

REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, DECEMBER 14, 2023

Held In-Person and Teleconference via Zoom

1. 5:15 p.m. Commencement.

Mayor Elizabeth Brekhus (via Zoom); Mayor Pro Tem Bill Kircher, Jr.; Council Members Beach Kuhl, Julie McMillan, Elizabeth Robbins; Town Manager Christa Johnson; Town Attorney Benjamin Stock.

2. Posting of agenda.

Town Manager Johnson reported that the agenda was posted according to government requirements.

3. Closed Session.

a. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: (33 Sir Francis Drake Blvd., Ross CA 94957)

Town negotiator: (Town Manager)

Negotiating parties: (Ross Valley Paramedic Authority)

Under negotiation: (Instruction to negotiator on both price and terms of lease payments)

4. 6:05 p.m. Open Session. Council will return to open session and announce actions taken, if any.

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

5. Five Year Service acknowledgement for Eric Robbe, Senior Building Inspector.

Town Manager Christa Johnson recognized Eric Robbe, Senior Building Inspector, for five years of service to the Town of Ross. She provided an overview of Mr. Robbe's previous experience as San Anselmo's building inspector for 13 years, his economics degree from Chico State University, that he has helped the Town transition from a paper permitting process to a computer-based system called Trak-It. He was instrumental in building permit files and plans from hard copy boxes, that had to be physically stored, to an electronic system which is used daily and is very effective for customers and Town staff. He performs inspections throughout the day and answers many code questions. He estimates he has been to about 50% of the properties in Ross and ensures on site construction matches project plans. Mr. Robbe has a can-do attitude and a strong sense of teamwork and his connections with contractors and people out in the field is invaluable to Ross and its residents. Mr. Robbe was then presented with a certificate of appreciation by Mayor Pro Tem Kircher recognizing his five years of service. A round of applause followed.

6. Mayor's Report (Read by Mayor Pro Tem Kircher)

As we approach the festive season, I am filled with gratitude and joy to extend warm holiday greetings to each and every member of our wonderful community. The spirit of the holidays is not only about celebration but also about reflection, gratitude, and the warmth that comes from being part of a caring and vibrant community like ours.

I am delighted to share with you some heartwarming stories about the incredible efforts and dedication of our town's staff and volunteers who have gone above and beyond to make this holiday season special for all.

1. Community Outreach and Support: The collaboration between the school and the Town, including Ross Recreation, has been to the benefit of the entire community. This manifests itself in the school using the Ross Town Commons for school use, the school keeping its facilities including the blacktop open over the weekend for the community, the Town Recreation Department offering discounts to school employees, and the Town's use of the school stage as needed. Another collaboration I heard about at a recent Ross Leadership Cabinet meeting is Cedars use of the Branson School to host their school prom. As many of you know, a significant amount of volunteer activity occurs by individuals associated with the school and community groups, from organizing food drives to distributing essential supplies and gift giving, individual parents, students and community groups' commitment to helping fellow residents showcase the true spirit of unity and compassion.

2. Festive Decorations: Our town has transformed into a winter wonderland thanks to the hard work and creativity of our dedicated public works staff and the Ross Property Owner's Association. The beautiful decorations lining our streets, parks, and public spaces are a testament to their artistic talents and commitment to creating a magical atmosphere for all to enjoy.

3. Special Events and Activities: In collaboration with our enthusiastic volunteers, community groups including MAGC, Pixie Park, the Ross Property Owner's Association has organized a series of special events and activities including an ice skate rink, holiday lighting and a bake sale to bring joy to residents of all ages. In doing so, they provide numerous opportunities for our community to come together and celebrate the season.

4. Safety and Well-being: Our police and fire department staff remains vigilant in ensuring the safety and well-being of our residents during the holidays. Whether it's monitoring our school, working toward safe bike and scooter use, enhancing security measures for public events, or providing timely updates on weather conditions, their dedication to your safety is unwavering.

5. Thank You to Volunteers: I also want to express my deepest gratitude to all the volunteers who have generously contributed their time, energy, and skills to make our Town a better place. But in particular, I want to thank and highlight Joey Buckingham, Stephen Sutro, Mark Fritts, Laura Dewar, and Mark Kruttschnitt, for their time and dedication serving on the Advisory Design Review Group also called the ADR. This group of individuals does much of the heavy lifting for the Council as we review home renovations and projects to make this community a beautiful place to live and ensure architectural excellence in design. Your selfless efforts have not gone unnoticed, and your commitment to our community is truly commendable.

As we celebrate this festive season, let us remember the importance of kindness, generosity, and community spirit. May the holidays bring you joy, warmth, and the company of loved ones. Wishing you and your families a Merry Christmas, Happy Hanukkah, and a joyful New Year!

7. Council Committee & Liaison Reports.

No reports.

8. Staff & Community Reports.

a. Town Manager

Town Manager Johnson provided the following updates:

- Big thank you to RPOA and the Ross Aux for planning a super fun Winterfest event at MAGC the weekend before last. Also big thanks to MAGC for opening up to the community in such a magnificent way.
- The police department is supporting the new pathway on Laurel Grove by proactively positioning a marked unit on Laurel Grove at Monte Allegra during peak pedestrian and bicycle times. This is being done to help motorists and kids get used to the new pathway and to calm traffic in the area.
- A special tax for public safety services and an increase of appropriations limit in the Town of Ross will be on the March 5, 2024 ballot for which Ross residents will vote. The public safety tax is not new, but a renewal of the existing parcel tax. The County Elections office assigned it as Measure E on the ballot.
- Town Hall will be closed starting Dec 25th through New Year's Day. However, building inspections can be scheduled for December 27 and 28th.
- She thanked the Town Council, the Town Attorney, and all Town staff and volunteers for a productive year and wished them a very merry holiday season!

b. Ross Property Owners Association

Mathew Salter, RPOA, spoke about Winter Fest and thanked the Town for committing funding for the ice skating rink, lights and snow, for contributing to the winter lights, and reported they are working on adding another table in the Post Office. and a large lighting upgrade. They look forward to working with the Town in 2024.

9. Consent Agenda

The following items will be considered in a single motion, unless removed from the consent agenda. There were no requests for removal of items and no public comments.

- a. **Minutes: 11/9/23 Meeting & 11/9/23 Special Meeting Closed Session**
- b. **Demands.**
- c. **Town Council consideration and adoption of Resolution No. 2345 accepting the Fiscal Year Ended June 30, 2023 Annual Report on Development Impact Fees (AB 1600 Report).**
- d. **Town Council recommendation to hold a public hearing, waive the second reading and adopt Ordinance No. 725 amending Ross Municipal Code (RMC) Chapter 10.28 (Stopping, Standing, Loading & Parking) which was introduced at the November 9, 2023 Council meeting.**
- e. **Town Council consideration and adoption of Resolution 2349 for a one-year time extension for Design Review, Nonconformity Permit, Hillside Lot Permit, and Accessory Dwelling Unit Permit Exception to construct a new second-story accessory dwelling unit (ADU) above the existing detached garage; expand the existing accessory building at the first floor; and modify the existing entry gate and walls at 210 Lagunitas Road.**
- f. **Town Council consideration and adoption of Resolution No. 2350 approving the second amendment to the Town Manager's Employment Agreement to increase her annual salary 5% to \$259,087.50 effective November 8, 2023; 3% to \$266,860.12 effective November 8, 2024; amending the Town's salary schedule to reflect the amendment; and authorizing the Mayor to execute the Amendment.**

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

End of Consent Agenda.

