

**REGULAR MEETING of the ROSS TOWN COUNCIL**  
**THURSDAY, DECEMBER 8, 2022**

*Held In-Person and Teleconference*

**1. 5:00 p.m. Commencement.**

Mayor Pro Tem Elizabeth Brekhus; Council Member Bill Kircher, Jr.; Council Member Julie McMillan, Elizabeth Robbins (*participated via conference call for Closed Session and Zoom for Open Session*); Town Attorney Benjamin Stock. Mayor Beach Kuhl was absent.

**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 Attorney**

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

Mayor Pro Tem Brekhus announced there was no reportable action taken in Closed Session.

**6. Town recognition of Town Clerk/Administrative Manager Linda Lopez upon her retirement.**

Town Manager Johnson announced that Ms. Lopez is retiring after 17 years of service to the Town of Ross and applause followed. Ms. Lopez was promoted several times over the years and has been the Town Clerk/Administrative Manager for the past 10 years. She has been an extremely valuable, dedicated employee, and is the hub of their organization. The Town recognizes the care she has taken over the years for the Town and the community, thanked her for her contributions, and wished her the best in her much-deserved retirement.

Mayor Pro Tem Brekhus congratulated Ms. Lopez on her retirement and said many residents have commented on how the Town is recognizing her, given her dedication over the years. It is incredible how many hats Ms. Lopez wears, recognized her service to the Town Council and community, and voiced appreciation. She thanked Ms. Lopez in her retirement.

Council Members individually recognized Ms. Lopez for her work, her dedication and commitment to the Town over her 17 years of service, said they will miss her and Mayor Pro Tem Brekhus then read a Proclamation into the record regarding Ms. Lopez's service to the Town and wishing her well in her retirement.

Town Clerk/Administrative Manager Linda Lopez thanked the Town Council, and staff and the community for their kind words, said she is very moved by this, said she has enjoyed a great deal working for the Town, and said she will miss everyone.

**7. Introduction and welcome to new employee Cyndie Martel, Town Clerk/Administrative Manager**

Town Manager Johnson introduced Cyndie Martel, the Town's new Town Clerk/Administrative Manager. Ms. Martel joined the Town of Ross on November 28, 2022 and is currently training with Ms. Lopez and will take over Ms. Lopez's duties fully on December 21<sup>st</sup>. She gave a background of Ms. Martel who most recently served as the District Clerk/Office Manager for the Tamalpais Community Services District. She is a long-time Marin County resident and spends much of her time enjoying the beautiful outdoors. A round of applause followed and Council Members welcomed Ms. Martel to the Town.

**Agenda Re-Arrangement**

Mayor Pro Tem Brekhus announced that Agenda items 18 and 19 would be moved to be heard between Agenda items 15 and 16.

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

Diane Rudden, 39 Willow Avenue, Age-Friendly, thanked Ms. Lopez in her retirement for her assistance and said she will be missed.

**9. Mayor's Report**

In the Mayor's absence, there was no report.

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

Council Member McMillan reported the Marin Wildfire Prevention Authority Annual Report was put in each Council Member's box and it is also posted on the Town's website. It is full of great information about what MWPA has accomplished in Year 2. They are having their first in-person Board meeting on December 15<sup>th</sup>.

**11. Staff & Community Reports.**

**a. Town Manager**

Town Manager Christa Johnson provided the following updates:

- The Ross Common Fields will begin its annual reseeding and maintenance closure beginning December 20/21 through the start of baseball season in early March. The area left open this year will be coordinated as the area closest to the Post Office side of the Common because the field closest to the blacktop and school requires the most attention and time to heal.
- Staff continues to work to install the drinking fountain on Ross Common. The porta-potty enclosures are complete and the Town thanks RPOA for taking on the additional work.
- Rain is forecasted to continue through Saturday and staff does not expect the creek to flood but will be monitoring it and the streets as well as downed trees and will call in for reinforcements, as needed.
- The Public Works Department staff have been clearing out storm drains and Town-maintained ditches to prepare for the rainy season. The Town asks residents to keep gutters and water courses running through their properties clear of debris.

- PG&E staff has confirmed that they will give a presentation to the Town Council at the January 12<sup>th</sup> meeting regarding tree maintenance and removal program and how they notice the public when closing streets or for planned power/gas outages.
- Town Hall will be closed for the holidays beginning Monday, December 26-30. On Thursday of that week (December 29<sup>th</sup>) the Building Inspector will be performing inspections. Town Hall will reopen on Monday, January 2, 2023.
- It is with regret that the Recreation Manager, Gretchen Castets is leaving the Town around the beginning of the new year. She has worked for the Town for 6 years, with her start as Recreation Clerk, promoted to Administrative Assistant and then to Recreation Manager. They are grateful for her leadership of the department through COVID and she especially loved her work as liaison for the Age-Friendly Task Force and to have brought back recreation programming to its pre-pandemic levels. Staff will miss her and a round of applause was given.
- She wished everyone a safe and happy holiday season.

**b. Ross Property Owners Association**

Erica Bell, Co-President, RPOA, thanked the Town Council and staff for providing the lovely decorations around town, lights in the Commons, and wreaths around the Post Office. Their Winter Fest at Ross School on Saturday on the Commons was unfortunately canceled due to weather; however, the ice-skating rink happened as planned and was a huge success, as over 300 people purchased tickets in less than one day. They are working on Welcome to Ross brochures to be mailed to every resident, with a display in the Post Office, are working on an historical tour to help promote fun facts and stories about Ross. The next event will be Live on the Common on May 12<sup>th</sup> and Ross Auxiliary will have another Spring Fling Easter Hunt on the Common, as well.

