

REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, NOVEMBER 10, 2022
Held In-Person and Teleconference

1. 5:00 p.m. Commencement.

Mayor Beach Kuhl; Mayor Pro Tem Elizabeth Brekhus; Council Member Bill Kircher, Jr. (*participated via telephone for Closed Session and via Zoom for Open Session*), Council Member Julie McMillan, Elizabeth Robbins.

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 Item in Agenda Item 4.

There were no speakers.

4. Closed Session.

a. Public Employee Performance Evaluation (Pursuant to Government Code section 54957)

Title: Town Manager

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

Town Attorney Ben Stock joined the meeting at 6:00 p.m.

Mayor Kuhl announced there was no reportable action taken in Closed Session.

6. Introduction and welcome to new employee Alex Lopez-Vega, Assistant Planner. (Markwick)

Planning and Building Director Rebecca Markwick introduced new employee Alex Lopez-Vega, Assistant Planner, and briefly described his education, military service, and planning experience.

Mayor Kuhl and Council Members welcomed Mr. Lopez-Vega to the Town, and a round of applause followed.

7. Open Time for Public Expression.

Diane Rudden, 39 Willow Avenue, Age-Friendly, referred to two benches and asked that the Town make them into usable benches with arms so people can get up and down.

David Moller, Marin-Sonoma Building Electrification Squad, Larkspur, spoke about his email relating to the 3 Green Building Reach Codes developed by Marin County with the goal to reduce and not increase the GHG emissions driving climate change. The codes address all-electric for new construction, enhanced EV charging infrastructure, and energy targets for renovations of existing buildings. He urged the Council to make a strong commitment to schedule a public discussion with possible action in the first quarter of 2023, especially for the all-electric for new construction and enhanced EV charger infrastructure.

8. Mayor's Report.

The members of our Town Council not only deal with local issues, but also represent our Town on countywide or regional governmental bodies whose actions have effects on Ross. I thought I would outline what those agencies are and what they do.

First, Mayor Pro Tem Elizabeth Brekhus serves on the board of directors of the Ross Valley Fire Department (RVFD) as do I. The RVFD provides fire protection services through fire stations in Ross, San Anselmo, Fairfax, and Sleepy Hollow.

Councilmember Julie McMillan is currently vice-president of the Marin County Wildfire Prevention Agency, which leads the county's preparation of protection against wildfire, including evacuation preparedness.

All the members of the Council are members of the Marin County Council of Mayors and Council Members (MCCMC) which holds monthly meetings with reports from various countywide or regional organizations and speakers on topics of local governmental interest. Julie serves on the organization's homelessness and climate action committees.

Bill Kircher is our delegate to the Association of Bay Area Governments (ABAG) which is a regional planning agency for the nine Bay Area counties and their cities and towns. He also serves on the board of Marin Clean Energy, a non-profit corporation providing green electricity to Marin County customers.

Elizabeth Robbins served during the pandemic on MCCMC's economic recovery committee, which focused on ways to help businesses during the economic turndown. Very significantly to Ross, she served as a leader of a committee to preserve Bald Hill, which she reports on elsewhere in this Morning After.

I have represented the Town as a Commissioner on the Transportation Agency of Marin which supports various transportation related projects throughout the County, for example supplying funds for the school crossing guards program and for local street maintenance. I have served on MCCMC's legislative committee and as the Council's liaison to the Ross Property Owners Association and to our Age-Friendly Task Force.

So, if your favorite councilmember doesn't answer the phone, it doesn't mean he or she isn't busy serving the Town through some other agency.

9. Council Committee & Liaison Reports.

Council Member Kircher reported the MCE Board met at length last month regarding whether to raise rates or use its reserves to cushion the effects on ratepayers.

As the alternate delegate, he attended the Climate Action Committee meeting in place of Council Member McMillan and discussion involved Reach codes with the consensus that it is a bit of a push to require this for a remodel. Other towns are moving ahead amending their Reach codes to require electric appliances on new construction. He also learned that gas ranges leak a little bit and the greenhouse effect is much more of an impact when a stove is off than when on.