10. Public Hearings on Planning Projects – Part 1.

- a. **45 Poplar Avenue, Design Review, a Non-conformity Permit, Demolition Permit and a Variance, and Town Council consideration of Resolution No. 2342.**
Kyle and Kathryn Rosseau, 45 Poplar Avenue, A.P. No. 073-273-02, Zone: R-1:B-7.5, General Plan: ML (Medium Low Density), Flood Zone: AE (Floodway)

Project Description:

The applicant requests consideration for Design Review, a Nonconformity Permit, Demolition Permit, and Variance. The project involves the demolition of an existing single-family residence. The applicant proposes a new two-story single-family residence in the same location as the existing home, maintaining the existing nonconforming front and side yard setbacks. The proposed residence consists of an 807 square-foot (SF) second floor and 1,005 SF first floor. The roof height will be raised from its existing height of 26'- 1" to 30'. Additionally, a new accessory structure will be constructed within the rear yard setback. The proposed exterior building materials are wood shingles and stone ledge siding. A new wooden deck is proposed in the rear yard providing an inviting outdoor space, and new pavers will be installed for a walkway in the front entrance area. The project also includes rehabilitating the existing landscape. A Variance is required for a new accessory structure within the rear yard setback. A Nonconformity Permit is required to reconstruct the existing nonconforming structure with regards to the north and south side yard setbacks. A separate application has been submitted for ministerial review of a 635 SF Accessory Dwelling Unit (ADU) in the front portion of the residence. The ADU is not subject to discretionary review.

Assistant Planner Alex Lopez-Vega gave the staff report and overview of the request for Design Review, a Nonconformity Permit, Demolition Permit, and Variance at 45 Poplar Avenue. Staff has received emails in support of the project from neighbors at 65 Poplar, 41 Poplar, 49 Poplar, 53 Poplar, 43 Poplar and 47 Poplar Avenue.

Council Member McMillan asked Mr. Lopez-Vega to speak on the mitigation of all increased impervious surfaces and drainage. Mr. Lopez-Vega deferred to the applicant.

Steve Geiszler, Gieszler Architects, explained they have some semi-pervious, some decking and walkways going in. There is also an impervious parking area, so it is the bare minimum to allow the house to function and connect with the street. When preparing the design, he paid attention to the design packet that guides applicants as to the character in Ross. They also have support from all neighbors around them, working with them to come up with a design that maintains privacy while allowing this house to expand and use the narrow lot to its full potential.

They pushed the house further back from the street so they have a bit more front yard. They also have the shingles and steep roofs seen in Ross, which all fit in under the height limit even though they have a flood plain. He concluded the project has been reviewed by the ADR Group and received unanimous approval, and he could answer any questions from the Council.

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

Council Member McMillan moved and Council Member Robbins seconded, to adopt Resolution 2342 approving 45 Poplar Avenue. Motion carried unanimously (5-0).

End of Public Hearings on Planning Projects – Part 1.

Administrative Agenda.

11. Town Council to receive a presentation regarding the evaluation of the Town of Ross Emergency Management Program conducted by Jeffries Public Safety Consulting.

Town Manager Johnson briefly introduced the item and recognized Chief Pata's leadership on the evaluation.

Police Chief Pata provided an overview of his work in creating short-, medium-, and long-term goals for assessing their emergency preparedness in the Town of Ross. He recognized the collaboration during this time and said an evacuation drill was held, they partnered with Age-Friendly and Marin Center for Independent Living and hosted some workshops for people who necessarily cannot get out of their homes. They recently participated with Fire Safe Marin at Cedars, sent a lot of literature out through the schools, knowing this was a great conduit to get the message out, and got people signed up to Alert Marin by going to various events in Town.

He stated it was important to test the Town's sirens, making sure they are working with and without power. The long-term goal was to evaluate past and current capacity and look at the plan in place. The Emergency Operation Plan is now 2 years old, but recent national events have tested all emergency plans across the nation. He and the Town Manager wanted an expert to review what is in place now and to find a path forward to determine best practices to incorporate, and he envisions creating an emergency plan that is considered a living document.

Chief Pata said he has known Mr. Jeffries, who is a local Marin expert, for about 40 years. Mr. Jeffries has a master's degree in emergency and Disaster Management, has been in law enforcement for 30 years, transitioned to working with the North Bay Incident Management Team, and was deployed 30 times to different events. Chief Pata said Mr. Jeffries would speak on where the Town is now and where they will go.

Dave Jeffries of Jeffries Public Safety Consulting said he worked for Novato Police Department for over 31 years and retired as a Captain about 10 years ago and has been working mostly in emergency management since. In addition to his degree, he is a certified emergency manager through the International Association of Emergency Managers, California Emergency Services Association, certified as a professional emergency manager, and is a credentialed incident commander with the North Bay Incident Management Team through Marin County Fire as an on-call position.

He is now working with 9 jurisdictions, some in Los Angeles and most in the Bay Area, the largest of which is Novato. He commended staff for asking to have this evaluation done. Normally what they see happening is agencies starting to look at their emergency management program the day after they have a very bad day. He tried to be practical and realistic, understanding Marin County pretty well.

The EOP has been around for a couple of years and Mr. Jeffries could see things that need updating. Mr. Jeffries was also looking at the Town's EOC organization and making sure it is right-sized for Town staff and what they can reasonably deploy during one shift a day, which might be a winter storm; but what if they had to work 2 shifts a day. There is limited staff here, so they work on the EOP to ensure it is right-sized for Ross. The Town would also need to work on location, to make sure Ross has the practical tools to help staff work through this, as well as looking at what technologies the Town wants to bring in. The County does provide WebEOC which is an on-line software program that connects agencies. There are some challenges with the software and they are bringing in a new piece to help with damage assessment.

The third item he suggests the Town look at initially is the disaster ordinance. With one small change regarding the incorporation of the Fire Departments, it looks like it has been untouched since 1971. There are some areas he would suggest reviewing and updating, especially as it has to do with procurement policies and spending authorities. These are places where agencies can get into trouble. He was assigned to the Paradise fire as part of the Paradise EOC there. When he first got there he asked the Director what their spending authority was. They told him the Council waived all procurement requirements, which is the kind of thing that works in the moment but will cause nothing but trouble when FEMA comes in and decides what they will and will not reimburse.

Next is to start looking at training as there is a lot of free on-line training, convenient and easy, and it comes from both FEMA and the Office of Emergency Services. Next would be to look at some key staff going offsite for training. There is a lot available in the Bay Area through the Urban Area Security Initiative and the Northern California Regional Information Center. The courses tend to be free.

Next is to take the EOC staff and do some basic training in a scenario so they get the hands-on experience. Lastly, he suggested starting with a tabletop exercise which is a simple discussion-based exercise that tends to be low stress, looking for gaps in understanding, and these are always very informational.