**12. Consent Agenda.**

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

**a. Minutes: 11/10/22**

**b. Demands.**

**c. Town Council consideration of adoption of Resolution No. 2281 Assembly Bill 361 Amending Open Meeting Laws to Expand Teleconference Meeting Options During Proclaimed State of Emergencies.**

**d. Town Council consideration of adoption of Resolution No. 2288 amending the Town Manager's Employment Agreement and authorizing the Mayor to execute the Amendment, and Approval of Update to Town of Ross Salary Schedule.**

Council Member McMillan moved and Council Member Kircher seconded, to approve Consent Calendar Items a, b, c and d. Motion carried unanimously (4-0-1; Kuhl absent).

**End of Consent Agenda.**

**13. Public Hearings on Planning Projects – Part 1**

**a. 71 Shady Lane, Demolition and Design Review, and Town Council consideration of Resolution No. 2282.**

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 Demolition and Design Review to demolish the existing guest house and construction of new landscape improvements. The project proposes a new swimming pool, pool equipment, new deck, fire pit, BBQ, and plantings.

Recusal: Council Member Robbins recused herself from participating in Agenda Item 13a due to her residence proximity within 500 feet.

Director of Planning Rebecca Markwick gave the staff report and overview of the request for demolition and design review at 71 Shady Lane.

Brad Eigsti, landscape architect, said they have worked diligently on the project with staff, have prepared studies with FEMA flood zone, said their project conforms to all regulations, said they received unanimous approval from the ADR, and was available for questions.

There were no questions from Council Members for the applicant. The public comment period was opened.

Wendell Nicolaus said they are neighbors to the south and sent a letter to Council Members which sets out their objections and the ADU policy of the Town. The pool, deck, outdoor kitchen and ADU are elevated 2 ½ feet above ground level which is a great noise and light concern and would allow a flood water bypass. He therefore asked to place these items at ground level. The plans show a large 12x30 overhead trellis from the roof of the ADU extending west over the deck toward the pool.

The trellis was not shown on any previous plans they received and it would be 15 feet above ground level and will significantly add to the mass. He asked if the trellis increases the usable ADU square feet above 800 square feet, thereby requiring Council approval. Finally, Stetson justifies a significant reduced flood bypass around the south side of the project because the ADU is in the shadow of the main house and would not have an effect on water levels, but flood waters have and will end up on Shady Lane.

*Rebuttal – Applicant*

Stephen Sutro, applicant, said they think the project conforms in all ways and the trellis is part of the usable terrace and pool area and is part of the plan to enjoy the buildable area of the lot relative to outdoor use allowed.

Council Member McMillan asked and confirmed the ADR reviewed the trellis.

Mayor Pro Tem Brekhus closed public hearing.

**Council Member McMillan moved and Council Member Kircher seconded, to approve 71 Shady Lane and adopt Resolution No. 2282. Motion carried unanimously (3-0-1-1; Kuhl absent, Robbins recused).**

Rejoined Meeting:

Council Member Robbins rejoined the meeting via Zoom teleconference.

**b. 118 Winding Way, Accessory Dwelling Unit and Town Council consideration of Resolution No. 2283.**

James and Mary Buie, 118 Winding Way, A.P. No. 072-091-13, Zoning: R-1:B-5A, General Plan: VL (Very Low Density), Flood Zone: X (Moderate risk).

**Project Summary:** The applicant is requesting approval of an Accessory Dwelling Unit (ADU), to construct a 788 square foot (ADU). Due to the natural grade, the ADU is over 16 feet in height, therefore requires an ADU Exception Permit. The project also proposes a new 250 square foot patio with a trellis, exterior work on the main house including a skylight above the stairs, replacement of a pair of French doors with a single door on the south elevation, and adding a small window on the east elevation.

Assistant Planner Lopez-Vega gave the staff report and overview of the request for construction of a 788 square foot ADU, a new 250 square foot patio with a trellis and exterior work on the main house.

Ron Sutton, applicant, waived his presentation and said he was available for questions of the Council.

Mayor Pro Tem Brekhus confirmed there were no Council questions, and she opened the public comment period and there were no speakers.

Mayor Pro Tem Brekhus closed the public hearing.

**Council Member Kircher moved and Council Member McMillan seconded, to approve 118 Winding Way and adopt Resolution No. 2283. Motion carried unanimously (4-0; Kuhl absent).**

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

Administrative Agenda.

**14. Public Hearing: Town Council consideration of adoption of Resolution No. 2284 establishing Marin Sanitary Service rates for 2023.**

Town Manager Johnson gave the staff report and overview of the request for Council consideration to adopt a Resolution establishing MSS rates for 2023, effective January 1, 2023.

Mayor Pro Tem Brekhus opened the public hearing.

Patty Garbarino, MSS, voiced appreciation for the ability to service the Town's needs, introduced Justin Wilcox from RGM, CFO Jason Raleigh, and Legislative Analysis Ruben Hernandez to answer any questions. She spoke about SB 1383 which bans organics from the landfill to reduce GHG effects, alternative fuels pathway for their fleet, recent ratification of their Teamsters contract, and spoke about their customer appreciation day and tour on September 24<sup>th</sup> and invited residents to visit their facility.

