

**REGULAR MEETING of the ROSS TOWN COUNCIL**  
**THURSDAY, SEPTEMBER 8, 2022**  
*Held In-Person and Teleconference*

**1. 6:00 p.m. Commencement.**

Mayor Beach Kuhl; Mayor Pro Tem Elizabeth Brekhus; Council Member Bill Kircher, Jr., Council Member Julie McMillan, Council Member Elizabeth Robbins; Town Attorney Benjamin Stock

**2. Posting of agenda.**

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

**3. Open time for Public Expression**

Amy Lewis, 40 Madrona, Co-Chair of Measure C Campaign to renew Ross School's funding, called attention and described the importance of Measure C which will be on the November ballot, which represents \$1,550 per parcel, a 3% annual adjustment for 10 years, and an exemption for those over 65 years old. She then provided an overview of what the \$1 million in tax revenues represents for the District, 100% of which goes to Ross School. They will have a website called [www.VoteYesonC.org](http://www.VoteYesonC.org), will hold planned informational sessions, will disseminate mailers and yard signs as they educate the community, and she requested the Council schedule her for the October Council meeting.

**4. Mayor's Report.**

August is usually viewed as a slow month, with people away on vacation and many organizations not meeting. But in Ross some important activities went forward, essentially timed for completion before school resumed. First, repaving of the paths on Ross Common was completed, with a saving of about \$74,000 made on the contract price by the contractor and Town Engineer Rich Simonitch together devising a way to reuse the material ground off in the reconstitution of the paths.

Second, while the schools were on vacation, Police Chief Raffaello Pata arranged a tour of Ross School and Branson for local and neighboring law enforcement personnel to familiarize them with the physical layouts of the facilities. Training has been provided emphasizing, in the event of a disruption, not waiting but instead going in and resolving the problem.

With the resumption of school, there seems to be a flood of e-bikes and e-scooters around Town, renewing the need for careful and alert driving and ensuring use of required helmets.

September will bring plenty of activity. Next Wednesday, September 14, the Moya Library/Ross Historical Society will present a lunch and program about the history of the San Francisco Theological Seminary at the Marin Art and Garden Center at 11 am. Tickets must be ordered by September 9.

Some debate continues on whether to call our over-60 population aging, older, elderly or some other term, but in any case, on September 20, the first of two breakfasts presented by the Ross

Age Friendly Task Force (no charge) will be held at Crown and Crummet at 9am. The second will be on October 19, same time and place.

September comes to a climax on September 30, when we can all gather at the annual Town Dinner on the Ross Common. The Town provides the tables and chairs and the band; you provide the food. It's a great old time to see old friends and make some new ones. I promise I won't make a speech.

**5. Council Committee & Liaison Reports.**

There were no reports.

**6. Staff & Community Reports.**

**a. Town Manager**

Town Manager Johnson reported that in addition to the events identified by the Mayor, RPOA, with the Town as a co-sponsor, will hold another Live on the Common Concert Event on Friday, October 14<sup>th</sup>. The Annual Creek Walk and Clean-up will be held on Saturday, September 17<sup>th</sup>. Those participating should meet in front of the Post Office at 9:00 a.m., and the event is led by the Public Works Department staff members.

Rich Simonitch, Public Works Director, displayed a series of photos of recently completed public works projects in Town and described all projects and their funding mechanisms.

**b. Ross Property Owners Association**

No report.

**7. Consent Agenda.**

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

**a. Minutes: 8/11/22**

**b. Demands.**

**c. Town Council consideration of adoption of Resolution No. 2265 Assembly Bill 361 Amending Open Meeting Laws to Expand Teleconference Meeting Options During Proclaimed State of Emergencies.**

**d. Town Council response to Marin County Civil Grand Jury Report released June 24, 2022 entitled "Affordable Housing: Time for Collaboration in Marin".**

**e. Town Council consideration of adoption of Ordinance No. 717, an Ordinance of the Town of Ross amending Ross Municipal Code Title 17 "Subdivisions" establishing regulations for the subdivision and developments of qualified Senate Bill (SB 9) properties, and amending Title 18 "Zoning" to comply with Senate Bill 9.**

**f. Town Council consideration of adoption of Resolution No. 2266 updating and amending Town of Ross Conflict of Interest Code and rescinding Resolution No. 2178.**

**g. Town Council acceptance of Financial Summary Report for the Twelve-Month Period ended June 30, 2022.**

**h. Town Council consideration of adoption of Resolution No. 2271 to amend the Town's Salary Schedule adding Assistant Planner Classification.**

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

**End of Consent Agenda.**

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

**a. 19 Redwood Drive, Variance and Town Council consideration of adoption of Resolution No. 2268.**

Michael Lind, 19 Redwood Drive, A.P. No. 073-272-04, Zoning: R-1:B-7.5, General Plan: ML (Medium Low Density), Flood Zone: AE (High Risk).

**Project Summary:** The applicant requests approval of a Variance to expand an existing non-conforming deck located off the residence. The Variance is required because the deck expansion would encroach into the side yard setback.

Rebecca Markwick, Planning & Building Director, gave the staff report and brief overview of the request for a Variance for reconstruction of a deck to sit further into the side and rear yard setbacks.

Mayor Pro Tem Brekhus questioned if there had been consideration to remove bricks so they do not disturb the tree roots and for a more permeable surface, noting the owner indicated he was amenable to this during her site visit.