Once these items were complete, he suggested looking at higher end things such as a continuity of operations plan. He is working on two of these now in Southern California. The idea is to look at Town Hall, records management, documentation management and staffing and say, "What if we couldn't go back into City Hall?" "What if we lose access to certain things?" He also suggested succession planning not only for elected officials but Town Staff so they do not run into a scenario where no one is sure of who is in charge. He also recommended functional exercises where staff would be in the EOC, in their roles, working through a simulated disaster with messaging coming in and working through it.

Council Member McMillan asked if Mr. Jeffries' training included training Council Members.

Mr. Jeffries said this is some of the training he has done in the past. It is very important that elected officials be trained on what their jurisdiction is going to be doing, but also the role of the elected officials as a policy body and not as the incident commander. It is a very different training regimen and they have seen examples where there is sometimes confusion to the staff when an elected official shows up.

Mayor Pro Tem Kircher said Mr. Jeffries recommended revisiting their ordinance and updating it. He asked if there is a model ordinance they could look to of where they might go from here.

Mr. Jeffries said he would refer the Town to Novato's ordinance. The person who wrote it is now the Emergency Manager for San Jose and he also had it reviewed with disaster recovery experts at the time. It has also been reviewed by a local City Attorney and it addresses many things.

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

Council Member McMillan asked for next steps.

Town Manager Johnson said they received a priority list and have identified things they can do right away. Staff's plan is to move forward as quickly as they can. There is some funding this year in the budget and if any additional funding is needed, staff can bring that forward as part of the budget process.

Chief Pata said the police officers have their line level training so the training will be for the Town staff. He can also obtain the model ordinance from Novato and make it fit for Ross. Town Manager Johnson said she will be working with staff, requiring people to be trained and devote time to it.

Council Members thanked Mr. Jeffries for his presentation.

- 12. Town Council consideration to conduct a public hearing and adoption of Resolution No. 2346 authorizing maximum rates imposed and collected by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services to be effective January 1, 2024, and determining that the Town's franchise fees are justified by the Town's costs providing solid waste services and reasonable charges for the use of Town property for solid waste services.**

Town Manager Johnson stated the Council is to conduct a public hearing and adopt a resolution establishing maximum rates collected by Marin Sanitary Service for refuse and recyclable material collection and disposal services. Those would be effective on January 1, 2024. The resolution also determines that the Town's franchise fees are justified by the Town's costs of providing solid waste services and reasonable charges for the use of Town property for solid waste services.

Ms. Johnson described items collected and disposed of pursuant to the franchise agreement with MSS which outlines the services and methodology to be followed to set customer rates each year. The jurisdictions in Marin that have similar agreements with MSS work together informally as the Marin Franchiser's Group to share information and to reduce costs. They meet several times a year to oversee MSS's operations and work together to conduct a single annual rate review analysis rather than each jurisdiction having to conduct and pay for a separate review.

MSS submitted their 2024 rate application using the agreed upon methodology and this assisted in stabilizing rate changes year to year. The franchiser's group hired R3 Consulting Group to review MSS's rate request. R3 found that MSS's rate request of 6.39% increase for Ross rates to be appropriate under the methodology. The 6.39% rate adjustment will result in an increase of \$2.95 per month for a 32-gallon residential cart with a monthly cost which would now total \$49.11 beginning January 1, 2024. Recycling is included as well and customers can reduce their regular landfill container size which would result in lower rates. R3 also conducted a survey of refuse haulers and Ross's proposed rate is lower than the Marin County average. It is recommended that the rate adjustment be applied across the board to all residential multi-family and commercial service accounts, and actual rates for services are provided as an attachment to Resolution No. 2346.

This year, the Town Attorney's office conducted an analysis of the Town's franchise fee. The study was conducted by R3 Consulting Group and it is attached to the staff report. The study demonstrated that the Town's costs of providing solid waste related services together with a reasonable charge that the Town could impose for the use of Town property for solid waste services exceed the Town's franchise fee collected. This year's rate adjustment resolution includes a finding that the Town's franchise fees are justified based on this recently completed analysis. Garth Schultz from R3 Consulting Group is participating via Zoom if the Council has any technical questions, and Patty Garbarino representing MSS is also participating via Zoom.

There were no questions of the Town Council.

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

Council Member Robbins moved and Council Member McMillan seconded, to adopt Resolution 2346 authorizing maximum rates imposed and collected by Marin Sanitary Service for Refuse and Recyclable Material Collection and Disposal Services to be effective January 1, 2024, and determining that the Town's franchise fees are justified by the Town's costs providing solid waste services and reasonable charges for the use of Town property for solid waste services. Motion carried unanimously (5-0).

13. It is recommended that the Town Council:

- a. Adopt Resolution No. 2351 of the Town Council of the Town of Ross amending the Town of Ross May 31, 2023 adopted 2023-2031, 6th Cycle Housing Element.**

David Woltering, Planning and Building Consultant, gave the staff report and overview of the item, stating the Town has been working since March 2022 on updating its Housing Element in compliance with State law. The Council adopted the element on May 31, 2023 and this was forwarded onto HCD for review and comments. HCD staff provided comments back and indicated there would be a need for further revisions to the adopted Housing Element. Staff and the Town's housing consultant, Andrew Hill from Dyett + Bhatia have had a number of meetings with HCD via Zoom and telephone conversations and worked through the revisions HCD requested. Staff revised the Housing Element to address those concerns.

Andrew Hill, Dyett + Bhatia, said on August 15, 2023, HCD sent the Town a letter indicating some additional modifications to the Housing Element would be needed and staff worked closely with HCD staff to develop and vet revisions that address those comments. A full redlined draft showing changes made to the Housing Element was released for public comment on October 30th and that document was re-submitted to HCD on November 14th. They expect to receive findings of conditional compliance from HCD within the next few weeks.

The purpose of the hearing tonight is to provide an overview of the edits made in response to comments from HCD, for the Council to adopt those amendments to the Housing Element if appropriate, and introduce an ordinance amending the zoning code to facilitate workforce housing on the Branson School campus as envisioned in the Housing Element. Overall, he would say the revisions made involve clarifications and the incorporation of additional information to further substantiate the analysis on which the Housing Element is based. There are 5 key areas of revision which he described as:

1. SB 9 Candidate Sites-The Housing Element identifies 32 candidate sites for SB 9 housing and the Town has already adopted an ordinance that gives property owners the option to split their lots and add housing if they wish to do so. HCD requested additional details confirming the existing structures on those 32 lots and access issues would not impede development, and this has been incorporated into the Housing Element in an appendix.

2. Additional details to demonstrate the viability of redevelopment at 27 Ross Common – In response, staff included a letter of interest from the property owner in an appendix, and they also obtained a title report for the site demonstrating there are no easements, deed restrictions, or other factors that would unduly constrain development on the site.
3. Quantified Objectives – The Housing Element includes a table of quantified objectives through 2031. These are targets the Town will strive to achieve based on local needs, available resources, and consideration of any constraints. The adopted Element includes targets for construction but not targets for rehabilitation or preservation, and HCD asked that these be considered as well. The quality of housing stock in Ross is in very good condition, so there was not clear need for rehabilitation, but in discussion with HCD they suggested staff look at the number of major remodels in town annually which is about 14 total, so they assume there would be 14 for each of the 8 years and use that as their rehabilitation objective.