Mayor Pro Tem Brekhus closed the public hearing.

**Council Member McMillan moved and Council Member Kircher seconded, to adopt Resolution No. 2284 establishing Marin Sanitary Service rates for 2023. Motion carried unanimously (4-0; Kuhl absent).**

**15. Town Council discussion/action regarding the potential addition of Pickleball Courts to the Ross Town Tennis/Platform Tennis Facility, and Town Council consideration to appropriate funding in the amount of \$10,000 from the Facility and Equipment Fund to complete the work.**

Recreation Manager Gretchen Castets gave the staff report, background from the November 10<sup>th</sup> Council meeting, and the recommendation to direct staff to implement a trial Pickleball program by adding 4 Pickleball court lines to one tennis court to make it a multi-use facility, and appropriate funding in the amount of \$10,000 from the Facility and Equipment Fund to complete the work.

Council Member McMillan asked how long would the trial period be.

Public Works Director/Town Engineer Rich Simonitch said he would think the trial would be for a full spring, summer, and fall season.

Town Manager Johnson asked when the courts are scheduled to be resurfaced. Mr. Simonitch said the courts have a 15-year life and they were done about one year ago. Next fall would be a good check-in period.

Council Member Kircher said the proposal is to paint Pickleball lines on the tennis courts and leave the tennis court lines as well. He asked how the Pickleball lines would be removed if necessary without resurfacing or repainting the whole surface.

Mr. Simonitch said the paint color chosen back in 2019 are standard colors. They would simply repaint over the Pickleball lines at a nominal fee.

Council Member Kircher said he received comments from residents that lines painted can be somewhat distracting or confusing to tennis players. He asked if there is a way to minimize that confusion and make the Pickleball lines more distinct.

Mr. Simonitch said he will be speaking with the consultant who works on this and find out what the best contrasting colors would be. He thinks it will work out well as this has been done all over the country and they will find the best solution for both sports.

Mayor Pro Tem Brekhus opened the public comment period.

Barbara Call said she has a friend who loves Pickleball who plays all the time. She wants to know if it is difficult to learn and whether there might be classes for it.

Mayor Pro Tem Brekhus suggested speaking with Parks and Recreation staff for classes.

Robert Archer asked that Ross take leadership, determine what is going on in adjacent communities and look to establish a process for new Pickleball courts. He appreciates this being a trial and monitoring is important, as well as how the reservation system works for the court, and including the hope that new facilities might be established in the County.

Mayor Pro Tem Brekhus closed the public comment period.

Council Member McMillan said once lines are painted on the Pickleball court she asked and confirmed this would not preclude someone from playing tennis on the same court. She asked about monitoring as to the number of people using the Pickleball court.

Ms. Castets said currently the tennis court and platform tennis court facility is first come, first served. Staff has not implemented a reservation system given staff resources. She is sure feedback will be heard from people if any problems arise from not being able to get on the court. They can institute a sign-up sheet at the courts or could move forward with another type of system if needed.

Mayor Pro Tem Brekhus suggested a motion.

**Council Member McMillan moved and Council Member Kircher seconded, to direct staff to implement a trial Pickleball program by adding 4 Pickleball court lines to one tennis court to make a multi-use facility; and appropriate funding in the amount of \$10,000 from the Facility and Equipment Fund; and direct staff to return the item sometime in the fall to hear trial results. Motion carried unanimously (4-0; Kuhl absent).**

**18. 8 North Road, Demolition, Design Review, Nonconformity Permit, and Accessory Dwelling Unit, and Town Council consideration of adoption of Resolution No. 2287.**

Clara and Sam Ditter, 8 North Road, A.P. No. 073-173-06, Zoning: R-1:B-10, General Plan: ML (Medium Low Density), Flood Zone: X (Moderate risk).

**Project Summary:** The applicant requests approval of Demolition, Design Review, Nonconformity Permit, and Accessory Dwelling Unit (ADU). The project proposes to demolish a portion of the front porch, two bay windows, and an attached garage with a roof deck. The project also proposes to construct a new two-car garage which will connect to the main house by a passageway. A new deck is being proposed above the passageway and will have painted wood guardrails. A new driveway gate, entrance gate, an outdoor kitchen is proposed in the backyard, and new landscaping and hardscape is proposed throughout the property.

Assistant Planner Lopez-Vega gave the staff report and overview of the request for approval of demolition, design review, nonconformity permit, and ADU. The applicant has amended the plans according to the ADR's advice which include lowering the plate height of the ADU to 9 feet, extending and proposing a hedge along the rear lot line further south to meet the trees and for the new garage to match the main house roof. Staff recommends the Council adopt Resolution No. 2287 approving the project.

Council Member Kircher asked and confirmed there have been no objections to the project.

Mayor Pro Tem Brekhus called on the applicant for a presentation, and the applicant did not wish to make a presentation.

Mayor Pro Tem Brekhus opened the public comment period, and there were no speakers.

She commented that she did not receive a response from the project applicant asking her to come and see the property. She feels it is a large enough project that she would have liked that orientation from the applicant or architect.