10. Staff & Community Reports.**a. Town Manager**

Town Manager Christa Johnson provided the following updates:

- Town Clerk Linda Lopez is retiring at the end of December after 17 years of service to the Town. After an extensive recruitment, Cyndie Martel has been hired and will start working with the Town on November 28th. She is present tonight to view the meeting, and Councilmembers welcomed her.
- The Draft Housing Element is currently out for a 30-day review period to the public which will end on November 18th. Last Monday evening, a well-attended community meeting was held at Ross School to gather comments on the draft element. The Draft Housing Element will return to the Council on December 8th for review and authorization to forward it onto HCD for their 90-day review. While the review is being conducted, Dyett and Bhatia will be working on a focused EIR and accompanying Safety Element update. Staff anticipates bringing the final Housing Element, EIR, and Safety Element in May 2023.
- WinterFest will be held on the Common on Saturday, December 3rd from 3:00 to 6:00 p.m. and a skating rink on synthetic ice will be operating that entire day at the Ross School blacktop area. The event is planned by RPOA and Ross Auxiliary with the Town of Ross as a co-sponsor.
- In response to the public speaker regarding the two benches in the Grove Area on the Ross Common, the Public Works Director will run it through the ADR process in December or January.

b. Ross Property Owners Association

Marcia Skall, RPOA, reported on current membership, thanked the Town Council and residents for contributions totaling \$57,000, reported “Live on the Common” was a huge success, and May 12th will be the next event. RPOA will install a light display on Ross Common for WinterFest, will provide holiday wreaths for the Post Office and downtown merchants, are making changes to the porta potty enclosure to better hide it from view, will maintain hanging flower baskets throughout the winter with new ones ordered for the spring, have held discussions about working with the Ross Historical Society to organize walks and home tours, have been supporting Ross Age-Friendly Task Force by helping host events, and are researching a quarterly or monthly meeting of the Leadership Council.

11. Consent Agenda.

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

a. Minutes: 10/13/22**b. Demands.****c. Town Council consideration of adoption of Resolution No. 2274 Assembly Bill 361 Amending Open Meeting Laws to Expand Teleconference Meeting Options During Proclaimed State of Emergencies.**

- d. Town Council acceptance of the Investment Report for the Three-Month Period ended September 30, 2022.
- e. Town Council acceptance of the Financial Summary Report for the Three-Month Period ended September 30, 2022.
- f. Town Council consideration of adoption of Resolution No. 2275 amending the FY 2022-23 salary schedule to add a Police Officer Trainee classification.
- g. Town Council consideration of adoption of Resolution No. 2276 authorizing the Town Manager to accept a grant of easement for storm drain and water treatment purposes from Marin County Flood Control and Water Conservation District.
- h. Town Council consideration of adoption of Resolution No. 2280 accepting the AB 1600 Annual Report for Fiscal Year ending June 30, 2022.

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

End of Consent Agenda.

12. Public Hearings on Planning Projects – Part 1

- a. **21 Loma Linda Avenue, Accessory Dwelling Unit Permit, and Town Council consideration of adoption of Resolution No. 2277.**

Scott Golden and Ben Kozub, 21 Loma Linda Avenue, A.P. No. 073-261-10, Zoning: R-1: B-10, General Plan: ML (Medium Low Density), Flood Zone: X.

Project Summary: The applicant is requesting approval to construct a new 535-square-foot, attached, second-story accessory dwelling unit (ADU) above the existing garage and carport. ADU Permit Exception is required to allow a newly constructed ADU in the front yard setback. The proposed ADU will match the existing residence with dark brown shingles and dark charcoal asphalt shingle roof.

Recusal: Council Member Kircher recused himself from participating in this item due to his residency within 500 feet and left the videoconference.

Director of Planning and Building Rebecca Markwick gave the staff report and overview of the request for approval to construct a new 535-square-foot, attached, second-story accessory dwelling unit (ADU) above the existing garage and carport. An ADU Permit Exception is required to allow a newly constructed ADU in the front yard setback. The proposed ADU will match the existing residence with dark brown shingles and dark charcoal asphalt shingle roof, and the ADR unanimously recommended for approval to be consistent with the design review findings.

Council Member McMillan cited the very narrow road and constrained site and asked what arrangements will be made during construction for parking and staging. Ms. Markwick replied that part of the building permit issuance requires a parking, staging, and construction plan. She described the carpooling arrangements for the crew and subcontractors and said owners of the residence will be allowed to park in a neighbor's driveway.

Mayor Kuhl asked and confirmed the owner waived any presentation.