In terms of the preservation target, they assumed a total of 20 unpermitted ADUs would be legalized under Program 3-D in the element because there are incentives for conservation and preservation.

4. Outreach - They have done outreach to future residents of workforce housing, held a focus group discussion with teachers, Post Office employees, and other people employed downtown and that information was incorporated into the Element. HCD requested that they do some additional outreach, however, to affordable housing developers, service providers and advocates. They conducted a series of interviews over Zoom with organizations of Mid Penn Housing, the Marin Center for Independent Living, the Cedars of Marin, and Fair Housing Advocates of Northern California. Summaries of those conversations have been incorporated into Appendix G.
5. Workforce Housing at Branson School – Program 3-J in the Housing Element involves facilitating construction of 10 units on the campus to help meet the Town's lower income RHNA obligations. Four of the 6 parcels shown on the screen were actually included in prior inventories but did not develop with housing. Under State law, the zoning needs to be amended to permit housing by right on those parcels if the owner commits to making 20% of the units affordable to lower income households. So, Program 3-J has been updated to reflect that requirement and in parallel, staff has prepared zoning amendments to facilitate development of those 10 units at Branson as envisioned in the Housing Element.

Mr. Hill then described how zoning amendments would work for the Branson School site. He noted there are 9 existing units on the parcels today and the amendment would not allow Branson to add 10 units. Therefore, the amendments will allow for a bonus of 25% of the maximum number of units allowed on the total property to be granted in exchange for a deed restriction of those additional units so they would be affordable to lower income households. This effectively grants a bonus of 4 additional units in exchange for the long-term affordability commitment that helps the Town meet its obligations for lower income RHNA.

The proposed amendments limit this flexibility to a very special circumstance that exists only at Branson School and the maximum number of units across all 6 parcels is 20 units, including the 9 existing units. Additionally, the amendments establish some objective standards to guide the development of faculty and staff housing. Those standards address height, setbacks, screening buildings with vegetation, control of architectural massing with 3 forms of articulation, standards for materials and color, landscaping, and also no parking is required per State law, but if Branson requests parking, a use permit would be needed.

One clarification they are recommending to the ordinance is that some language be added. HCD requested staff include a reference to permitted net density to make it clear that small, multi-family structures would be allowed if the school wanted to build them on the 4 parcels that are being re-used from prior inventories. The key here is the term “net density” and an edit is proposed to clarify this would be calculated not over the total area of a parcel, but only on the portion of the parcel that is reserved for housing. This does not change the total maximum of 20 units if all special circumstances are met.

In terms of environmental review, the Town Council certified the Housing Element EIR on May 31, 2023 and CEQA states that an Addendum to a previously certified EIR can be prepared if there are some changes or additions necessary, but those changes would not result in new or substantially more adverse impacts than previously analyzed. Staff has included an Addendum in the packet that demonstrates that.

Mr. Hill then described the findings of the Addendum, new information provided related to SB 9 and 27 Ross Common which constitutes minor technical changes and additions. Staff is recommending the Council adopt the resolution amending the Housing Element, waive the first reading and introduce an ordinance amending the zoning code to permit construction of staff and faculty housing at Branson as envisioned in the Housing Element.

Mr. Woltering added that staff had a discussion this afternoon with Branson representatives, and they provided a letter late this afternoon to Council indicating concerns having to do with the proposed ordinance and not necessarily with revisions to the Housing Element. They indicate concerns that the existing CUP that governs the use of construction and activities on the Branson site would impede them moving forward with a housing project specifically. They have other concerns about subjective development and design standards.

The CUP indicates under Condition 2 that a building permit would be required to move forward with a housing project and specifically Condition 2 of the existing use permit precludes that. So, staff acknowledges the need and have spoken with Branson representatives about a possible phased approach to amend the CUP. They are working on a more comprehensive campus master

plan that would trigger an amendment to the CUP. They may take another year or so to complete the master plan but as discussed, there could be an opportunity for a more focused amendment on the housing component to allow that to move forward. They feel based on the discussion there is an opportunity to find a path forward in terms of addressing their concerns, which are legitimate.

At this time, staff does not believe revisions to the Housing Element resolution would be affected by the issues raised in Branson's letter. Staff does believe the ordinance could be affected and they hope to find a path forward to address their concerns. The Town Attorney may have further thoughts in terms of moving forward with an action this evening. Staff and the consultant do not see that these concerns affect Item 1 and would recommend the Council move forward on adoption of the resolution. He would defer to the Town Attorney on the ordinance and taking an action in terms of introduction and first reading.

Town Attorney Ben Stock said given communications they are holding with Branson he thinks it makes sense to move forward with both items. There is a way to resolve some of their concerns before doing the adoption in January, and he is available to answer any questions.

Council Member McMillan asked if Mr. Stock thinks the Town can resolve their issues by the January Council meeting given the holidays. Mr. Stock said he hopes to and said they just learned of these issues late this afternoon and they are happy to continue in conversations with Branson. From staff's perspective, the Housing Element should move forward and thinks Branson's concerns can be addressed in a possible amendment to the ordinance and if this is the case, staff can provide that amended language in January or there may be another mechanism such as an amendment to the CUP.

What is important to recognize is what is before the Council is not usurping the CUP. The Branson CUP allows them to operate with limitations, and they are worried that a housing project they bring forward in the future might conflict with their CUP. If this is the case, this can be analyzed in the future and determine if the CUP provisions do conflict with the proposal, and moreover the housing proposal is one by right under the Housing Accountability Act, and they will have to make determinations of whether the Town can impose certain conditions in the CUP on that hypothetical proposal years out. So, he did not believe the Town needed to do anything more of amending the zoning ordinance now because much of this has to do with a future proposal and what that looks like, and whether Branson is entitled under that future proposal for a housing project under the streamlined process.

Council Member McMillan asked if someone else besides Branson owns the property, she asked if the ordinance only applies to Branson or she asked if it is an educational institution or some other third party.

Mr. Hill said it only applies if an educational institution owns multiple contiguous parcels in the Special Building District. Right now, it is only Branson in the Town of Ross. If a private developer were to come in and buy the Branson property they would not be entitled to that flexibility because they are not an educational institution. On the other hand, if another educational institution were to come in and buy up other properties and they wanted to propose staff and faculty housing they would be entitled to the same. However, the base zoning is not being changed. They are only allowing the base to be calculated over the contiguous area, so there is some flexibility and not an outright rezoning.

Council Member Kuhl asked if Mr. Hill had seen this process done elsewhere by educational institutions. Mr. Hill said no, but his firm has done zoning across the U.S. and they have applied this strategy in other places to allow for flexibility, and he confirmed it passes muster with courts.

Council Member McMillan asked the Town Attorney if he concurs with the opinion that Mr. Hill just gave in terms of the ordinance being limited to an educational institution. Town Attorney Stock confirmed.

Mayor Pro Tem Kircher opened the public comment period.

