing the looming structure off of the main living level and displayed photos of the pool's connection to the lower bedroom level which would also have decks.

They worked to make adjustments based on the ADR's recommendations which he described noting that site is very wooded and secluded. They strived to fit within the setbacks and building coverage and while it is less than a hillside hardship, the area is zoned and set up for 5 acre sites, and 3 Willow Hill is a one-half acre site. The areas surrounding it include an easement for the road which effectively is the rear yard and they would view this area as a means to mitigate any impacts from neighbors.

Council Member McMillan asked Mr. Fischer to address the privacy and noise issues raised.

Mr. Fischer explained they are over 150 feet away from those voicing privacy concerns. Elevation-wise, Madrona is 40+ feet below this property with a heavily wooded hillside below it. They propose a landscape plan to address any further concerns and said they eliminated the more decorative planting at the base of the pool and propose to add deciduous native oak trees to provide screening and privacy and restore the hillside where currently there is an artificially benched area.

In terms of noise, noise travels in two directions and activities of the existing deck occur on the main floor backyard which they are pulling back. In terms of safety, they have built a number of swimming pools on hillsides that must go through rigorous engineering which mutually benefits all parties.

Mayor Robbins questioned why the building coverage must be expanded. Mr. Fischer said the ADR asked them to reduce the building coverage to less than 15% which was part of a zone that does not have as many limitations on it. The current building coverage is within less than 1% of what is there now but they were able to reduce it and pull it under the 15%. It was originally 16.2% and they pulled it back to 14.1%.

Director Markwick pointed out that the table in the staff report indicates existing building coverage is 14.3% and the proposed is to be 15.5% Mr. Fischer said he wrote a summary of all

changes they made after the first ADR meeting and it is possible this is a typographical error but he is relying on the ADR's recommendation from their second meeting. They original went up to 16.2% and were able to reduce it based on suggestion by an ADR member to bring it to 15% and then brought it to 14.1% which is where they are now.

Mayor Robbins asked and Director Markwick identified a letter from Mr. Fischer dated May 2, 2022 which states that building coverage has been reduced to 14.1% from 16.2%. At the first ADR meeting it was 16.2%. It is just not reflected on the plans, but the Council can add a condition to state the building coverage shall not exceed 14.1%.

Mayor Robbins suggested it state they should not exceed 14.3% which is the existing building coverage, and Council Members agreed.

Council Member Brekhus cited the Town's Hillside Lot Ordinance's provision for retaining walls not to be taller than 6' in height. It also states that anything that says "shall" is mandatory and anything stating "should" is not mandatory. Another property had been affected from this where the Council discussed amending the ordinance, but the variance being requested does not seem specific to the retaining wall.

Mr. Fischer explained that the wall they are proposing at the base of the pool is 30" below the pool deck which is a stone or masonry planter wall. By stepping it back 3 feet away from the deck it helps to terrace the view of the pool from below, so it is actually a raised structure being used for planting. This also eliminates the need for a railing at the edge of the pool, and he referred to Sheet A-3.0 to illustrate the concept.

Council Member Brekhus questioned whether something else could be proposed other than the wall, given what the ordinance states. Mr. Fischer pointed to the stone wall at the base of the pool, the pool deck level, and the waterfall edge which is 30" in back of the wall which is called a terraced planter wall. If there were no plants in it, it would not necessarily retain anything. The section is taken through the middle of the pool at the highest point at which the grade reaches the outer wall. If the wall were not here, they would be required to have a 42 inch high safety railing so this was a way to mitigate the need for that but also to help terrace to reduce the height and presence of a wall.

Council Member Brekhus agreed and suggested this still might be an area where the Town might want to change the code in the future. Director Markwick clarified that because this is terraced with the planter it is considered a terraced wall.

Mayor Robbins closed the public portion of the meeting and asked for Council deliberation.

Council Member Brekhus said she likes the project and thinks it is an improvement over what is there. She understands the noise concerns and drove to the house opposed to the project but agreed there will be noise coming from both directions and could support the project.

Council Member Kircher disclosed he visited the project and viewed it from Willow Hill Road, did not see an impingement on privacy, saw no change from what there is now, and while

sympathetic to noise concerns, there are many pools in Ross. In this case, the property owners concerned are not adjacent to the site but down the hill. The adjacent property is also vacant land so he does not see a causal connection with the setback issue and does not see that as a barrier to granting the application.