Director Markwick confirmed with the applicant from the audience his agreement to this. She said staff could condition to remove as many bricks as feasible to improve permeability.

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

Council Member Robbins asked if the bricks already provided permeability, stating she was amenable to letting the applicant decide as to whether to remove them.

Mayor Pro Tem Brekhus concurred, and Council Member McMillan also supported leaving this up to the applicant.

Mayor Kuhl called for a motion.

**Council Member McMillan moved and Mayor Pro Tem Brekhus seconded, to adopt Resolution No. 2268 and approve 19 Redwood Drive. Motion carried unanimously (5-0).**

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

**Administrative Agenda.**

Council Member McMillan requested, and Town Council Members agreed, to move up Item 10 on the agenda.

**10. Ross Recreation Update.**

Gretchen Castets, Recreation Manager, gave a PowerPoint presentation and quarterly update of Ross Recreation Department. She described recovery efforts during the pandemic, staffing, Age-Friendly program activities, breakfast gatherings, inter-generational connections with the Ross and Branson Schools, Town events which included the 4<sup>th</sup> of July, the Ross Town Dinner on September 30<sup>th</sup>, and the two Town co-sponsored events with RPOA; the Live on the Common event and Winter Fest.

Ms. Castets then presented and described increased fall enrichment programming, additional Ross Recreation classroom space, after-school specialized Kid's Club programming, coverage, and escort of students for after-school programs and activities, staff's work with Interim Superintendent Rice to help spread the word about new programming, advertising work with KIK (Kentfield Investing in Kids), and the Morning After article with offerings identified in a recreation article. Moving forward, staff will continue to work with the Superintendent's Office to assess the needs of the school community and identify opportunities, continue to offer classes and extended childcare coverage, work to send out surveys to participants, and increase their social media presence.

Mayor Pro Tem Brekhus questioned various classes offered, use of space at St. John's for programming outside of COVID, and Ms. Castets confirmed the Town may utilize space again at St. John's.

Mayor Kuhl referred to references in correspondences that indicate a financing program available to the school, and he asked if this is being utilized.

Town Manager Christa Johnson said she and Ms. Castets met with the school Superintendent and a member of his team earlier in the summer to discuss whether the Town could work together on this new State funding program called, the Expanded Learning Opportunities Program. The school needs to apply and meet all criteria, as well as be responsible for adhering to all State requirements. Town staff received information on the program and a requirement to receive funding is a minimum of 6 weeks of Monday through Friday full-time extended care programming outside of the academic year and 9 hours a day. Staff also needs the expertise of school staff to interpret the Education Code and can further work with school staff on this.

Mayor Kuhl asked and confirmed with the Town Manager that this year, Ross Recreation does not have the resources to be reimbursed and run a full afterschool program for the fall through the State funding program.

Council Member McMillan said it sounds like the money goes to the school but then they would provide the funding to Ross Recreation to run the program. Town Manager Johnson said she would need to discuss this further with school staff.

Council Member McMillan suggested asking them if other schools are utilizing the same funding and requirements. She thinks 9 hours a day Monday through Friday would be challenging, and Town Manager Johnson agreed, especially given staffing.

Mayor Kuhl opened the public comment period.

Ange Cicin-Sain said she has utilized Ross Recreation Center for afterschool care for one of her children and is a parent that needs real aftercare. She asked the Town to look more in depth into its programming, dates and starting and ending times. She asked staff to identify where the problems are and speak with Mr. Rice who clearly feels a need for the program.

Megan Morrow said she is a full-time working parent and one of the few people who require full-time aftercare for her son. Last year, he went through 4 days of aftercare when she needed 5 days. While most parents do not have the need in the community, there are people who do and she does not find the programming is a viable solution for some of the teachers and parents. Therefore, she again encouraged the Town to consider full-time working parents' needs.

Robin Luhning said she was part of spearheading the initial aftercare program years ago, said it was very important for her kids to have a dependable place to go right after school with their friends, and said she would hate for Ross School to be the outlier and not have an aftercare program. Many parents worked from home last year; however, many have returned to work and their kids need afterschool care.

Elena Batalla, Ross School PTO Board and RPOA, said they work with Ross Recreation on Live on the Common events and thanked Ms. Castets for her work. She has been speaking with teachers and parents regarding this topic and cited future impacts of removing the aftercare program in terms of recruiting teachers to the school. The teachers who are recruited for Ross School can have their children attend school and aftercare, and this will be an impact if the program no longer exists.

Council Member McMillan asked if Town staff has discussed this issue with David Rice. Ms. Castets said yes; she met with him twice with the Town Manager and there were concerns raised initially. There was very little feedback at that time but they have a meeting scheduled to see how things are going and they will receive feedback.

Council Member Robbins said she sympathizes with the working mothers and while not ideal, the effort is very helpful to parents. Because of the number of students at Ross School and the

demand for all week, she was not sure it would be possible for the Town to run this kind of program.

Mayor Pro Tem Brekhus thinks there is a huge demand but COVID may have been a factor. She suggested subsidizing it for a few years, thinks the schedule does not meet the needs of the community and would like to see the Town provide full-time afterschool care again, even if they must rent a facility to accommodate some of the other classes.