Council Member McMillan commented that in the past, the applicant had the requirement to reach out to each Council Member versus what is in place now where the Council Member contacts the applicant. Therefore, she believes the past process has worked much better for the Council.

Mayor Pro Tem Brekhus said she likes the architect's work but had questions about the property's rear grade differential, the effect of the redwood trees, and understanding better the porch changes, so she wondered what was driving the various changes.

Barbara Chambers, Architect, said the grade in the back by the ADU goes naturally downhill. The pool currently exists so there was no place else to put the ADU and they placed it parallel to the pool and the grade in the rear of the ADU, which no one can see, goes off 4 or 5 feet in the back. Underneath the ADU, they have about 7 feet of storage area which is underground.



Mayor Pro Tem Brekhus asked if there is a brick retaining wall there which she observed when she was at the property. Ms. Chambers said the grade slopes off in the back of the site. From the street, the pool area is flat and at the back of the ADU is where it slopes off. The retaining wall is there for the play area and she deferred to the landscape architect. She noted there is a holding tank in the back, and Ms. Marwick displayed the ADU.

Mayor Pro Tem Brekhus said where the story poles were located, it spanned on either side of it and went right up into the redwood trees so they would need to be limbed or removed.

Ms. Chambers said a few of the trees were being removed, and she asked if the landscape architect was present.

Ms. Markwick stated the trees are proposed to be removed. The property owners have spoken with the neighbors in the back and it was reviewed by the ADR. This is one of the reasons the ADR recommended continuing the hedge along the southern property line. The ADR were not in favor of removing trees, but since it worked between the neighbors they could support it.

Ms. Chambers noted the neighbors were very much in favor of removing them. They felt they were too large and had tried to work this out with the previous owner and were quite happy about the tree removal.

Mayor Pro Tem Brekhus said the ADU is ministerial, and Ms. Chambers said it is except for the height. She asked and confirmed the ADU is 800 square feet. The only reason this is before the Council is because they are slightly above the 15 foot height because of the slope of the natural grade in the rear.

Mayor Pro Tem Brekhus called on speakers to provide public comments.

Nancy Tully said she and her husband, Herb live next to this property. They are in favor of approval, and are fine about the smaller redwood trees on the north side that will be removed. It was their understanding based on the ADR meeting that the 5 large trees were staying which are right where the ADU is, but the Council is under the impression all the trees are being removed. They hope those redwood trees get trimmed and opened and potentially they will see some of the ADU, but it was not their understanding that these 5 larger trees would be removed.

Mayor Pro Tem Brekhus said staff can clarify that.

Mrs. Nancy Tully said other than the 5 trees, they are supportive of the entire project.

Ms. Markwick confirmed that these trees are not going to be removed, and there is a note on the plans that state these 5 trees are to remain.

Albert Cruz said they are the landscape architects and the trees will remain and need to be trimmed up. The question about the retaining wall by the play area is only 18 inches in height and it is to level off the area to the lawn.

Clara Ditter, property owner, said she is happy to answer any other questions.

Mayor Pro Tem Brekhus closed the public hearing.

Council Member McMillan noted that on all documents they show the 5 trees remaining in various iterations.

Mayor Pro Tem Brekhus said the Council has received emails about two different items, and she asked if parking on site during construction is included as a condition of approval.

Ms. Markwick said a condition of approval requires a parking and staging plan as well as a construction management plan prior to building permit issuance and they will be involved with that plan.

**Council Member Kircher moved and Council Member McMillan seconded, to approve 8 North Road and adopt Resolution No. 2287. Motion carried unanimously (4-0; Kuhl absent).**

**19. 196 Lagunitas Road, Demolition, Design Review and Nonconformity Permit, and Town Council consideration of adoption of Resolution No. 2286.**

Cameron and Elizabeth Breitner, 196 Lagunitas Road, A.P. No. 073-171-11, Zoning: R-1:B-10, General Plan: ML (Medium Low), Flood Zone: X (Moderate risk).

**Project Summary:** The applicant requests approval of Demolition, Design Review and Nonconformity Permit to demolish the existing single-family home and accessory structures. The project proposes to construct a new 6,901 SF two-story single-family home, attached garage, outdoor dining area and pool. The project also proposes new landscaping and hardscape throughout the property, including a new driveway, and guest parking.

Director of Planning Markwick gave the staff report and overview of the request for design review and nonconformity permit to demolish an existing home and accessory structures and to construct a new 6,901 square foot two-story single family home, attached garage, outdoor dining area and pool, as well as landscaping and hardscape, driveway, and guest parking. The project conforms to all development requirements.

The project was reviewed by the ADR's November 15<sup>th</sup> hearing and they unanimously recommended that the project is consistent with the purpose of design review and criteria. They recommended approval with a few recommendations. They agreed that the height of the home should be lowered by two feet and to remove the second story balcony at the bedroom at the east side property line. The project architect submitted revised plans which are before the Council.

Prior to the November 15<sup>th</sup> ADR hearing, staff received 10 emails in support of the project. One email from the neighbor to the east was supportive; however, she was concerned about privacy which was reviewed at the ADR hearing and plans have been amended to reflect her concerns.

There have been no further emails received since that time. However, this week 5 emails have been received. One has no objection to the project but with concerns about parking on Walnut. The second and third emails received voiced concerns about parking on Walnut. The fourth email had concerns about Olive and Walnut and that email agreed with the ADR members that the project needed to be lowered. The fifth email received was not supportive of the project and felt the home was out of place with surrounding properties on Lagunitas.