Dave Hansen, CFO, Branson School, said they have raised several serious concerns about the Housing Element and the ordinance which are legitimate. They believe that the issues relating to their CUP need to be resolved before the Council votes on the ordinance and the Housing Element and they do not believe they can build housing currently with their CUP restrictions in place. They have raised these concerns in a letter today but also raised them several weeks ago in a phone call. The Housing Element must show that the feasibility of housing is real, and with their CUP currently as it stands, there is no realistic feasibility to have housing at Branson School.

Riley Hurd, Attorney representing the Branson School, referred to Mr. Hansen's comments, and said he has been participating in nearly every City's Housing Element update process throughout Marin County and the key component for housing sites in this cycle is found in Government Codes 65583A3. It states that the crucial test is that the site has a realistic and demonstrated potential for housing development. HCD is very focused in this cycle on being sure that the ability to build the housing is there. So, the reason they have expressed some concern is the school's CUP in Condition 2 states, "No building permits may be issued for construction of anything at Branson unless it was in the 1978 Master Plan." Obviously, 10 or 20 units is not contained in that Master Plan.

Furthermore, Mr. Hurd said the traffic limits in the CUP, restrictions on different street access, as well as other items would prohibit the housing from being built unless the housing was excluded from the operational characteristics of the CUP, which makes sense as the CUP was designed to govern the school and not 10 or 20 units of housing if and when it were to be built there.

Therefore, it seems the simple fix is to add to the ordinance that the regulations of the CUP would not apply to the housing being called for in the Housing Element. The ordinance contains some standards that do not fit the definition of objective, but this is easy to fix.

The only other issue is the requirement of a CUP to have any parking spaces for the new units is not the type of by right development that the State requires for re-use sites such as the school. So, the Town cannot require a discretionary secondary permit to have a parking space for one of the units were they to develop. He thinks everybody in the surrounding area and the Town should support that any new units have adequate parking. Otherwise, you get spillover issues.

He thinks Branson is a great site for housing and he thinks the school is eager to be a partner in meeting the RHNA. It is just without these things addressed, it does not meet the criteria and in fact, it is prohibited. With the small changes, he thinks this could move forward but without them it will not work.

Council Member Robbins asked if staff was of the opinion that the Town can work on the CUP amendments after this goes through and meet everyone's needs.

Town Attorney Stock said yes. One thing he agrees with what Mr. Hurd said is at most, a couple of clarifying statements in the zoning ordinance but not the Housing Element. If they need to clarify how it interacts with the CUP, they can make those clarifications. But to be clear, the Town is not taking the position that the CUP restrictions would somehow trump the by right housing that would occur if they came in with a project that has 20% affordable housing. This is what housing law is meant to address where there cannot be any discretion to approve, or by right.

He noted that when Mr. Hurd mentioned the concept of having to amend the CUP to get a building permit because it was not in the plan, he is absolutely right. If Branson comes in with a by right, 20% affordable housing project, the Town cannot impose that condition of approval. So, whether the Council decides to amend the conditions of approval to reference that or whether it is usurped by State law, this will be a discussion they will have with Branson and give them certainty to move forward. So, there are issues the Town needs to address with them, but they are solvable because they are relatively minor in the larger scheme of them wanting to move forward with affordable housing that the Town can rely on for its RHNA.

Council Member Robbins asked if the ordinance needs re-writing before the Council can approve it, or would the Council move the first reading tonight and then amend it at the second reading when revised wording is done.

Town Attorney Stock said their office does not think it needs to be reworded, but if they have further conversations with Mr. Hurd and come to some resolution where clarifying language is needed, they could redo that in January. Staff's recommendation is to adopt the Housing Element via resolution and to waive first reading of the ordinance.

Mayor Pro Tem Kircher asked if it is correct that adopting the Housing Element revisions does not prejudice Branson or does not preclude resolution of the legitimate issues that they have raised. Town Attorney Stock said this is correct.

Mayor Pro Tem Kircher said we all know there are time constraints here to get the final certification of the Town's Housing Element, and asked and confirmed with Town Attorney Stock that they need to keep this moving for the zoning to be adopted by the end of January.

Council Member McMillan voiced concern about Branson School's comments on the record about how the ordinance will not work in terms of the Housing Element. She asked if this is of concern when submitting the Housing Element.

Town Attorney Stock said he thinks they can reach a resolution with Branson on the issues they have raised, and he is not concerned. He understands they are making the record they need to make, but he also does not think the issues they are raising are insolvable.

Mr. Woltering said if the Council moves towards a motion, staff suggested clarification language and he thinks Mr. Hill can display this.

Town Attorney Stock clarified this change was in reaction to a public comment staff received today to clarify that the 20 units are not for the entire site. This was the clustering concept Mr. Hill talked about in the presentation. So, to not confuse matters, the resolution for consideration needs no amendments. After that item, staff requests the Council make this requested amendment, which is displayed on the screen and redlined, when introducing the ordinance, as amended by staff tonight, and then read the ordinance. Also, staff may return in the future with more amendments, but this is the amendment they have tonight.

Council Member McMillan moved and Council Member Robbins seconded, to adopt Resolution No. 2351 of the Town Council of the Town of Ross amending the Town of Ross May 31, 2023 adopted 2023-2031, 6th Cycle Housing Element. Motion carried unanimously (5-0).

- b. Waive First Reading, Read by Title Only, and Introduce Ordinance 724, amending and adding language to Chapter 18.16, Single Family Residence (R-1) District, and Chapter 18.40, General Regulations, of the Town of Ross Municipal Code to facilitate Workforce Housing for Staff and Faculty at the Branson School to Implement the 2023-2031, 6th Cycle, Housing Element and direct staff to return for second reading and adoption on January 11, 2024.**

Council Member Robbins moved and Council Member McMillan seconded, to waive first reading, read by title only, and introduce Ordinance 724, as revised with the edit by staff, amending and adding language to Chapter 18.16, Single Family Residence (R-1) District, and Chapter 18.40, General Regulations, of the Town of Ross Municipal Code to facilitate Workforce

Housing for Staff and Faculty at the Branson School to Implement the 2023-2031, 6th Cycle, Housing Element and direct staff to return for second reading and adoption on January 11, 2024. Motion carried unanimously (5-0).

End of Administrative Agenda.

Public Hearings on Planning Projects – Part II.

14. Right-of-Way in front of 77 Laurel Grove Avenue (DRP23-0022), Design review and Town Council consideration of Resolution No. 2348.

Town of Ross, Right of Way in front of 77 Laurel Grove Avenue, A.P. No. 072-031-15, Zone: R-1:B-5A, General Plan: VL (Very Low Density), Flood Zone: X (Minimal Flood Hazard)

Project Summary:

The applicant is requesting approval for Design Review to allow for the construction of a new variable-height concrete wall along Laurel Grove Avenue. The new wall will be slightly over 100-feet long and a maximum height of four-feet nine-inches high, constructed of reinforced concrete with a decorative stone facade, and a one-foot debris bench behind the wall. The new wall is required to allow the realignment of Laurel Grove Avenue to accommodate the construction of the "Laurel Grove Safe Pathways Phase IIB" project (the Project). The wall will be located within portions of the existing and future public right of way along the frontage of 77 Laurel Grove Ave. and is therefore its construction is contingent upon the Council's acceptance of a pending Offer of Dedication of a portion of 77 Laurel Grove Avenue for roadway purposes. Some landscaping will be removed as part of the project and replaced to restore screening to the residence of 77 Laurel Grove Avenue. The amount of new landscaping is less than the 2,500 square foot trigger for Design Review.