Council discussion ensued regarding number of families signed up, COVID and parents working at home, suggestion to meet with Mr. Rice to get a sense of their interest, reopening it without having a commitment on any number, subsidizing the program, having predictable child care and track record of previous success, support for a trial program and reassessment, cost for a full-time program and cooperation with the school for a survey, email, or meeting to gauge interest, and the potential to lease a classroom for aftercare.

Town Manager Johnson stated she will work with Ms. Castets and the school district and return this to the next Town Council meeting. The school provide teachers and school staff with a 20% discount, described a needs-based system for a family to receive a subsidy, suggested setting up a scholarship program with criteria, determine whether Ross School has a verified free or reduced lunch program which the student would fall under for subsidy, and she agreed to bring information back to the October 13<sup>th</sup> meeting and talk with School District staff, and talk about costs for the program.

Mayor Kuhl concluded the matter and confirmed staff had direction.

## **9. Housing Element Presentation and Update.**

Rebecca Markwick, Director of Planning & Building, said the Town is required to update its Housing Element of the General Plan to address local housing needs and new State laws. Amid the on-going housing shortage in California, Ross is required to plan for 111 new housing units over the next 8 years. They have been working with Andrew Hill of Dyett & Bhatia and Mr. Hill will introduce the Draft Housing Sites Map Inventory and the draft programs for the Action Plan based on community input, review existing conditions in Ross, and receive Council feedback on draft core components before the Draft Housing Element goes public.

Andrew Hill, Dyett & Bhatia, gave a presentation and overview of the progress made with the Housing Element and introduced draft core components. The Housing Element Update has three components; 1) an update to the Housing Element of the General Plan for a certified Housing Element by January 31, 2023; 2) an update of the Safety Element of the General Plan to include new information on natural hazards and emergency evacuation capacity; and 3) to prepare a focused EIR to identify and address impacts of additional housing in the Town.

He spoke about statutory State deadlines, periods for public review, then shifting focus on the Safety Element to take advantage of forthcoming information on wildfire risk from the State, as well as a comprehensive multi-jurisdictional evacuation capacity analysis that the Marin Wildfire Protection Authority is now doing, and then the EIR which will look at the impacts of both the

Housing and Safety Elements together. All three documents will then return to the Council at the end of the process for adoption.

Mr. Hill then described the 8 year cycle and the Town's RHNA of 111 units broken down into four incomes categories. The extensive community outreach done and background analysis, the 30-day public review period, return to the Council for a comprehensive review and feedback, and then forwarding the plan to HCD for a 90-day review period. The key core components are the sites map, inventory with capacity and the program of implementing actions that describe how the RHNA obligations are going to be met and he will introduce these components and receive feedback, refine them and ready them for public release.

Mr. Hill then presented the sites map identifying 15 sites, the capacity for housing based on the current zoning which is 46 units, projection of 4 to 7 ADUs or more per year for an assumption of 11 per year which would yield 88 over the planning period which would help satisfy RHNA with a buffer. Additionally, there is an ADU affordability study and the Town can use this to assign how many of those 88 units are low, very low, moderate, and above moderate income levels.

He then described a section in the preliminary draft program called, "The Framework for Action" consisting of 5 overarching goals for housing in Ross. They propose adding new programs to demonstrate what the Town will do to ensure RHNA obligations are met, described key milestones and dates, the said the programs are divided into three areas:

- 1) New programs to support above moderate housing production which include a revised fee schedule, streamline the design review process, facilitate development on adjacent single-family parcels under common ownership, and promote the development of SB 9 housing;
- 2) New programs to support development of workforce housing in Ross which include development of housing as part of the Civic Center Master Plan project, partner with a non-profit housing developer and pursue development of the parking lot on the Town Post Office parcel, and to explore the possibility of exceptions for the covered parking requirement that would apply to caretaker or multi-family units.
- 3) New programs facilitating and incentivizing ADU production which include setting up an amnesty program that would provide incentives for anyone who has an unpermitted ADU on their property to legalize it, prepare a set of pre-approved ADU plans, providing technical assistance, a development fee discount, and ADU ordinance amendments.

Mayor Kuhl noted one of the properties is called "Bingo" and he asked and confirmed Mr. Hill reviewed the Assessor data and the owner is listed as Bingo Corporation.

Mayor Kuhl said if it is the Skip Berg property is very steep at a 41% grade. He asked if this property had an application in the past for 3, 10-acre properties to be developed. Mr. Hill said he was unsure it was the same site. Public Works Director Rich Simonitch recalled several years ago there was a tentative map application put forth for 3 or 4 lots for a minor subdivision and said it is the same parcel off Upper Road.

Mayor Kuhl confirmed they will determine how many units could be built on the Bingo parcel, depending on the current zoning.

Council Member McMillan suggested the Council review the list of the potential properties first and go over the programmatic elements. Mayor Pro Tem Brekhus asked to pull up the table of properties.

Council Member Kircher suggested they be clear on what their objective is, noting they have must add 111 units, but he thinks there needs to also be an allocation of the various types of housing.

Mr. Hill said this is the start of a review period to determine if there is anything needing clarification or refinement before releasing it to the public for 30 days. The Council is doing a preliminary review of these core components; the map, inventory, and new programs.

Mayor Pro Tem Brekhus questioned what is the recommended buffer. Mr. Hill said typically it is 10% so there is capacity in the zoning map for 11 units. The buffer helps navigate in the event some of the sites do not develop the way they are supposed to.