Tonight, staff recommends the Town Council consider adoption of Resolution No. 2286 approving the project as described.

Council Member McMillan asked and confirmed the project is outside of the front yard setback and there are no variances requested.

Council Member Robbins said she noticed on the picture of the house there is a fence and shrubbery on the inside of the fence. She asked if homeowners are asked to put landscaping on the outside of a fence so the appearance from the street is lush and the fence not visible.

Ms. Markwick said she cannot think of a policy that requires landscaping in front of a front yard fence. However, the Town has extensive landscape design review criteria that could warrant requiring this.

Mayor Pro Tem Brekhus asked for the applicant to provide a presentation.

Cameron Breitner, applicant, introduced his wife, Elizabeth and thanked the Council for moving the item up on the agenda. He introduced their architect, Sean Bailey present.

Sean Bailey, Architect, said the project takes 3 non-compliant existing dwelling units and proposes one main residence that fits within the building envelope. It is fully compliant with Ross Planning Code, design guidelines, and they are requesting no variances. They enjoyed positive neighbor support during the ADR hearing including 12 letters of support of adjacent neighbors. The ADR asked them to look at the maximum height which was dropped 2 feet per their request. He noted the story poles reflect the old height, so those would be reduced by 2 feet. Their height is now 3'4" below the maximum height and 3'7" below the existing main residence roof. They also removed the upper level deck per request of the ADR.

Lastly, they received recent letters regarding parking issues and they intend to follow all construction rules and their site is larger and set up well to accommodate vehicle parking for construction workers and staging.

Mayor Pro Tem Brekhus opened the public comment period.

Dustin Moore Strata, Architect, referred to Council Member Robbins' comment regarding planting in front of the fence and said they are planning to do that. They are not allowed to show anything outside of their property line in this round of design but they will use a mix of manzanitas and other California natives in front of the fence.

Mayor Pro Tem Brekhus opened the public comment period, and there were no speakers.

**Council Member McMillan moved and Council Member Kircher seconded, to approve 196 Lagunitas Road and adopt Resolution No. 2286. Motion carried unanimously (4-0; Kuhl absent).**

**16. Town Council discussion of a summary of public comments on the Draft Housing Element submitted during the 30-day review period and provide direction to staff to send the Draft Housing Element to Sacramento and start the legally-required 90-day Housing and Community Development (HCD) review.**

Andrew Hill, Housing Element Consultant, Dyett & Bhatia, said they began the project in March and over the last 8 months worked with the community and stakeholders to develop a plan to help the Town satisfy the legal requirements for the Housing Element while also trying to preserve and enhance the aspects of Town character. He described release of the plan for public review, introduced the draft Housing Element, reviewed feedback received on the draft, and asked to obtain direction from the Council to send the Draft Housing Element to HCD to begin the State review period. HCD has 90 days to review and provide comments on the Draft Housing Element, so tonight's recommendation is not to adopt the Housing Element but to begin the review process.

Mr. Hill then gave a PowerPoint presentation covering legal requirements, process and schedule, overview of the content, a summary of comments received, and next steps.

Council Member McMillan referred to the buffer and asked what is the bare minimum buffer needed for each income category. Mr. Hill said there is no rule, but as a rule of thumb many jurisdictions say 10% and some go with 5%. The law states the zoning map must have capacity to meet the RHNA, so if one of the projects in the Town's inventory does not develop as anticipated or with fewer units the buffer is there to provide sufficient capacity in the inventory. If not, the Town may be in a pinch to rezone a property to find more units.

Council Member McMillan asked and confirmed at least 5% would be prudent.

Town Attorney Ben Stock said HCD does have a recommendation of over 10% and it is his understanding that if going lower than 10% the Town may look closer to ensure that lower threshold will hold up over the years.

Council Member McMillan asked if other jurisdictions were proposing housing on their public land and becoming land owners to meet their RHNA and approval of their Housing Elements.

Mr. Hill said yes, some are doing that. He thinks it demonstrates meaningful action and the Town's commitment to satisfy local housing needs. In Ross's case, because of the price of land, constructing affordable housing for a non-profit developer is daunting, so it is an important gesture that will go a long way towards making that meaningful contribution.

Council Member McMillan asked in that scenario whether the Town would serve as the landlord for those units.

Mr. Hill said no, not necessarily. The situation on the Town Center site versus the situation on the Post Office site as envisioned in the draft are different. In the case of the Civic Center site, 6 units would be constructed as proposed as part of the master plan. On the Post Office site, the Town would look for a non-profit partner and would work with that partner to facilitate development. Through that partnership, the Town may retain ownership; however, the operation and maintenance of the units would likely be through the non-profit operator. There is nothing to say the Town could not find a partner and manage the Civic Center site as well if that is what the Town wanted to do.

Mayor Pro Tem Brekhus said the Town must rebuild their facilities, but if they are contemplating building 6 or more units on the Civic Center site she asked if they would necessarily have to go out to bond to residents to fund the construction of those. The idea that the community would subsidize affordable or workforce housing on this site seems daunting.

Ms. Johnson said at this time, financing is very premature because the Town has just begun discussion of a planning process for the Civic Center site. There are many options, functions, needs, etc. and coupled with that, the scope of work is to put together costing which will be very important in the Council's decision-making process. She thinks before adding in the element of housing, how the Council ends up funding this will have various options.