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

Council Member McMillan moved and Council Member Robbins seconded, to adopt Resolution 2277 approving 21 Loma Linda Avenue, to construct a new 535-square-foot, attached, second-story accessory dwelling unit (ADU) above the existing garage and carport. ADU Permit Exception is required to allow a newly constructed ADU in the front yard setback. The proposed ADU will match the existing residence with dark brown shingles and dark charcoal asphalt shingle roof. Motion carried (4-1; Kircher recused).

End of Public Hearings on Planning Projects – Part I.

Returned to Meeting/Noted as Present: Council Member Kircher was noted as present to participate in the remainder of the meeting.

Administrative Agenda.

- 13. Town Council consideration of request to contribute \$200,000 to Marin Open Space Trust towards the acquisition of Bald Hill and necessary adjustment to the FYE 2023 Budget, and authorization to install a commemorative plaque in Natalie Coffin Greene Park.**

Town Manager Johnson gave the staff report and overview of the request, stating Council Members Robbins and McMillan requested placing this item on the agenda. She described the Bald Hill property, its location, its high priority for acquisition and preservation for open space, its views and gateway to over 100,000 acres of protected land, and preservation of important wildlife and native plant habitat. Marin Open Space Trust is in contract to acquire the property and, upon acquisition, the Trust will transfer the property to the Marin County Open Space District to preserve its natural resource and open space values.

Ms. Johnson then described actions if the Town Council offers a contribution to the Marin Open Space Trust for the purpose of acquiring the Bald Hill property and noted a similar contribution will be agendaized for the San Anselmo Town Council on December 13th. Council Member Robbins has also requested the Trust be authorized by the Town Council to install a commemorative plaque in Natalie Coffin Greene Park to recognize those institutions and individuals that assisted significantly in the acquisition of the property. Funding is available in the Facilities and Equipment Fund to make a \$200,000 contribution, if the Council chooses.

Council Member Robbins commented that the 60-acre property is a spectacular open space area and is a mountain too steep for any housing project.

Council Member McMillan agreed, commended Council Member Robbins, and recognized those involved in joining in the effort to save Bald Hill which will leave a legacy for years to come.

Mayor Kuhl opened the public comment period.

Bill Long, Chair, Marin Open Space Trust, said Jonathan Braun has been their lead Boardmember on the project. He also introduced Ann Thomas, Ralph Mihan, and their collaborator Kevin Knowles with Conservation Land Group. He thanked the entire Council for their interest and looks forward to support for this project.

Jonathan Braun, Co-Chair of the Town of San Anselmo's Open Space Committee and Boardmember of the Marin Open Space Trust, read a brief letter from February 3, 1987 regarding Ross's interest in the project from Richard Gillian, Jr. He said the Town's support would be strategic and helpful in achieving the goal of fundraising the amount of funds needed to purchase the property. He also recognized Council Member Robbins for her work in the project and thinks this is an exemplary example of coordination and cooperation between communities.

Mayor Kuhl closed the public comment period, and suggested a motion.

Council Member Robbins moved and Council Member McMillan seconded, to contribute \$200,000 to Marin Open Space Trust towards the acquisition of Bald Hill and necessary adjustment to the FYE 2023 Budget, and authorization to install a commemorative plaque in Natalie Coffin Greene Park. Motion carried unanimously (5-0).

14. Town Council consideration of adoption of Ordinance No. 718 which adopts and amends Title 15 of the Ross Municipal Code to adopt the 2022 California Building Standards Code, Title 24 of the 2022 California Code of Regulations.

Planning and Building Director Markwick gave the staff report and said the ordinance was introduced at the October 13, 2022 Council meeting. No changes have been proposed to the ordinance and staff will bring the County Reach codes to the Council in the spring, and recommends the Council conduct a public hearing for the second reading and consider adopting Ordinance No. 718.

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

Mayor Pro Tem Brekhus moved and Council Member McMillan seconded, to adopt Ordinance No. 718 which adopts and amends Title 15 of the Ross Municipal Code to adopt the 2022 California Building Standards Code, Title 24 of the 2022 California Code of Regulations. Motion carried unanimously (5-0).

- 15. Town Council consideration of adoption of Ordinance No. 719 which adopts the 2022 California Fire Code, portions of the 2021 International Fire Code, and Appendix A of the 2021 International Wildland-Urban Interface Code and prescribing regulations governing conditions hazardous to life and property from fire or explosion; providing for the issuance of permits for hazardous uses or operations; and establishing a fire prevention bureau and providing officers therefore and defining their powers and duties.**

Rob Bastianon, Ross Valley Fire Department, said at the October 13, 2022 meeting the Council introduced Ordinance No. 719 which amends the Town's Municipal Code to adopt the 2022 edition of the California Fire Code and 2021 International Fire Code with amendments and additions, and Appendix A of the 2021 International Wildland-Urban Interface Code. The process is required by the Town to stay current with minimum requirements of the State's building fire standards, as determined by the California Building Standards Commission.