In terms of safety and the concern about destabilizing the hill, staff will review this thoroughly and have requirements for a geotechnical report and robust structural engineering. There is a mutual safety interest for the applicant, as well, and therefore, he voiced support of the request.

Council Member McMillan said she agrees with Council Members and thinks this is a unique situation that the adjacent land owner actually supports the project and those concerned are 150 feet away from where the pool and new decks will be built. She also thinks moving the high deck back and eliminating the trellises enhances the overall appearance of the house from Willow Hill and Madrona homeowners. She echoed Council Member Kircher's comments about noise and engineering requirements, and voiced support of the project.

Mayor Robbins recognized neighbors' concerns, respects there is not an increase in the non-conformity, and echoed comments of Council Members and support. The only concern she might have is the need for landscaping at the bottom and the Town can request this up to 3 years after project completion.

Mayor Robbins asked for a motion.

**Council Member Brekhus moved and Council Member McMillan seconded to adopt Resolution No. 2254 approving 3 Willow Hill Road, Design Review, Hillside Lot Permit and Variance. Motion carried (4-0; Kuhl recused).**

Noted as Present:

Mayor Pro Tem Kuhl returned to the meeting and was noted as present.

**19. 5 Ames Avenue, Design Review, Accessory Dwelling Unit Permit and Demolition Permit, and Town Council consideration of adoption of Resolution No. 2255.**

Stephen Swire and Jacqueline Neuwirth-Swire, 5 Ames Avenue, A.P. No. 073-181-19, Zoning: R-1:B-A, General Plan: VL (Very Low Density), Flood Zone: X (Minimal risk area).

**Project Summary:** The applicant requests approval of Design Review to renovate the exterior of the existing main residence; remodel and expand an existing pool house above an existing garage; construct a new two-story accessory structure containing an accessory dwelling unit at the lower floor and an open-air cabana at the upper floor; construct new front yard fence and gates; and rehabilitate the landscape. Request for Accessory Dwelling Unit (ADU) Permit to construct a new detached accessory dwelling unit is ministerial in nature and subject to administrative approval. Demolition Permit is required to alter more than twenty-five percent of the exterior walls or exterior wall coverings of a residence.

Planning and Building Director Markwick gave the staff report and overview of the project at 5 Ames Avenue for Design Review, ADU Permit and Demolition Permit. The ADR Group reviewed the project at two public hearings; one on April 19, 2022 where they had comments on the roof of the cabana, overall mass, amount of fenestration on the pool house, underground storage, and the design of the driveway gate, and she described the applicant's response to requested revisions. As a result, the applicant modified the plans to add a new roof and was before the ADR Group on May 19<sup>th</sup> where there was not unanimous recommendation for the project. They discussed changes and for clarity separated the project into two components: 1) the cabana roof; and 2) the main house roof. Their comments are summarized in the staff report.

Public comments were received from property owners at 2 Ames and 6 Ames who are in opposition. Concerns include the height of the pool house and the general concern about the mass, height and loss of privacy. As the plans have been amended to reflect the ADR's comments relating to the roof of the main house, staff recommends the Council approve the resolution.

Council Member McMillan asked if anyone can see the roof of the home. Director Markwick said no one can see the roof from the street. One of the three ADR members at the meeting could support the project with the roof as is, one abstained from voting due to not being able to architecturally agree on having the juxtaposition of the two architectural styles, and the other member asked for a new roof and left it up to the Council.

Council Member Kircher said he was still uncertain about the roof. According the page A-3.3 of the plans it seems to show a flat roof without regard to eaves. He asked if there is still a pitched roof on top and asked if it was not visible from the street or from the homes across the street.

Director Markwick explained that as a result of the second ADR meeting the architect has changed the plans to reflect comments of the ADR and is now proposing a flat roof to match the architectural style of the pool house and cabana.

Council Member Brekhus asked, and staff displayed the map showing those in opposition which are 5 Ames, 2 Ames, 4 Ames, and 6 Ames. Council Member Brekhus asked and confirmed with Director Markwick that the cabana area is not being counted for FAR because it is not enclosed.

Discussion ensued regarding FAR regulations and definitions, concerns with massing and the size of the cabana, a similar example on Morrison which was not counted a structure, and the desire for the Town to memorialize the interpretation for cabanas to be consistent.