Public Works Director Rich Simonitch gave the staff report and presentation/overview of the request by the Town of Ross for Design Review for construction of a new variable height concrete wall along the right of way in front of 77 Laurel Grove Avenue. The ADR Group met and unanimously approved the wall, and residents of 77 Laurel Grove are happy with the selection of the façade. Colors were suggested by the Safe Routes Task Force and residents living around the area like the San Diego beige color and he presented a rendering of what the color would look like, as well as landscaping. Staff recommends the Town Council adopt Resolution No. 2348 approving design review for this project and he was available to answer questions.

Mayor Brekhus said she does not understand what coloring the corners does and said she did not believe there was a problem there with safety. She asked if one option would be to have no color.

Director Simonitch explained this was an item brought forward by the Safe Routes Task Force and the purpose of the coloring is to have a location as a safe haven for pedestrians since they are not installing crosswalks. The reason the Town is not putting in crosswalks is because there

are no sidewalks on one side. There is no requirement with the grant funding received that this be done, but those on the task force believe it is a good idea to have this place for pedestrians to have a zone out of the traveled way.

Mayor Brekhus asked for the background of the Safe Routes Task Force members. Director Simonitch said David Parisi and his group of traffic consultants as well as others serve on the task force.

Council Member McMillan said Safe Routes is a division of TAM and she has been the representative. TAM has also provided them with some of the grant funding to get the pathway built.

Council Member Robbins said if it is not a requirement, she questioned the reason for red and tan colors which is an eyesore and not a light grey or something that blends into the road a bit more.

Director Simonitch said staff can return with different colors if this is the desire of the Council. He thinks if grey was implemented, it would not be able to be seen after a couple of years and there would be the effect of not having color. The idea is to have something visible to traffic but not too glaring.

Council Member Kuhl likened this to a situation of what effect this will have in the future. He can see people in the future wanting to dictate to the Council what color they want other than what would ordinarily be required. He thinks red would provide the greatest safety and questioned if they should return to the task force and ask them if they want red or nothing.

Director Simonitch said they can revisit the selection of the coloring and staff could ask if there are alternates or whether the task force can recommend not implementing any color at all. Staff could return with that if desired because it is not part of the overall design review and approval.

Mayor Pro Tem Kircher opened the public comment period.

David Peterson, 307 Upper Toyon, Ross, said they drive down the street on Laurel Grove regularly. The red painting on the 4 corners looks ridiculous and he did not believe it was anywhere else in the Town of Ross. They do not need safe havens for people crossing on Shady Lane or Lagunitas and he questioned why they should paint the street red at various locations on one single street in town and he suggested no paint be used.

Mayor Pro Tem closed the public comment period, and returned to Council deliberation.

Mayor Brekhus said ever since this color appeared, she has been trying to figure out what safety feature it provides. She wondered if it was to avoid cars from parking in that area, and she cannot imagine the reason why they want this; is it so pedestrians know, based on the color of a corner,

that this is where they are supposed to congregate and not in other places. It looks terrible, is completely unnecessary, there is no safety purpose, and she was opposed to it.

Council Member McMillan disagreed and thinks the Council are not safety or traffic control experts. She walks her dog on that street a lot and people are driving very fast and swerving out into the shoulder. If she has a child who lives up one of those streets and they are sending that child to Ross School on his/her own, she wants to be sure the child is as safe as possible. Her recommendation would be to take these concerns back to the task force and determine what their expert opinion is as to the color options and risks taken on by keeping it as it is.

Council Member Robbins referred to the color and thinks the red is very ugly. If a color is helpful and the tan color could be helpful, she would choose that. She confirmed the Council can adopt the resolution for the design review and retaining wall but just not approve a color.

Council Member Kuhl said he agrees with Council Member McMillan's comments and they should go with the task force's recommendations.

Director Simonitch said staff can return at a later time with more information as to why the coloring is needed from the task force, and the Council can still adopt the resolution approving the design review.

Council Member Robbins moved and Council Member McMillan seconded, to adopt Resolution 2348 and approve 77 Laurel Grove Avenue design review. Motion carried unanimously (5-0).

- 15. 23 Ross Common #4B, Use Permit to operate an educational services use located at 23 Ross Common Unit #4B and Town Council consideration of adoption of Resolution No. 2343 approving a use permit for an educational services use, subject to conditions.**
Peter Maguire, 23 Ross Common #4b, A.P. No. 073-273-10, Zone: C-L (Local Service Commercial), General Plan: C (Local Service Commercial), Flood Zone: AE (High Risk Area)

Project Description

The applicant, Mathew Salter on behalf of Ross Bridges, requests consideration of a Use Permit to operate an educational services use. The proposed site is inside the Ross Garage building located at 23 Ross Common #4B. The educational services company would have two (2) staff members and a cap of 12 students. The proposed hours of operation are from 9:00 AM to 5:00 PM, Monday to Friday.

David Woltering, Planning and Building Consultant, gave the staff report and overview of the request by Ross Bridges for a use permit to operate an educational services use inside the Ross Garage building at 23 Ross Common #4B. He referred to the resolution which has been revised with corrected condition numbering and spoke of specific standards and regulations relating to operation of the educational service use. Staff recommends the Town Council adopt Resolution No. 2343 approving a use permit for an educational services use, subject to conditions.

Council Member McMillan said the Council received many letters in support and in opposition of this business and she asked how many there were. Town Manager Johnson replied there were 37 emails in support besides the applicant. A couple were written on behalf of two people. Regarding opposition, there were a handful of letters from the same person.

Council Member McMillan asked if there is any restriction on enrollment, and those participating must be a Ross student or family. Mr. Woltering said many of the students are coming from the Ross School, but was not aware of any stipulation that they must reside in Ross.

Council Member Robbins asked and confirmed with Mr. Woltering that staff feels this use could be similar to other permitted or conditional uses in which case this could be approved.

Mathew Salter, Ross Bridges, thanked members of the community for their support and being here tonight as it is difficult for those with young children to attend. They are a small, women-owned business that offers a variety of educational services to Town residents. He serves as the financial and back end, but the women who create the magic are his wife, Tracy Salter and Jeanine Gallardo, and they are the face of the business and make things happen for Ross children. The program serves a vital need in the community for early education, afterschool enrichment and tutoring. Regarding early education, they offer a TK program to bridge the gap between preschool and kindergarten.

The Ross School does not offer this program nor do other preschools in the immediate area. They have operated in Ross since 2021 and since that time have served approximately 70 families in the community. The vast majority or 84% of their families are Ross residents. Their impact on the downtown commercial district is minimal as they are a small school with a maximum capacity of 12 students at any one time. Most students walk to and from their programs and they generate minimal noise or disruptions to neighbors. Their teachers have significant experience working with young learners, having taught for over 15 years in public education and carry multiple teaching certifications and credentials. They help children realize their full potential, overcoming any learning obstacles that may be in their way.