Council Member Robbins said in thinking about the Post Office site, if there were 6 units there, it would mean 6-9 vehicles and this will remove 6 existing parking spaces, so they are looking at 12-15 spaces that would have to be created to remain net neutral. The parking lot also serves as a loop around for cars to make U-turns including parents dropping off students at Ross School. She asked if there is room in the parking lot for a structure of 6 units plus parking, plus the loop around.

Mr. Hill said the concept is to design that portion of the site so all existing parking would remain. Additionally, a program in the Housing Element proposes to do a downtown area plan that would think holistically how to integrate the new housing, circulation, vitality, etc. He also said there is potential to look at striping of existing parking spaces at the Ross Common which are quite wide.

Council Member Robbins said that plan had been reviewed years ago and there was consideration to remove the loop and there was an outcry. She asked if a potential parking garage could make up the spaces that would be lost.

Mr. Hill said they have not gotten into the design of the site, but they would find a way to have the housing sit over the parking so there is not a loss of parking space.

Mayor Pro Tem Brekhus said the Post Office is in terrible shape and it may need to be rebuilt at some time. Another option that would be less expensive and less impactful would be to build the units above the Post Office. She asked if it is possible that the Town wants to look at housing either over the Post Office or over the Post Office parking area. This would be more desirable and the design could mimic a historic look for the units.

Mr. Hill said yes, this is a modification that could be made.

Council Member Kircher voiced support for that idea. It makes sense, but they are just talking about concept now and the devil will be in the details, and whether a developer would be interested and whether this is feasible. He said workforce housing keeps coming up and the Town is very interested in this because teachers and others must commute in and out of the town. He asked if the Town can give priority to their workforce.

Town Attorney Ben Stock commented there are ways to implement this and the Town can have a geographical preference in the Housing Element.

Council Member McMillan said in looking at Table 1, the Town is way over the 10% in the low and very low categories. If you subtract the 6 at the Post Office and 6 at the Civic Center, they get to a 10% buffer. She wondered if it would be prudent in this submission to subtract the 6 and 6 and keep them as the buffer to resort to them as necessary. She is hesitant for the Town to serve as a landlord or developer. This is one of the reasons they decided not to rebuild 6 Redwood Road.

Mr. Hill said he does not know of any jurisdiction that has tried to do its RHNA entirely through ADUs. There would be the Branson units, but it would be even more dependent on ADUs. They are making a robust projection, and he is expecting push back from HCD in their review of that. He did not think they will object to the numbers so much but how many the Town is counting towards lower income RHNA.

The Town has a program in the Housing Element to offer development fee discounts for anyone whose deed restricts, but he imagines the comments will focus on wanting to do more to incentivize or even require units for lower income. So, his concern would be for making a good faith effort and get more support for a robust projection of ADUs. He would be worried that walking it back might make them look more critically at the ADU projection numbers. So, it is at the Council's direction to decide about which sites go on the Draft that is sent to HD for review, but he thinks they need to think strategically about that. Ultimately, if they include a Town-owned property, he recommended doing it right out of the gate.

Council Member Robbins said for the Town to make a commitment, she thinks the Post Office site disrupts the center of town in a way that is irreversible in aesthetics, traffic, parking, etc. For the purposes of submitting the draft to HCD, they could take those 6 units and put them on the Civic Center site and have 12 units they submit. Mr. Hill confirmed this is an option.

Mayor Pro Tem Brekhus said if these 12 units are needed and then suddenly they go out to bid and only build 3, they will have eliminated 9 sites from their plan, and their plan must be sufficient.

Council Member Robbins asked if they could continue to look for sites over the 8 year period.

Mr. Hill said for HCD to certify, they want to certify on the basis of seeing the sites the Town comes up with in the next 6 months.

Mayor Pro Tem Brekhus asked if they would need to redo the Housing Element mid-cycle with several more meetings and said personally she would almost shift the housing over the parking lot to the Post Office because they can maintain the downtown feel.

Council Member Robbins suggested calling that a site and not the parking lot of the Post Office. Mr. Hill said this is an option.

Council Member McMillan said she has heard this is a negotiation strategy with HCD and she has heard also it is not. In her mind, she would not put the Civic Center or Post Office sites at the outset. She would wait if it is a negotiation and make them return and tell the Town what they think and provide feedback. When it returns, the Council can look at other areas to rezone and she feels the Town is giving up initially when it does not have to.

Mayor Pro Tem Brekhus asked Town Counsel to explain whether it is a negotiation or not.

Town Attorney Ben Stock said it is not a negotiation. The Town submits its Draft Housing Element to HCD and they have an obligation to adopt its Housing Element by January 31<sup>st</sup> and have a certified Housing Element by May 2023. What the consultant is suggesting is to put their best foot forward in order to get certification earlier. If they do not get certification, there is a risk that someone can bring in a lawsuit and make decisions of where the sites should be as imposed by a court.

Councilmember Robbins asked if a court could impose a site on Town owned property, and Mr. Stock said yes. The court can decide which housing inventory sites are appropriate. In a worst case scenario, the court would prohibit the Town from issuing any other permits in the interim, and even design review for single-family residential, and require the Town to adopt the Housing Element as described by the court.