Mayor Pro Tem Brekhus asked and Mr. Hill presented the breakdown of the various income categories and percentages of what would constitute a buffer for each category. She asked if there is an option to tear down the Post Office and build units there. Mr. Hill stated the mapping software colors the entire parcel. Currently, the proposal is just to take the parking lot portion and to pursue redevelopment perhaps with a non-profit developer that would maintain all spaces on that parking lot now, but add housing in a format above the parking lot. However, this is not to say they could do something different.

Council Member Robbins noted Number 7 is the grassy area adjacent to the Post Office and thinks this would be quite controversial. Mr. Hill agreed.

Mayor Pro Tem Brekhus asked which parking lot is San Anselm's. Mr. Hill said he believes it is the parking lot where Branson is required to park. Director Markwick stated staff has had conversations with Branson and they have the ability and capacity to provide another parking lot should this site be pursued. Town Manager Johnson added that they were informed by Branson that they already leased 50 parking spaces at the College of Marin already for this fall which the Town was not aware of when they went through the Conditional Use Permit Amendment process last winter.

Mayor Pro Tem Brekhus asked and confirmed Mr. Hill has not spoken with St. Anselm's regarding elimination of parking spaces, but will contact them.

Mayor Pro Tem Brekhus referred to the Marin Art and Garden Center (MAGC). She asked if they could propose something more cost effective for the parcel. Mr. Hill said because that site has been included in prior Housing Element inventories, there are certain provisions in State law that dictate how many units they can project on that site and under what conditions. The MAGC site is four parcels, three of the large ones were included in prior Housing Elements, and the number of units that never got built were assumed to be for lower income households. Therefore, if they want to assume lower income housing units on the 3 parcels, they would assume 20 du/acre and they would have to do a lot of analysis to demonstrate the viability of that. One key piece is the



property owner would need to provide interest. They have spoken with MAGC and they said they have no interest in housing on this site, so they have not been included.

However, the fourth parcel, which contains one single-family home that is rented at market rate by MAGC, was not included on prior Housing Elements. Therefore, it is not subject to those same requirements, is viable for housing, and it has been counted.

Mayor Pro Tem Brekhus asked if there is anything that prevents the Town from having special rules to incentivize a particular property owner to consider housing. Mr. Hill said this is an interesting program idea and concept and they could work with this for MAGC or another site. If there is interest and there is potential for housing on a site and it makes sense for workforce housing, they could work with this concept.

Mayor Pro Tem Brekhus asked how they came up with 3 units at the Civic Center. Director Markwick said they looked at the space they have here and looked at the RFP for the Master Facilities Plan and thought, ideally, 3 units could fit here.

Council Member Robbins asked and confirmed it includes the corporation yard area. Council discussion ensued regarding the amount of space that would be freed up without the trailers and potentially more units.

Town Manager Johnson asked and confirmed there is no set minimum square footage so there could be studio units which would result in more for workforce housing.

Council Member McMillan referred to Number 5; Platforms, which is .62 acres at 75% slope and Number 15; Ghirardelli, which is west of 74 Wellington Avenue, and 69.7% slope. In some of the verbiage of the program for Number 5, two parcels could be considered together and the setback requirements for the hillside lot ordinance could be waived. She is very concerned about how steep those lots are, believes they are all on private roads which residents pay to maintain, and are very constrained for evacuation purposes.

For Number 15, she believes there is a lot of construction going on at the base and then the lot goes up very steep to get to the 3.87 acres. She is concerned with including those and would rather see something at the Civic Center, above the Post Office, or somewhere else.

Mayor Kuhl asked and confirmed with Mr. Hill that HCD reviews and considers parcel configuration, constraints, steep topography, etc.

Council Member McMillan noted that for the hillside lot ordinance you do not get to find the area the flattest and then decide that is the slope that controls the FAR. It is the overall slope of the parcel. Mr. Hill said they reviewed this at the meeting, and he asked if Mr. Simonitch had recollection of Number 15.

Director Simonitch asked if they were talking about the lots of Wellington and said there has been interest by developers to see if that lot is buildable. Notwithstanding the hillside lot ordinance, one could build a pier and grade beam foundation, have a house that comes up upper

Wellington, and have a driveway on there so it is buildable if certain requirements are waived of the hillside lot ordinance.

Council Member McMillan said she is totally opposed to waiving any hillside lot ordinance requirement, as this is its purpose--to protect neighbors who are going to be next to the house. The steeper the hillside the more it affects adjacent neighbors. She did not want the Town disrespecting the ordinance because it has helped preserve the character of the Town.

Council Member Robbins asked what is the tax status of these units and asked if they will be subject to property and parcel taxes, especially on a parcel like Branson which is a non-profit. Town Manager Johnson said she has not found out the answers to her questions. Branson is a non-profit and they receive certain property tax exemptions; however, she is not exactly sure at what level yet but will provide the answer to the Council.

Mayor Kuhl questioned what happens with existing ADUs and what would happen if someone built a legal ADU. Mr. Hill said if they are unpermitted illegal ADUs and if the Council directs they include the proposed amnesty program, any illegal existing ADUs that are brought into conformance through that program can be counted towards RHNA. For a legal ADU, it will have counted in the prior cycle. However, there is a projection period which is from June 2022 through the end of January where any proposed housing unit that receives its Certificate of Occupancy can be counted towards the RHNA.