Mayor Kuhl opened the public comment period, and there were no speakers. He closed the public comment period and asked for a motion.

Council Member McMillan moved and Mayor Pro Tem Brekhus seconded, to adopt Ordinance No. 719 which adopts the 2022 California Fire Code, portions of the 2021 International Fire Code, and Appendix A of the 2021 International Wildland-Urban Interface Code and prescribing regulations governing conditions hazardous to life and property from fire or explosion; providing for the issuance of permits for hazardous uses or operations; and establishing a fire prevention bureau and providing officers therefore and defining their powers and duties. Motion carried unanimously (5-0).

Council Member McMillan moved and Mayor Pro Tem Brekhus seconded, to adopt Resolution adopting Findings of Fact and Confirming the Need for Changes or Modifications to the State Fire Code Because of Local Conditions (Attachment 2). Motion carried unanimously (5-0).

- 16. Recreation Department After School Extended Childcare Program Update and Town Council consideration/action.**

Recreation Manager Gretchen Castets gave the staff report and overview of the After School Extended Childcare Program (Kid's Club), stating at the October 13th meeting Council Member McMillan requested staff bring back more information on the financial history of the department, which she presented.

She described expenses brought back from COVID which will need to increase along with programming and she said expenses were taken out of the preschool under the Recreation Department because they no longer have the preschool under the department. Pledges were

opened and they reached 19 pledges after the October 13th meeting. Of those 19 pledges, registration for the program was opened at the end of October and staff received 5 paid, M-F registrations and 4, 2-day registrations. This would be 6 or 7 kids a day per week, but registration is open indefinitely until they reach a maximum number. If they were to get the 19 pledges to register there would not be a need for a Town subsidy. If not, an approximate \$20,000 subsidy will be needed with the current numbers, which could change.

Mayor Pro Tem Brekhus said assuming 3 more people sign up she asked if parents are told the program will not run if the Town does not meet a certain threshold, citing potential decisions already made for childcare.

Ms. Castets said running the program is based on pledges received and they had to move forward with hiring once they got the minimum. Whether or not they achieve the 10 registered kids they will run the program based on those 19 pledges. If the program starts on January 4th and there are 7 kids, it does not mean people cannot register throughout the school year as registration will be open until they reach a maximum number.

Council Member McMillan asked for the status of the hiring process. Ms. Castets replied the advertisement went out right after the October meeting and there is one person they are interested in hiring who is a solid candidate, and they are looking for a second person as well.

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

Council Member discussion ensued regarding surprising numbers with running a deficit for 5 years. ~~There are~~ concerns with running Kid's Club with a \$20,000 subsidy from January to June. ~~The deficit is not historically accurate history being inaccurate~~ due to the removal of the preschools. ~~It is suggested suggestion for to conduct~~ a fee study and budget review, ~~on~~ Ross Rec's budget and subsidies for the 4th of July or Town Dinner events, and non-inclusive items in Ross Rec's budget, such as IT costs, attorney time, and other costs.

Town Manager Johnson confirmed the Council direction to continue moving forward with marketing the program, direct staff to report back to the Council as to expenses, revenues, and registration, as well as family needs requested for the following year, and to include this as part of the future budget discussions.

17. Town Council discussion regarding potential addition of Pickleball on existing Tennis/Padel ball facility in Ross.

Public Works Director Rich Simonitch said staff was asked to look at options in introducing Pickleball to the current tennis and platform tennis court as an additional recreational facility for the Town. Staff looked into it, consulted with a contractor to get ideas of pricing and scope, and identified the following four options:

1. Maintain status quo and allow Pickleball to be played either on the tennis courts or paddleball courts. Residents could bring their own markers and he presented some graphic examples; or

2. Paint the Pickleball court lines onto the paddleball court or one of the tennis courts to allow residents to play either Pickleball or paddleball, which would be semi-permanent and would run as a pilot program. If tennis players do not like the markers and vice versa staff would introduce a different option or abandon the idea. If these are implemented on the tennis courts, the nets would roll off on the side for paddleball players; or
3. Permanently convert paddleball court into a Pickleball court; or
4. Permanently convert one tennis court into a Pickleball court, as one tennis court can be restriped for up to 4 Pickleball courts.