The Council received dozens of letters from families sharing how Ross Bridges touched their lives. Nothing says it better than the experience working with them. He then shared a story from a Ross resident with whom they have had experience working with their three children. He urged the Council to approve Ross Bridges' use permit application so they can continue doing the great work for Ross families.

Mayor Pro Tem Kircher opened the public comment period.

Kim Latter said Mr. Salter read her letter and referred to traffic noting that as someone there every day, every pre-K child there is a younger sibling of the Ross School students so there is no incremental traffic whatsoever. Every family doing drop-off and pickup at Ross Bridges is already

coming into town for Ross School drop-off and pickup, often on foot. She thinks there would be an incremental increase if they had to drive elsewhere for preschool. So, a walking distance preschool from Ross School has a great effect on the walkability of the town and traffic control.

Simon Etherington, 121 Lagunitas, said his son George attends Ross Bridges and he has nothing bad to say about them. He has had an incredibly wonderful year and they love it and know Zoning Administrators have broad discretion to determine use. In the staff report and communications there were some comments made about the character of those who run the school. He would not put his child in a school he did not think was well run and he would take his child out of the school had he learned that any of the teachers or administrators were not of the highest character.

Mike Nolan, 7 Upper Ames, underscored that they have had their second child now go through the program which has already transformed who his daughter is as a person. Their 8-year-old son came to the program at a time when they were transitioning to Ross and he was behind because of COVID. Ross Bridges was absolutely critical in getting him to a place to get into Ross School properly. Lastly, he underscored the character of the people running it. They are brilliant, empathetic, supportive, and they provide one of the most instrumental benefits in the town, so he supports this with 100% conviction.

David Allen-Hughes, Director of the Ross Preschool, said they are a 501c(3) non-profit that leases space from St. John's Church. This past weekend, the owners of Ross Bridges broadcasted an email throughout the community that falsely accused him of being associated with someone who apparently was complaining about their program. Their accusation relates to him restricting their access to Pixie Park and this is without merit and is false. He believes that knowingly making false statements and baseless accusations is repugnant and this type of behavior should not be tolerated by any person or community.

He also believes Marin County needs more childcare spaces and in putting his personal feelings aside, he believes there is enough demand and need to add more childcare. Therefore, he encouraged the Town Council to approve the application. In addition and in the spirit of fairness, he hopes the Council believes it is important to apply a uniform framework and consistent standards. In the event the application is approved, he would encourage the Council to review conditions of approval recently applied to the Ross Bridges' preschool's use permit application in order to apply consistent conditions and to approve the application.

Erica Bell said she also wrote an email supporting Ross Bridges. She is one of the parents of the 7 children that attends for TK. She thanked Mr. Salter, said it has been very stressful week for those causing anger or frustration. At the end of the day, everybody wants what is best for the children and she hopes the Council can approve the permit.

Mathew Salter thanked David Allen-Hughes for supporting their application and they know sometimes there can be acrimony as businesses sort themselves out. When thinking about what

should be permitted downtown and what the community needs, this is an important example of what the zoning needs to include in future iterations of the General Plan. The downtown could be vital and a center for so many of these families to live, breathe, and walk to essential services if zoning could be amended to allow these types of businesses to be there by right in the future. They had to pay \$6,000 for this permit application, which is not an insignificant amount of money when starting a business. He asked the Town Council to think about how to make Ross a more welcoming place for business to take place and for businesses that are needed by residents to flourish.

Council Member Kuhl said Ross Bridges is a valuable asset to the downtown and the Council should have no hesitation about finding that this type of activity clearly falls with what was intended by the Town Council in years passed when setting up considerations of what was appropriate or not.

Mayor Brekhus echoed Council Member Kuhl's comments and thinks this is a great way to make the town more walkable, and in the future she voiced support in reviewing the use permit fee because she agrees it is more than it should be. Staff spent a lot of time on this, but if allowed as a matter of right it would be easier to process and it would be less burdensome on a business.

Council Member McMillan moved and Council Member Kuhl seconded, to adopt Resolution 2343 and approve 23 Ross Common #4B Use Permit. Motion carried unanimously (5-0).

- 16. 20 Allen Avenue, Design review and Town Council consideration of Resolution No. 2347.**
Steve Akram, 20 Allen Avenue, A.P. No. 073-241-17, Zone: R-1: B7-5, General Plan: ML (Medium Low Density), Flood Zone: AE (Floodway)

Project Description:

The applicant requests approval for Design Review. The project involves rehabilitation and renovation of existing landscaping over 2,500 square feet. The project proposes to install new cobblestone driveway apron at Allen Avenue, as well as repair the existing driveway with stabilized decomposed granite to meet Ross Valley Fire Department (RVFD) regulations. Additionally, the project includes a new bluestone pathway, entry walkway, rear patio expansion, and vegetable garden. The applicant proposes to install artificial turf in both the front yard and rear yards of the home and new trees and shrubs along the perimeter of the lot to provide screening. A new pool is proposed in the front of the house measuring 12 x 24 feet and the pool equipment will be placed in an enclosure with added acoustic insulation for noise dampening on the west side of the garage all within the buildable envelope. As Shown on sheet L2 of the Project Plans, the applicant is proposing a bioretention area and will improve the existing drainage swales to mitigate the impact of increase impervious surfaces and meet the no net runoff policy.

Assistant Planner Alex Lopez-Vega gave the staff report and overview of the request for Design Review involving rehabilitation and renovation of existing landscaping over 2,500 square feet, installation of new cobblestone driveway apron at Allen Avenue, repairing the existing driveway with stabilized decomposed granite, a new bluestone pathway, entry walkway, rear patio expansion, and vegetable garden, artificial turf in both the front yard and rear yards of the home, new trees and shrubs along the perimeter of the lot to provide screening, a new pool proposed in the front of the house measuring 12 x 24 feet and pool equipment placed in an enclosure with added acoustic insulation for noise dampening on the west side of the garage. Lastly, the applicant is proposing a bioretention area which will improve the existing drainage swales to mitigate the impact of increase impervious surfaces and meet the no net runoff policy.

Staff recommends the Town Council consider adoption of Resolution No. 2347 approving design review for 20 Allen Avenue.

Mayor Brekhus asked why the story poles were not provided for the pool and improvements.

Mr. Lopez-Vega said they were not provided and he did not reach out to the owner and applicant to show an outline of where the pool will be located.

Mayor Brekhus asked if this is something that must be done.

Mr. Woltering said it is standard staff would reach out to remind the applicant to install the story poles and he apologized for not doing so in this case. It is on the checklist but typically there is a call and email done as a reminder, which was unfortunately not done.

Council Member McMillan said she is troubled by the huge amount of impervious surfaces and asked if the Council abdicates its authority when the Fire Department gets involved. She asked if there is a possibility for the Council to suggest an alternative if the Fire Department requires it be decomposed granite because she did not think this seems right.