Mayor Pro Tem Brekhus opened the public comment period.

Barbara Call, 8 Redwood Drive, thanked the Council for all the time put in for meetings, said she wants the Council to do the right thing which is to remove the site from the Post Office parking lot over to the Sir Francis Drake Civic Center area. The consultant said it is up to the Council to have the discretion to do that, but the General Plan is very specific in what it states about the downtown area, which she recited as being a “business/retail area.” It says nothing about low income housing.

In addition, the Housing Element must be consistent with the elements in the General Plan. This site is so bad and she does not think anyone in Town supports it. There is more than enough room for 6 units or more at the Civic Center site and comply. The only advantage in the report mentioned access to public transportation which is much better at the Civic Center, as well as the ability to hire a non-profit group to develop housing.

Laura Rees, 12 Brookwood Lane, echoed Councilmember McMillan’s comments about ADUs and additional ways to be creative in bringing them into compliance. The small downtown can get very congested. They are in a flood zone, there are children running across the street, and they must think about the safety of children, the community, flooding, and basic needs. It sounds like there are other creative ways between the ADUs and other locations. She feels the downtown is a treasure and while ultimately they may not get the ADUs they need, they may need to go to the Post Office, but she asked to look at all other areas other than the downtown.

Thom Weisel asked for the rationale for including the Berg property. This is a remote area within Ross. It is never going to pass any EIR, it will be unbelievably expensive and he wondered if this was taken into consideration when the Council included that which will come out in the State’s review.

Mayor Pro Tem Brekhus asked staff to respond as to how the Berg site was selected.

Mr. Hill stated they performed an analysis of sites that are currently zoned to allow for housing. They found quite a number, but many are in steeply sloped terrain, are odd-shaped, and they narrowed it down to areas that could feasibly be constructed. They took public comments as well. That site particularly has a number of environmental constraints on it, but it is a relatively large site and within the steep topography there are areas relatively flatter, and so in consideration of that it was deemed feasible. There is also interest from the property owner in developing there and that was also taken into consideration.

Mayor Pro Tem Brekhus asked how the Berg site was being referred. Mr. Hill said at one point they were calling it Bingo and now it has been revised to Berg.

Mayor Pro Tem Brekhus confirmed that the 6 units are contemplated as single-family homes as opposed to 3 single family homes and 3 ADUs.

Mayor Pro Tem Brekhus closed the public comment period.



Council Member Robbins said because of the time crunch, the Town should send its Draft Housing Element to HCD, try to agree on what that should look like tonight, and her proposal would be to remove the 6 units from the Post Office parking lot, and would not be in favor of sending it to HCD with any units on the Post Office parking lot site.

Mayor Pro Tem Brekhus suggested exploring the St. Anselm's Church which has housing there and is not reflected in the plan. She also thinks it would be good to have the same flexibility between the two sites; the church rectory and/or the parking lot.

Mr. Hill said it will come down to property owner interest there, and if they can hold a discussion with the church representatives about what their plans are and what they may be open to. The reason the parking lot site is on the inventory right now is because zoning allows for housing. It is also within a flood zone and liquefaction zone and it would fit the bill for moderate housing.

Council Member McMillan said she agrees with Council Member Robbins about not having units at the south end of the parking lot south of the Post Office. She is not sure they need to have the units above the Post Office either and would be more comfortable not having any of those and they would still meet the buffer. She thinks to be prudent and exercise good faith, she would put 6 at the Civic Center and they are still well above the 10% on the low/very low income level if they just eliminate the 6 units at the Post Office, and they can explore St. Anselm's.

Council Member Kircher said he thinks it is important to move expeditiously on this. Time is not on the Town's side, and the sooner they can get something acceptable to the State the better. He is persuaded by the argument to not hold anything back and put your best foot forward just to expedite that period. The consequences of not meeting deadlines can be catastrophic. They want as much control of our process as they can have while still complying with State law.

Therefore, he thinks they should include the Post Office area whether it is 3 or 6 and they are saying in good faith that they think this is a possibility. That does not mean it will be built. They need a partner, designer, and he thinks they are justified in putting it in the plan. So, he would lean in that direction, and at the Civic Center, subject to planning for that. He would keep that buffer larger.

Council Member Robbins said her initial comment was to move ahead, but she does not want to include the 6 sites at the Post Office as she does not think it is viable. If that moves forward at all, it catastrophically changes the downtown and part of Ross, and they can meet the housing needs without changing the essence of the Town. She would submit it either some on top of the Post Office or as it is with the 6 or more units at the Civic Center.

Mayor Pro Tem Brekhus said she would keep the 6 units at the Post Office because if they take off some at the Civic Center, they still have the 6 at the Post Office, which gives them maximum flexibility. She did not think having 6 at the Post Office will ruin their downtown and it is a nicer site. Having 12 units at the Civic Center site will be difficult because that lot opens to the signal which would require a long driveway, and so she thinks it is not a good idea.

She would like to see staff reach out to Cedars to see if they want more units, Marin Art and Garden Center to see if they could have more units and find out why St. John's has not come forward and she thinks more discussion is needed with them about workforce housing. So, before getting comments back, she would like to explore that. She also believes the Town will have built so many ADUs. This will be wildly popular and then it will take the pressure off to do other housing if that is not feasible or more difficult to do. Therefore, she would adopt the Housing Element with the modifications she just discussed and send it in.