Mr. Simonitch then displayed examples of courts, zones and temporary markers, pictures of people playing paddleball on the paddleball court using water bottles as markers at the 7-foot line, an example of co-locating Pickleball on a tennis court, an example 4 Pickleball courts on a single tennis court, and an on-line example if a tennis court was officially and permanently converted to 4 Pickleball courts.

Council Member McMillan questioned how many people use the tennis courts for tennis and paddleball. Ms. Castets said they have no exact number due to not having a reservation system; however, staff has sold 150 keys which work for both tennis and platform tennis courts since October 2021. Additionally, Ross Recreation tennis classes run there which are usually 2-3 mornings per week for adults from 9:00 a.m. to 12:30 p.m. and there are two afternoons of youth classes from 2:45 to 5:15 p.m. No classes involve the Padel or platform tennis courts at this time and everything else is first come, first served other than classes.

Council Member Robbins asked and confirmed that classes usually use one court with one instructor, and 8 participants per class. She asked if court users know the Council is talking about this. Ms. Castets said they were trying to find a solution to communicate this to key holders, staff has most mailing addresses but she suggested signage at the courts.

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

Mayor Kuhl then provided an explanation of Pickleball and tennis courts, rolling nets, difference of tennis surfaces versus paddleball surfaces, number of players, examples of Pickleball and tennis courts in town, potential noise concerns, and voiced his preference to postpone this to make residents aware the Town is considering the matter.

Council discussion ensued regarding sending a notice to neighbors living within 500 feet of courts and outreach to key holders, suggestions to allow temporary marks on both tennis and paddleball courts for a month or more, the high cost to convert paddleball court surface to a Pickleball court, the potential for Ross Rec to run programs which could lead to higher participants and key holder sales, and confirmed no noise complaints have been received from people playing Pickleball on the paddleball courts.

Mayor Kuhl and Council Members directed staff to continue the matter for one month and to direct staff to send out a notice to all key holders.

End of Administrative Agenda.

Public Hearings on Planning Projects – Part II.**18. 40 Madrona Avenue, Design Review, Accessory Dwelling Unit, and Nonconformity Permit, and Town Council consideration of adoption of Resolution No. 2278.**

Amy and Chad Lewis, 40 Madrona Avenue, A.P. No. 073-232-29, Zoning: R-1:B-10, General Plan: ML (Medium Low Density), Flood Zone: X (Moderate/Minimal Risk).

Project Summary: The applicant requests approval of Design Review and Variance for renovation and expansion of height and footprint of the existing single-family home on the property, including addition of a new ADU, and a Non-Conformity Permit to legalize existing rear yard setback deviations and the proposed height increase on the non-conforming portion of the structure.

Planning and Building Director Markwick gave the staff report and overview of the request for Design Review, a new attached ADU, and a Nonconformity Permit for a second story addition at the front of the house and increase in height in the nonconforming setback at the existing single-family home at 40 Madrona Avenue. The proposed construction will not result in any new setback encroachments or deviations from the applicable standards.

On October 18, 2022 the ADR Group unanimously recommended the project is consistent with design review criteria and standards and had some recommendations regarding the roof deck. The applicant has amended the plans accordingly and she described the changes made. Staff received 5 letters in support of the project, an email from property owners at 18 Madrona Avenue concerned about the roof deck, landscaping, and drainage, and an email received from property owners who are now in support of the project, having worked out concerns with the applicant. Staff recommends the Town Council adopt Resolution 2278 approving design review and nonconformity permit for the subject project, as described.

Mayor Kuhl called on the applicant to present the project.

Ken Lindsteadt said at their last ADR meeting they had consensus among neighbors and members that the project was in conformance, held discussion regarding the roof deck, and they decided as a team it would be best to reduce the terrace to keep harmonious neighbor relations. He said owner Amy Lewis is present who met with the neighbors to look at screening and the plan was amended so the roof terrace was no longer an issue.

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

Council Member Robbins moved and Council Member McMillan seconded, to adopt Resolution 2278 approving 40 Madrona Avenue Design Review and Variance for renovation and expansion of height and footprint of the existing single-family home on the property, including addition of a new ADU, and a Non-Conformity Permit to legalize existing rear yard setback deviations and the proposed height increase on the non-conforming portion of the structure. Motion carried unanimously (5-0).