Town Manager Johnson stated she received information from Chief Weber who confirmed that the Ross Valley Fire Department firefighters spend the night in the portable. The Marin County firefighter/paramedics live on the second floor of the existing fire station. Any new facility would need to include a paramedic facility that would be able to provide overnight housing to those Marin County paramedic firefighters.

Mayor Kuhl opened the public comment period.

Jim, 220 Wellington, cited extreme grades of 69% and 75%, said he lives nearby on a privately maintained road where homeowners tax themselves to maintain it, and voiced concerns about burdening homeowners and safety concerns of the road as well as the steep slopes where there are no provisions for a builder to sink pilons into the ground.

Town Attorney Stock announced that once public comment is complete staff can address questions.

Stan Pepperdalton, neighbor on Wellington, echoed the previous speaker's comments regarding concerns about safety and practicality. The road is always sliding, is one-lane and privately maintained. The slope is extremely steep and all homeowners share these concerns.

Matt Sagues, 200 Wellington, echoed speaker comments of safety concerns and road issues, supported comments of Council Member McMillan, and said Wellington is a private, one-lane road. The areas proposed for development are in an area where there has been a big geotechnical failure in 2017. He asked the Council to consider removing the Platform sites from this plan and

if not, consider adoption of the Baywood Loop by the Town as an action to mitigate the impact of this development. He also appreciates the ADU sentiments and he thinks incentives would work.

Peter Barry, 225 Wellington, thanked the Council and spoke about the history of the lots owned by Platform Corporation, stating they previously tried to sell the lots for development. The soils were evaluated and found to be geotechnically grade 3 and that the local soils run stable as well as being very steep. He was not sure how they arrived at 74 degrees for the slope but it is steeper, with unstable soils, and basically a cliff. He also noted the property adjacent to San Rafael was found to have owls burrowing on the property and the doctor who owned it ended up selling it to the neighbors who formed a corporation to buy it and it also had unstable soil so he asked that the Council find other sites more suitable for development.

Dr. David Werdergar said his main concern is there be ample opportunity between now and a month from now to collect opinions of Ross residents, thinks preparatory material will be needed and distributed at the Post Office or elsewhere so there can be discussion to deal with at least those sites that are considered possible ones before getting to the issue of the alternative units and Branson units. In the materials distributed, he finds that some of the 45 units are problematic and the Town should investigate their safety. He noticed that 88 units out of 111 units depend on them being classified as alternative units and to get 11 each year is a major undertaking. Lastly, he asked for negotiations with Branson because a substantial number of units may rely on these negotiations and interpretation by attorneys as to how many of these units could be classified as eligible towards the Town's RHNA requirement.

Kay Werdergar said neighbors must pay to support Wellington, said the turn-around will collapse if not fixed, and home values are in jeopardy on Wellington and Baywood. If someone starts construction on a 74 degree lot there would be construction vehicles, cranes, etc., and it is very hazardous as a one-way road. The property at 80 Baywood had slid in the past and she was not sure at what point in the process the Town Council would have to approve actual construction.

Mayor Kuhl closed the public comment period and returned discussion to the Council.

Mr. Hill thanked speakers for their comments which are needed to refine materials and ready them for public release. He emphasized that the purpose of this exercise is to create a map and inventory that shows where housing could potentially be developed. And, as part of the Safety Element update and EIR they will look at what improvements or mitigating actions need to be taken. This is not to say Sites 5 and 15 should be included, but this is just looking for opportunities where there is potential for the RHNA of 111 units.

Council Member Kircher thinks the community is looking for a good faith effort on the Town's part and that this is difficult for a community like Ross. He cited design review and the Town's volunteers as very important and suggested another word than "amnesty" to be used.

Mayor Pro Tem Brekhus confirmed that staff and the consultant identified all vacant lots which are technically buildable, many reviewed at the meeting and removed due to constraints. She

suggested removal of the two lots and asked if staff and Mr. Hill considered Lagunitas Club to see if they were interested in redevelopment of workforce housing or care units.

Mr. Hill replied having a long conversation with the General Manager and found housing is a recruitment issue for them and they pay some of their employees a monthly stipend. They have one unit one workforce housing unit on the site used now by the groundskeeper and housekeeper. They were not interested in building more housing, but Mr. Hill suggested speaking with their board, given the large subsidy and recruitment issues, and he agreed to conduct further outreach.

Mayor Pro Tem Brekhus voiced support of working with the boards of the Lagunitas Club as well MAGC for them to better understand. For the Bingo lot, she thinks they should keep it at 3. If they want to say it is 6 because they can have an ADU, this seems more in the realm than increasing to 8 units. She suggested increasing Branson and MAGC because it could make sense in the future for them, and she thinks something less should be proposed for the Post Office. She voiced concerns with St. Anselm's given the Branson traffic plan just approved. For 3 Ross Common, she asked that property number 12 be removed and does not think hillside lot tinkering should be part of this.

She was supportive of waiving some building fees, likes the idea of pre-approved ADU plans, wondered if the Town should consider pre-fabs as well which are more affordable, thinks the Council should stagger what they are willing to do depending on whether units are deed restricted.

Director Markwick referred back to Number 12; 3 Ross Commons and asked if Mayor Pro Tem Brekhus wanted it removed. Mayor Pro Tem Brekhus said she thought Number 12 was the grassy field next to the Post Office, and Number 7 is the Post Office. Director Markwick confirmed Number 12 is the commercial building at the Village corner with units above it now, which has 6 units.