Mayor Robbins opened the public comment period, and there were no speakers. She then asked if the applicant wished to present.

Ken Catton, architect, stated the house was built in the 1960's and the exterior is mostly unchanged since then and well overdue for an upgrade. The owners wanted to modernize it and make the property more functional and other than the new ADU, all of the proposed uses are in existing locations and do not require any variances. He then described letters received from 6 Ames and 2 Ames which he did not believe still had issues. The cabana is hard to see from the street and he said the landscape architect added screening to the already heavy vegetation. They

lowered the pool house roof by 3 feet, added louvered panels for privacy, said the Connickers who are most impacted on Upper Ames wrote a letter of support, and he explained reasons for outside functions and flexible family living out of COVID. He then described costs to change to a flat roof, project colors, and the overall porch design plans.

Council Member Kircher questioned the roof and Mr. Catton explained the two different designs, stating the roof will not be seen from the street because neighbors live below it. He presented the existing roof shape, an existing porch and the roof that slopes down right now which will be replaced with a more modern flat roof to project 7 feet which will tie the look of the house into the new building. Regarding the other proposal, they would have to tear off the existing roof, the porch roof, add new structure for the flat roof with a little bit of parapet wall to conceal it all and this is the difference between the two.

Mayor Robbins closed the public portion of the meeting. She suggested deciding on the house roof and then cabana roof, noting the rest of the project was approved by the ADR.

Member McMillan said she understands the architect wanting to have integrity but if no one can see it, tearing off the roof seems unnecessary and costly. Council Members concurred and agreed to retain the current roof.

Council Members then confirmed the cabana is 1,100 square feet and discussed its mass and height which was reduced from 12 to 10 feet. They recognized the vegetation blocking the front of the cabana, voiced support of the cover for shade, and voiced support with amendment to the roof. They confirmed Director Markwick will insert the necessary sheets into the plans, as directed by Council.

**Council Member Brekhus moved and Council Member McMillan seconded to adopt Resolution No. 2255, as amended with respect to the roof, approving 5 Ames Avenue, Design Review, Accessory Dwelling Unit Permit and Demolition Permit.. Motion carried unanimously (5-0).**

## **End of Public Hearings on Planning Projects – Part II.**

### **20. Election of Mayor.**

Mayor Robbins and Council Members briefly spoke about the typical Mayor and Mayor Pro Tem rotation process.

Mayor Robbins opened the public comment period, and there were no speakers. She asked for a motion.

**Council Member Brekhus moved and Council Member McMillan seconded to appoint Mayor Pro Tem Beach Kuhl as Mayor. Motion carried unanimously (5-0).**

### **21. Election of Mayor Pro Tempore.**



Mayor Robbins stated there is a current order of Council Members by the first or second term, and she suggested sticking with what has historically been done, stating Council Member Brekhus is next in line to serve as Mayor Pro Tem.

Council Members then questioned how the rotation is applied which was felt to be awkward and suggested the Governance Committee discuss a future recommended course of action.

Mayor Robbins opened the public comment period, and there were no speakers.

**Council Member McMillan moved and Council Member Kircher seconded to appoint Council Member Elizabeth Brekhus as Mayor Pro Tem. Motion carried unanimously (5-0).**

**22. No Action Items:**

**a. Council correspondence** – None.

**b. Future Council items** – Council Member McMillan cited divisiveness in the community and requested an informal discussion to explore ways to try and bring the Town together, which was supported by Council Member Robbins.

Council Member McMillan referred to the Gun Buy-Back which Ross did not participate in, and she asked for a discussion item so that when other things happen like this that the entire Council gets the opportunity to weigh in, which was supported by Mayor Robbins.

Council Member Brekhus requested a discussion item to consider eliminating the Zoom meeting option for Town Council meetings. After brief discussion by staff relating to a legislative bill, Town Manager Johnson agreed to work with the Town Attorney and bring back information on what is occurring at the State level.

Mayor Robbins asked if there was support to agendaize the topic to talk about ending hybrid meetings for the public and for the Town Council, and there was majority support.

**23. Adjournment.**

Mayor Robbins adjourned the meeting at 9:52 p.m.

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Elizabeth Robbins, Mayor

**ATTEST:**

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Linda Lopez, Town Clerk