19. 0 Bellagio Road, Design Review and Town Council consideration of adoption of Resolution No. 2279.

Bellagio Ross, LP, 0 Bellagio Road, A.P. No. 072-031-04, Zoning: R-1:B-5A, General Plan: VL (Very Low Density), Flood Zone: X (Moderate/Minimal Risk).

Project Summary: The applicant requests approval of Design Review to construct a new 7,176 square foot, two level over a partial basement single family home on a vacant lot. The project also includes a 667 square foot garage, a new pool, driveway, retaining walls and landscaping. The lot is considered a hillside lot with a slope of 35.5 percent.

Planning and Building Director Markwick gave the staff report and overview of the request for Design Review to construct a new two-story, single-family home on a vacant lot, a new garage, pool, driveway, retaining walls, and landscaping. She noted the ADU is not part of the project because it meets all requirements for ministerial approval. Condition of Approval No. 1 in the resolution has a typographical error and it should read, "The approval authorizes design review for construction of a new, two-story with basement single-family residence, including an attached garage and landscape improvements located at 0 Bellagio Road."

Staff received correspondence from property owners at 7 and 14 Bellagio Road concerned about tree removal, construction traffic, drainage, the private road, and construction fencing. Staff is recommending the Town Council consider adoption of Resolution 2279 approving design review for the project, as described.

Council Member Robbins referred to tree removal and said removal of about half of the trees is required for fire safety purposes. She asked if there is an in-lieu fee required. Ms. Markwick said yes, the code requires an in-lieu fee for all trees removed, whether for fire or not.

Council Member Robbins wondered whether the Council has the right to waive the in-lieu fee for those trees being removed for fire safety purposes. Public Works Director Rich Simonitch confirmed the Code has provisions for the Council and the Public Works Director to waive or arrive at alternatives to the in-lieu fee.

Council Member Robbins questioned if the owner must pay, given they cannot build the lot without removing another 50 trees just to clear the lot. Mr. Simonitch said there is no provision in the Municipal Code to exempt trees being removed because of the actual project and he restated the ability to waive the in-lieu fee or arrive at an alternative.

Council Member McMillan asked and confirmed with Ms. Markwick that there are two trees proposed to be replaced in the amended landscape plan and other species being proposed to mitigate trees. However, because of Fire Department requirements, they are having a hard time finding more trees to replace those removed. She suggested the applicant comment on their work with the Fire Department.

Mayor Kuhl called upon the applicant for a presentation.

Geoffrey Gibson, architect, Winder Gibson Architects, commended the work of Ms. Markwick and thinks the ADR process has been excellent. They proposed the project conceptually in August which allowed them to solicit clear feedback from Boardmembers that were integrated into the project and then presented again in October for unanimous approval. They fine-tuned some of the window designs particularly at the pool, added more softening landscape elements, and submitted a list of all design changes which are in the final packet. He was available to answer any questions.

Council Member Robbins asked and confirmed the ADR Group unanimously recommended approval.

Shadi Aboukhater, applicant, added that they had a glowing review and approval from the ADR Group. Mr. Gibson clarified that there are over 1,000 trees on the lot and 100 trees are being removed, 50 of which are for fire safety and the other 50 are in the buildable lot area. He understands concerns are regarding screening between buildings and sympathizes and agrees with neighbors. He spoke with Rob Bastianon from the Fire Department who agreed it was okay for them to plant more trees and more shrubs which are 20 foot Laurels. From the previous landscape plan, they have added 12 more Strawberry trees which are large and have 200 to 300 shrubs which are placed in key locations to create a screening. He is also open to adding more screening if the Fire Department allows them to and will work with the neighbors.

Mr. Aboukhater clarified that they must create a fire truck turnaround or hammerhead at the top of their driveway which is on their private property. This is ultimately for the benefit for everyone on Bellagio because there is not a turnaround now and a decent number of the trees fall into the clearing of making that hammerhead.

Mayor Kuhl opened the public comment period.

Nancy Montagu, 7 Bellagio Road, said they also own 1 Bellagio Road which is a vacant lot next door and wrote a letter voicing concerns with the project regarding negative impact, removal of many trees, and basic deforestation of the hilltop lot. She thinks the project was rushed through the ADR Group, said there were many misleading details indicating zero neighbor opposition, and said many neighbors do not even know the project is being proposed.