Mayor Pro Tem Brekhus asked about allowing a top level or more housing above Eddy's or any of those buildings. Mr. Hill said this is a possibility and said this is where they run into strict regulations about lower income sites. There are parameters for size and for any sites counted towards lower income RHNA which need to be free from environmental constraints and not included in past Elements. However, if they can demonstrate the viability of development of those sites and property owner interest, then perhaps they can get more units from that, and this can be done as soon as possible. The State requires they look at existing FAR and the degree to which they are under-utilized. On that basis, there are 3 sites that pop up as potential and these have been included on the map.

Mayor Pro Tem Brekhus said there is a property that went for sale at 20 or 22 Ross Common; the stand-alone shingle building which was surprisingly inexpensive. She confirmed with Mr. Hill this was Number 10.

Mayor Pro Tem Brekhus said given the school was so recently remodeled it might not be right, but she cited enough school interest in more workforce housing and asked if it should be

considered as a site. Mr. Hill said it could and he can reach out to them if it was the consensus of the Council.

Mayor Kuhl said they must recognize they will need to do things regarding regulations that they do not like in order to satisfy the State, like the hillside ordinance, and Council Member McMillan opposed this and cited other alternatives.

Council Member McMillan asked about good faith obligations for the Town in dealing with HCD. Mr. Hill said the Town needs to present a map showing viable sites supported by programs to be implemented. The State will also look with scrutiny and question whether a site is truly viable or not.

Council Member Kircher said he thinks one way to incentivize building is to waive or lower some fees and show the Town's good faith, particularly for the lower income units. That would be a cost to the Town but it is for a good public purpose which is providing workforce housing and he would support that as part of the plan.

Council Member Robbins voiced support of all proposed programs.

Mayor Kuhl asked if Mr. Hill had direction.

Mr. Hill clarified that it was the consensus of the Council to remove Numbers 5 and 15 at this stage and cited buildability and burdens on residents in the vicinity. He thanked Council Members, confirmed he had direction, and thinks there are good suggestions in how they can offset numbers.

**11. Town Council consideration of a Proposal to Allow a Food Truck to be Parked and Operating in front of 3 Ross Common for a One Month Trial Period.**

This item was withdrawn.

**12. Update regarding Ross Valley Fire Department's (RVFD) Study to Develop Policy Options for the RVFD Board Surrounding Future Leadership/Governance. (Kuhl/Brekhus, 5 minutes)**

Mayor Kuhl announced there was no meeting of the RVFD Board. They will meet next week.

**End of Administrative Agenda.**

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

**13. 189 Lagunitas Road, Design Review and Town Council consideration of adoption of Resolution No. 2267.**

Jennifer and Jeffrey Bogan, 189 Lagunitas Road, A.P. No. 073-211-38, Zoning: R-1:B-A, General Plan: VL (Very Low Density), Flood Zone: X (Moderate Risk).

**Project Summary:** The applicant requests approval of Design Review for renovation of the exterior of the existing house; relocation of a basement ADU to above the existing garage;

construction of a horizontal addition to the existing house, new fences, a pool and spa, and outdoor lounge areas; and modifications to existing landscaping

Nishant Seoni, Contract Planner, gave an overview of the request for Design Review for renovation of the exterior of the existing house; relocation of a basement ADU to above the existing garage; construction of a horizontal addition to the existing house, new fences, a pool and spa, and outdoor lounge areas; and modifications to existing landscaping at 189 Lagunitas Road.

Brooks McDonald, Architect, gave a brief presentation of the application, clarified they corrected numbers for impervious surfaces and provided changes to the project relating to a balcony, reduction of second story window size and count, removal of stone cladding on the first floor, relocation of the pool and BBQ out of the setbacks, removal of the wet bar, added drawings for the shade structure and BBQ details as requested by ADR, introduced a 25-foot privacy hedge along the property line, called out natural wood for the garage door, added a rear façade rendering showing the balcony, included a site impact study in how they are addressing the neighbor's privacy concerns, and he said the plans were shared with all neighbors.

Mayor Kuhl opened the public comment period.

Relton McCarroll, 193 Lagunitas, reiterated their strong objection to the second floor balcony that looks directly into their bathroom and soaking tub area and bedroom. The photograph labeled in the plans "from new primary bedrooms balcony" is very misleading and taken from the existing roof and not the proposed balcony. Regarding landscaping, their previous experience is that landscaping for second floor problems is not reliable and thinks landscaping would also eliminate any views.

Mayor Pro Tem Brekhus asked for the photograph from Mr. McCarroll.

Mayor Pro Tem Brekhus asked if the bathroom is on the first or second floor, and Mr. McCarroll said it is on the second floor facing the hills by 191 Lagunitas Road and he again displayed the photograph.

### **RECESS**

Council took a recess due to technical difficulties with Zoom videoconference at 8:55 p.m. and, thereafter, reconvened the meeting at 9:05 p.m.

Barbara McCarroll, 193 Lagunitas, stated if the proposed balcony was facing the redwoods or south or east it would not be a problem, but it will look directly into their bedroom and bathroom which is very invasive.

Mayor Kuhl closed the public comment period, and asked for rebuttal from the applicant.