Council Member Robbins said if the Post Office site is on the plan, the Town will not have the right not to do it.

Mayor Pro Tem Brekhus said they do have the right to take it off, so they can rebuild the Post Office as is, not build that housing if they have a buffer that keeps them within the range. If there is no buffer and they take 6 or 12 sites off, then they must redo their Housing Element and it will not make for easier decisions later.

Councilmember McMillan noted it would be a floor above the existing Post Office. Council Member Robbins said she is not in favor of keeping this site of 6 units at the southern end of the Post Office.

Mayor Pro Tem Brekhus said all Council Members have agreed with that.

Town Attorney Stock suggested giving direction to staff to submit the Housing Element, and Mr. Hill confirmed direction was no housing over the southern portion of the Post Office parking lot, but over the Post Office itself, and revising the direction and map, as well as pursue other options while the review is in process.

Mayor Pro Tem Brekhus asked if they can put the parking lot on Bolinas and/or the rectory parking lot or rectory in the Housing Element, and Mr. Hill confirmed they can do this. It would not require a rezoning because the site is currently zoned to allow for housing so they would be simply expanding the color over the church itself and the possibility of where the property owner would be amenable. It does not change the numbers in the table. It is just the way the APN and map is shown.

Council Member Kircher said it was noted that there are some typographical errors or incomplete items. He noted that an error referred to something being done within 30 days that he thinks has already been done; however, he did not know the page and asked Mr. Hill to check this.

Mayor Pro Tem Brekhus also asked to revise the word "deed" which was "dee" and "rent" was "ren" and Mr. Hill said they will fix this.

- 17. Environmental Impact Report (EIR) scoping meeting to solicit input from the public and agencies on topics that should be addressed in the Environmental Impact Report for the Housing and Safety Element. No Town Council action required.**

Mr. Hill stated because implementing the Housing Element could result in significant impacts, it has been decided an EIR is required. Under State law, the Town must conduct a public scoping meeting to hear about the scope and content of environmental issues to be included in the EIR and tonight comments will focus on the potential environmental issues and solutions to address them rather on the merits of the Housing Element itself.

The EIR will be a programmatic EIR which means it will look at implementation of the Housing Element itself rather than implementation of any project. The purpose of the EIR is to inform decision-makers and members of the public about the potential environmental impacts of the plan.

The EIR will include a description of the proposed plan, identify the existing environmental setting and describe any potential impacts, and include mitigation measures that can reduce or avoid those impacts. He presented a snapshot of the overall process for the EIR. There are defined points for public input and they are in the scoping period. On November 28<sup>th</sup>, the Town issued a Notice of Preparation for an EIR, and it invites comment on the scope of environmental issues and solutions to address them. The scoping period runs until the end of December and within the scoping period tonight, they are holding a public meeting to hear comments on environmental issues.

Following the close of the scoping period, they will take any comments received, address them in the DEIR and when ready, it will be released for a period of 45 days during which time people can review and comment on it. Following the 45 days, they will respond to comments and produce the FEIR which will come before the Council at the same time as the Housing and Safety Element.

The EIR will address all required environmental resource categories that are required under CEQA and with the Notice of Preparation, they also prepared an Initial Study of environmental impacts and that study found that the categories identified are likely to have potentially significant impacts and so those categories will be studied in detail in the focused EIR. The EIR will recommend mitigation measures to reduce or avoid them. He asked for comments on the scope and content of the EIR, and asked to hear public comments, hear any particular CEQA topic concerns, etc.

Mayor Pro Tem Brekhus opened the public comment period, and there were no speakers.

Council Members Robbins, McMillan, Kircher said they have nothing to add. Council Member Kircher added that the RHNA program has a big impact on public safety, but he is arguing against legislation already passed. He would not put 111 units in an area subject to wildfire, flooding, etc., but the State has made that decision for the Town.

Mayor Pro Tem Brekhus had no further comments, and she concluded the matter.

**End of Administrative Agenda.**

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

- 20.     *\*This item has been continued to January 12, 2023 Council meeting.***

**78 Shady Lane, Demolition, Design Review, and Variance, and Town Council consideration of adoption of Resolution No. 2285.**

Tatyana Mirnova, 78 Shady Lane, A.P. No. 073-101-41, Zoning: R-1:B-10, General Plan: ML (Medium Low Density), Flood Zone: AE (High Risk).

**Project Summary:** The applicant requests approval of Demolition, Design Review, and a Variance to remodel the existing home, additions to the existing home, demolish the existing carport, and construct a garage in the side yard setbacks. The project also proposes a Nonconformity permit to two small second story additions. The proposed additions consist of 136 square feet and a lower floor addition of 116 square feet.

- 21.     *\*This item has been continued to January 12, 2023 Council meeting.***

**Town Council consideration of introduction of Ordinance No. 720, an Ordinance of the Town of Ross, amending Ross Municipal Code Chapter 12.24 “Planting, Alteration, Removal, or Maintenance of Trees” (Tree Protection Ordinance).**

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

- 22.     No Action Items:**

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

- 23.     Adjournment.**

Mayor Pro Tempore Brekhus adjourned the meeting at 8:46 p.m.

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Elizabeth Brekhus, Mayor Pro Tempore

**ATTEST:**

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Cyndie Martel, Town Clerk