The proposed home looks straight into 17 of their windows, said trees cannot be replaced with shrubs and provide privacy, voiced concern with landslides, removal of wildlife habitat, safety concerns with construction equipment and vehicles on the very narrow street, asked for trees to be replaced properly, and asked the Council to continue the matter.

Paul Roesler, 11 Bellagio Road, confirmed the Council received his letter sent via email and that Mr. Aboukhater indicated that his land use attorney drafted an agreement that would bind the land there to a road maintenance agreement. He thinks it is imperative that there be a condition for the developer in addition fix, repair, and repave all of Bellagio Road upon certification of occupancy at 100% of their expense. Neighbors paid their pro rata share to repave the road and it is in very good condition other than a patch outside of 7 Bellagio Road, which is where the Montagu's live.

He also asked that project approval and building permit issuance be conditioned upon a binding agreement that 0 Bellagio would have their pro rata percentage responsibility for maintaining the road moving forward, that a plan be in place for the construction traffic, require a one-to-one planting of the trees to be removed, and for some of the larger trees not to be removed. In addition, the residence has been shifted down Bellagio about 20 or more feet which puts it directly above his home looking into their master bathroom, so screening is extremely important for privacy reasons.

Rupert Montagu, owner of 1 and 7 Bellagio, echoed his wife's and Mr. Roesler's comments. He highlighted that the trees are what makes their area so beautiful. They provide screening and a noise buffer to other homes and their new home. The proposed home has a swimming pool which is positioned between the new house and their house and a lot of noise will be associated with it because of removal of trees. He would like for the developers to consider moving the pool to behind their house so neighbors do not have to suffer from the noise pollution.

He added that Bellagio is a cul-de-sac which dead ends. It is very narrow with a lot of heavy construction traffic and unsafe conditions. He would like to ensure it is safe because neighbors have children and pets and asked if fencing could be added to ensure nothing gets in or out. He also would ask the applicant to find another way for construction trucks to access the property other than from Bellagio.

Zara Muren said she and her husband, Dennis live at 10 Canyon Road which is adjacent to Bellagio, and wanted to speak to the neighborhood character. She cited the beauty of nature on the hill and said the trees are very much a part of that. Some trees are fire hazards like Acacia and Bay trees but are also homes for owls and squirrels.

She walks the road and sensitive to the street edge, and the Montagu's have left their lot open for neighbors to enjoy nature. She appealed the Council to reconsider the edge of the home site's natural boundary. As trees are removed, there should not be Laurels planted but instead, native plantings. They have been slow in getting up to speed on the project and it has been very opaque as to what is intended in terms of tree loss. The plan is unreadable as a record on-line and she suggested the matter be continued so neighbors can more clearly understand what is proposed.

Janelle Hobart said she has lived here 25 years and is a landscape designer. She was upset to see the removal of 100 trees and replacing them with 2 trees. Throughout her career she has always made a concerted effort to replant one-for-one, even if it is a small tree. There is a Firesafe Marin list of possibly replacement trees and she would like to see the Council hold people to replacing trees they remove. The Fire Department is very aggressive as they should be, but it leaves neighbors in a situation where the property is being clear cut. She knows there are 1,000 trees, but 100 are coming down. She hopes the Council can approve one-for-one replacement, whether it is mandated by the Fire Department or not.

Rebuttal – Applicant

Shadi Aboukhater, owner, said he appreciates all neighbors expressing their concerns. He has called neighbors and spoke with them numerous times before he purchased the lot, left messages telling them he was going to the ADR Group, and to say neighbors are unaware of it is inaccurate. He met with the neighbors altogether at their house and talked about their concerns. Paul Roesler's major concerns were road concerns which he addressed and documents are prepared. Regarding trees, he said it is what needs to be done in order to make this a safe development experience. He may have misspoken on what trees are being replanted and he suggested allowing his landscape architect, Brad Eigsti, talk about the trees which are the biggest concerns for neighbors. Lastly, they are adding two new homes for the Housing Element which Ross desperately needs.

Brad Eigsti said they have spent countless hours on the trees, tree removal and replacement, shrub plantings, and talking with the Fire Department regarding the wildland urban interface concerns on this property, and the Fire Department has been adamant about removing trees. These 50 trees are mandated to be removed and they do not have any say in keeping them or not keeping them. They have also spent a lot of time on tree replacement and cannot replace trees one-to-one for this project because there would be 100 additional trees which would not be approved by the Fire Department. They began with 2 trees and in the last proposal they added 12 additional native Arbutus Evergreen trees in these areas between the street and the house and between the upper property and the driveway.