*Rebuttal – Applicant*

Mr. McDonald, architect, said they have made efforts to address privacy concerns by moving and reducing the windows which are 30 feet from the property line in size and number, said the front edge of the balcony is 30 feet from the property line with another 14 to 20 feet to the neighbor's window, and 50 feet away goes beyond the threshold of any meaningful views. Also, the photo was taken from where the proposed couch would be. Also in the photos are the story poles on site, and it is in a bleak angle view of the neighbor's window. He understands their concern and said privacy is shared by his clients, as well.

They also thought about having the west wall of the primary bedroom 4 feet further towards the west and so they can enjoy that view. They consider this balcony as an additional buffer for privacy because there will be a guardrail that filters the light and views, and it is a space that separates the living quarters from a neighbor and from outdoor space.

Council Member McMillan asked if ADR had an opinion about the balcony. Mr. McDonald recalled they were unanimous in the fact that the location of the balcony was so far from the property lines and in the center of the lot which made it less of a privacy concern. If it had been closer to the property line they would have been concerned.

Mayor Kuhl closed the public comment period and returned to Council discussion.

Council Member Robbins cited the beauty of the house design, but believed the Council did not usually approve second floor decks. Council Members disagreed and cited prior approvals in Town, noted the balcony would not be used for congregation, cited its distance away from the neighbor, believes additional landscape screening is important and questioned species type and mature size, and confirmed with staff that if landscaping did not provide sufficient privacy screening within 3 years, additional landscaping could be required by the Town.

Brad Eigsti, architect, clarified they are proposing 3 Magnolia Little Gem trees that are large once purchased from the nursery at 12 to 15 feet in height, are evergreen and dense. They also have a screen shrub of Elia Carpus in one location which gets up to 15 to 20 feet, and English Laurel underneath the Magnolia to fill the gap between the canopy and the ground. In addition, they are proposing a new 6 foot wood fence. There is old bamboo and a fallen wire fence and no privacy or separation between the properties at all, so they are doing a robust screening to help mitigate the concerns of this and any other privacy issues that are even happening on the ground floor. They are included in the packet of drawings that shows the name of every plant, and took great care and thought into their privacy screen and goals for everyone.

Council Members discussed consideration of a specific condition to require modification of the landscape plan if needed.

Town Attorney Stock read Condition No. 6 relating to the ability for staff to require additional screening for up to 3 years and confirmed this is already contained in the condition. Council Members suggested adding in the address of the neighboring lot of 193 Lagunitas as a contiguous property in this condition.

Mayor Kuhl asked for a motion.

**Mayor Pro Tem Brekhus moved and Council Member McMillan seconded, to adopt Resolution No. 2267, with amendment to add 193 Lagunitas to Condition No. 6 as the contiguous property, and approve 189 Lagunitas Road. Motion carried unanimously (5-0).**

**14. 24 Allen Avenue, Design Review and Variance, and Town Council consideration of adoption of Resolution No. 2269.**

Warren and Robyn Luhning, 24 Allen Avenue, A.P. No. 073-261-38, Zoning: R-1:B-7.5, General Plan: ML (Medium Low Density), Flood Zone: AE (High Risk).

**Project Summary:** The applicant requests approval of Design Review to remodel and relocate an existing deck; construct a new in-ground pool and patio; and install new landscaping. A Variance is required to allow the proposed renovation and new construction to deviate from setback standards. The lot has an approved permit for an Accessory Dwelling Unit (ADU) that is not part of the proposed project.

Nishant Seoni, Contract Planner, gave the staff report and overview of the request for Design Review to remodel and relocate an existing deck; construct a new in-ground pool and patio; and install new landscaping. A Variance is required to allow the proposed renovation and new construction to deviate from setback standards at 24 Allen Avenue. He noted that the lot has an approved permit for an Accessory Dwelling Unit (ADU) that is not part of the proposed project. He spoke about increased impervious surface on the site, inclusion of a bio-retention basin that will offset 482 square feet of this increase.

The project was reviewed at the June 21<sup>st</sup> ADR meeting and at that meeting, ADR members did not support the project as designed based on concerns about increase in impervious surface and setback encroachments. Subsequently, the applicant revised the project and submitted new designs, replaced the proposed bocce ball court with permeable paving, removed the proposed BBQ, fire pit and arbor from the project and submitted for a Minor Exception Permit to address the pool equipment room shown on the top of the site plan. This encroachment was addressed by a separate process, has been approved and is also no longer part of this project.

The project was reviewed again at the August 16<sup>th</sup> ADR meeting. One member recused themselves, two members stated the setback encroachment from the proposed pool was too significant to meet necessary findings, two members stated the design changes had improved the overall project and, while the pool encroached into the existing setbacks, the project was consistent with surrounding developments and land uses, and recommended approval. Staff received 3 emails from surrounding neighbors in support of the project.

Mayor Kuhl asked if there were questions of staff, and there were none.

Robin Luhning, Applicant, said she and her family have lived in Ross for 11 years, are engaged with the community, thinks it would be wonderful to have a pool in the backyard, introduced their architect, and pointed to slide 3 of the presentation.



Brad Eigsti, Architect, said they had features which were removed after their first ADR review. The bocce ball court was replaced with more planting where the olive trees are shown, the deck was simplified and it was clarified all patios were proposed to be pervious and not impervious. The ADU is existing and they feel the improvements fit cozily into this space while providing privacy screening and separation from neighbors. The pool fits in the context of the neighborhood in that every property adjacent to this property has a pool in the setback and then presented a slide of adjacent properties with their setbacks highlighted, noting that all pools touch the property lines and are out of the setbacks. Very importantly is that they have unanimous neighbor support which is rare and he emphasized that this is also a very small pool and more like a large spa of 12 x 26. Lastly, with the recent heat wave, having a pool is important and very enjoyable.