They would be happy to add more but there must be a canopy separation, no fire ladders, and these trees will go adjacent to all existing oak trees they are working to maintain. Along the frontage of those they are planting masses of Rhamnus californica which is another evergreen grade screen, -deer resistant native screening plant to take care of the low level screening to help block the view between the canopy of the Arbutus and ground plane.

He said he planted as much as he has been allowed at this point and if Ross Valley Fire Department will allow them to plant more, the owner have expressed an interest in this. However, right now they must adhere to fire safety standards and adhere to what Ross Valley Fire Department will approve.

Mayor Kuhl asked for additional Council Member questions of the applicant.

Mayor Pro Tem Brekhus questioned the thinking in terms of the pool in the front yard. Mr. Gibson stated in their site planning they began by analyzing the existing topography and working with it instead of against it. The site is challenging to walk, but up into the story pole area, there is a natural berm which is relatively level and he described the usable outdoor space here to do terraces, turf, and a pool so they would not be building a house with huge retaining walls or stacked tiered retaining walls.

The secondary benefit is putting the pool in that location which pushes the house as far away from the neighbors as possible and said there is a 130-foot distance to the centerline of the road. The access made sense swinging the driveway up and around concealing the garage, concealing the required hammerhead turnaround where it is, and it made sense to leverage the natural form of the topography for usable outdoor family space.

Council Member McMillan asked and confirmed with Mr. Aboukhater that their lawyer has drafted a road maintenance agreement and they will repair any damage the road gets during construction and also video the road before starting construction. The on-going maintenance agreement has a percentage of how much of the road they are using and all of these items are correctly calculated.

Mayor Kuhl closed the public hearing and returned discussion to the Council.

Mayor Pro Tem Brekhus referred to the sewer lateral trench issue. Her assumption is that there were no sewer laterals in the road because there is no utility easement. Mr. Simonitch said if they wanted to put a sewer in that street they would need an easement from the district. What they are proposing is less costly and more feasible to run the lateral within their private property down to Canyon where there is a Ross Sanitation District main.

Mayor Pro Tem Brekhus referred to drainage comments and asked and confirmed that the plan is submitted with building plans and neighbors could review these.

Council Member McMillan described how this project is similar to one proposed on her street, thinks the lot is suitable and the design lovely, and can understand why the owners put the pool where they did. She also noted the tree ordinance was drafted decades ago and the fire danger is very real. She believes the tree removal will benefit the area and enhance wildfire preparedness and voiced support of the project.

Mayor Kuhl and Council Members Robbins and Kircher echoed Council Member McMillan's comments and added the Council's reliance on the ADR's judgement.

Mayor Pro Tem Brekhus said she was inclined to recommend continuance, as she was unclear as to the tree locations and numbers, Laurels, and screening, questioned the front yard pool and potential noise and privacy concerns, and believes utilities should be addressed with the easement.

Council Member McMillan recommended deferring to the ADR in terms of where the swimming pool is located versus the main house, cited an equally negative situation if the house was flipped, and believes having a pool in the back and taking advantage of views is part of the beauty and uniqueness of the site.

Mayor Kuhl asked for a motion.

Council Member McMillan moved and Council Member Robbins seconded, to adopt Resolution 2279, approving 0 Bellagio Road Design Review to construct a new 7,176 square foot, two level over a partial basement single family home on a vacant lot. The project also includes a 667 square foot garage, a new pool, driveway, retaining walls and landscaping. The lot is considered a hillside lot with a slope of 35.5 percent. Motion carried (4-1; Brekhus opposed).

20. **This item has been continued to December 8, 2022 Council meeting.*

71 Shady Lane, Design Review.

Eric Spaly, 71 Shady Lane, A.P. No. 073-091-32, Zoning: R-1:B-10, General Plan: ML (Medium Low Density), Flood Zone: AE (High Risk).

Project Summary: The applicant requests approval of Design Review to construct new landscape improvements. The project proposes a new swimming pool, pool equipment, new deck, fire pit, BBQ and plantings.

End of Public Hearings on Planning Projects.

21. No Action Items:

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

22. Adjournment.

Mayor Kuhl adjourned the meeting at 8:36 p.m.

P. Beach Kuhl, Mayor

ATTEST:

Linda Lopez, Town Clerk