Robin Luhning added that at the last ADR meeting there were questions around noise from people using the pool. Allen Avenue is a bustling, community-oriented neighborhood and all neighbors hear kids, playgrounds, community events, live bands and this is not a place where being quiet is expected. She pointed to Slides 15-17 showing where similar recent projects have been approved under more constrained circumstances.

Council Member Robbins asked and confirmed the pool enclosure will result in the equipment being insulated and sound proof, with a decibel rating of 25.

Mayor Kuhl opened the public comment period, and there were no speakers. He closed the public comment period and called for Council discussion.

Council Members cited a compelling argument for approval which is that all neighbors have pools in the setback, briefly discussed potential concerns about precedence, lack of noise from pool equipment, and neighborhood support.

Mayor Kuhl asked for a motion.

**Council Member McMillan moved and Council Member Robbins seconded, to adopt Resolution No. 2269 and approve 24 Allen Avenue. Motion carried unanimously (5-0).**

**15. 2 De Witt Drive, Demolition, Design Review and Accessory Dwelling Unit, and Town Council consideration of adoption of Resolution No. 2270.**

Tom and Linda Coates, 2 De Witt Drive, A.P. No. 073-201-09, Zoning: R-1:B-A, General Plan: VL (Very Low Density), Flood Zone: AE (High Risk).

**Project Summary:** The applicant requests approval of Demolition and Design Review to demolish the existing two-story single-family home, detached garage, cabana, and tennis court. The project proposes to construct a new two-story single-family home, detached garage, pool house and Accessory Dwelling Unit (ADU). The project also proposes new landscaping and hardscape throughout the property, including a new driveway, walkway, pool, and bocce courts.

Rebecca Markwick, Director of Planning & Building, gave the staff report and overview regarding the request for approval of Demolition and Design Review to demolish an existing two-story single-family home, detached garage, cabana, and tennis court at 2 De Witt Drive. The project proposes to construct a new two-story single-family home, detached garage, pool house and Accessory Dwelling Unit (ADU). The project also proposes new landscaping and hardscape throughout the property, including a new driveway, walkway, pool, and bocce courts.

She described approval of a lot line adjustment, total square footage of the lot at 99,980 square feet, and the need for the Council to make an additional finding for the project's appropriateness and consistency with the Ross Municipal Code and General Plan when exceeding 10,000 square feet FAR. Factors which would support this finding include but are not limited to, excellence of design, site planning minimizing environmental impacts, and compatibility with the character of the surrounding area. Staff has drafted findings that support the increased square footage based on the project's excellent design. Additionally, given the location of the project on the site combined with the existing and proposed landscaping, it minimizes the additional square footage.

She described the existing property's many mature trees, as well as additional trees to create a park-like setting, and the change for vehicle access from De Witt to an existing driveway on Shady Lane. She then described colors and materials for the home, windows and doors, and a composition shingle roof in a charcoal color. All neighbors are in support of the project, and she noted one concern led to the removal of a proposed Pickleball court.

The ADR recommended unanimously that the project complied with the design review criteria. Staff recommends the Council consider adoption of Resolution 22-70 approving design review, demolition, and ADU permit for the subject property as described.

Council Members discussed a previous discussion relating to white homes and whether they should be allowed and Director Markwick read excerpts from Chapter 18 of the Municipal Code relating to colors and confirmed that the ADR did not discuss color. They talked about the size and that it would seem large to be that white and talked about the fact that from the street, someone would only be able to see the top third of the second story and the charcoal roof from across the street. Therefore, given the park-like setting, the white was mitigated by the location of the house, as well as the screening.

Council Members discussed allowing white homes, their visibility in some instances, landscaping which screens them, and factors relating to the size and location of the home.

David Kotzebue, Architect, presented a recent drone shot they took and used the photograph to base their renderings which are photo-realistic and do show the design as it will be. He then presented the aerial shot of the entire property and described components relating to the meandering access from Shady Lane, the proposed ADU nestled in mature oaks, the house's scale, color, high quality materials used, and siting in the middle of the lot which can support 10,000 square feet, and the fact the house cannot be seen from the street, given screening and the single story structures in the foreground.

Mayor Kuhl opened the public comment period.

Paul Sagues, 1 De Witt, said he and his wife Debbie live immediately adjacent to 2 De Witt. The previous owner violated many terms and agreements of the Town, but they never objected because they wanted a peaceful neighborhood. When the Coates purchased the property, they had openness, transparency, and consideration. He and his wife walked the property, looked at the story poles, have no objection to the project, and recommend the Town Council approve the project as proposed.

Linda Coates, applicant, waived her rebuttal period and thanked the Sagues's.

Mayor Kuhl suggested a motion.

**Council Member McMillan moved and Council Member Robbins seconded, to adopt Resolution No. 2270 and approve 2 De Witt Drive. Motion carried unanimously (5-0).**

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

**16. No Action Items:**

- a. Council correspondence** – None.
- b. Future Council items** – None.

**17. Adjournment.**

Mayor Kuhl adjourned the meeting at 9:59 p.m.

---

Beach Kuhl, Mayor

**ATTEST:**

---

Linda Lopez, Town Clerk