Public Works Director Simonitch explained that staff did speak with the Fire Department about options for the driveway. One option is to have the permeable pavers with a 12" sub-base reservoir area to mitigate increased impervious surface, but the applicant wanted to go with the decomposed granite impervious surface. He worked with the applicant to ensure the runoff is mitigated per the Town's policy. They run a portion of the new impervious surface through bio-retention. In this case, they have an extensive swale that runs the length of the driveway which will also be improved. So, staff provided the Fire Department some options and they went with this decomposed granite idea, which is impervious.

Council Member McMillan asked if there is any chance the applicant or the Town staff could go back to the Fire Department based on feedback received tonight and get them to reconsider. She thinks this is a huge mistake when in the flood plain like this property is. She thinks there should be as much pervious material as possible and they are already putting in astroturf.

Director Simonitch asked the applicant if he had the choice of pervious pavement or the DG he asked which would he go for.

Town Attorney Stock suggested the Council first finish with its questions.

Mayor Pro Tem Kircher asked if the bio-retention basin's adequacy is something that would be determined at the time of issuance of a building permit. He did not see anything in the resolution that would specify how effective the size or capacity of the retention basin would need to be.

Director Simonitch said normally when he reviews the submittal it is whether the application is complete or not. He saw they are introducing measures that would mitigate the increased runoff. So, at the building permit phase this is where he would review their calculations and whether it is technically correct and they have met the no net increase of runoff policy requirements. In the planning stage he just makes sure they are showing the intent and they have set aside locations where they will be able to do the bio-retention and meet the no net runoff.

Mayor Pro Tem Kircher said the requirement would be that the bio-retention basin be sufficient to result in no net increase.

Director Simonitch said they have a calculation that staff has worked out with other members of the engineering community. For the 2 year, 24-hour storm is attenuated by these bio-retention basins, so they have the technical backup that it is an efficient way to do it. In fact, the Town of Ross has doubled the requirement to be extra conservative to ensure they have this retention.

Mayor Pro Tem Kircher asked and confirmed there is sufficient space on the property to accommodate an adequate retention basin.

Director Simonitch added that when they provide the building permit and grading and drainage plans and it shows they are unable to, then the Town cannot issue the building permit until they have done more bio-retention areas to meet the requirement.

Mayor Brekhus said she thinks there is some confusion on the two different policies. You cannot increase runoff off from the property, but if you add impervious surfaces you are not supposed to add but mitigate and decrease. She thinks what she is hearing is they are not going to add water into the storm drain, but it is a significant increase and in the past when they have seen this, there has been accompanying analysis of that. There was not a lot of analysis in the staff report and in the future, they may want to ask the applicant to provide a better understanding.

Director Simonitch said there are two methods to enforce the no net runoff policy. There is on-site retention where you allow the water to infiltrate down into the soil. The other one is you are holding it and releasing it slowly so that you might be producing more volume, but they

are matching the rate at which it is flowing off the property. So, it can continue flowing at a small rate into the storm drain system for an additional two hours than what was done historically. But, you are not overburdening the storm drain system because it is being released at a slow rate.

Miranda Abrams, designer, said she has been here for two decades and has put their three children through Ross School and been part of the community. She is the interior designer hired by the owner of 20 Allen Avenue, Steve Akram to work on this project and she has worked with Mr. Akram as the designer for his previous homes. On November 14th they presented the project to the ADR Group and Mr. Akram and Matthew Kennedy have since addressed all issues and concerns that came up that evening. The neighbors have been contacted and have been given ample opportunity to see the updated landscape plans, the pool and pool equipment location which are outside the setbacks and within the building envelope.

During design review, the screening was also brought up as an issue for the next door neighbor, but that concern was resolved and they have the neighbor's full support per the letter in the packet. As a Ross resident and parent, she added that owning a pool, while being a luxury, can also be a real asset in community building for their family because it allows them to share their pool with their children's classmates and their families which helped them socialize and get to know everybody better. They hope to offer the same opportunity for the next owners of 20 Allen.

Matthew Kennedy, landscape architect, said he has been working 8 to 10 weeks on this project. A couple of months ago, staff went out to the site and noticed that the property owner was reaching that 2,500 foot trigger and therefore it required review by the ADR Group. He was retained and now is trying to put graphic representation to what has been installed and what has yet to be installed. The plans are color-coded where grey means existing and colored is what is yet to be installed. They went to the ADR Group, conducted neighborhood outreach, and neighbors have had ample time to respond. They received a few comments and after meeting with them, he had addressed their concerns.

The main thing that came out of the ADR Group was that they would like to see the pool reduced in size and they reduced it from 14 feet to 12 feet in width. They wanted the bluestone patio which stretched over the building envelop line removed which was done. The pool equipment had a note that it was enclosed and they wanted more information, so they prepared a drawing, and they also included acoustic insulation all within the building envelope and adjacent to the garage. The neighbor screening issue with the immediate neighbor was addressed after meeting with the neighbor who submitted a letter of support.

When it comes to the impervious surface, that has been a big issue. He does not see that increased and said they met with Ross Valley Fire Department, had staff and Roberta meet and talk about potential. Their original material chosen was a gravel all permeable. Ross Valley Fire

Department determines this as a fire access road because it is greater than 150 feet from the street, and therefore it needs to meet roadway standards, support getting a 60,000 lb. vehicle up there and with a hammerhead. All of these must withstand that weight.

They tried using a pave cell product which is rated for heavy equipment to go over, they talked about grasscrete and other more permeable options, and they received a flat out “no.” They will accept concrete, asphalt, or stabilized which is mixing concrete with decomposed granite. This was just before they went into the ADR when they got this information so they quickly revised the drawings to show this. So, they have an additional 4,000 square feet of impervious surface that they then must mitigate as to how to do that on this site.

Mr. Kennedy further explained they have bio-retention planters and bio-swales all within the property and on the property line there is an almost 200 linear foot long ditch which is also a bio-swale before it gets to the City owned catch basin at Allen. So, they have used standards of 4% of area to go through a bioretention and Ross has double that. In looking at Sheet L-2 they have their Drainage Management Areas delineated. Each one has been broken down into square footage like all 4 downspouts of the house equal “x” amount of square feet which means times 8%, equals this much they must address in terms of retention area or a bio-swale situation. In those plans, they have proven they have planting areas they can run water through and then pick up and get out to the existing swale. So, it is almost double of how it gets processed through.

The last item is the pool safety. The pool requires a building permit which will have to apply to code. They have an automatic pool cover which is one of the redundancies and they will have alarms for the door. The alarms are not noted on the plans and other than that, he can reserve his time for additional comments.

Council Member Kuhl asked how the Fire Department was involved. He asked if the applicant initiated a proposed pervious surface.

Mr. Kennedy said yes, they had a gravel driveway, and the Fire Department insisted because of the weight of its truck they had to change to an impervious surface because of a code reference for this.

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

Council Member Robbins moved and Mayor Brekhus seconded, to adopt Resolution 2347 approving design review at 20 Allen Avenue. Motion carried unanimously (5-0).

End of Public Hearings on Planning Projects – Part II.

17. No Action Items: (Mayor)

- a. **Council correspondence** – Mayor Brekhus reported she received correspondence that the Flood District applied to San Anselmo to do a no-baffle project and the Flood District said it is no longer their obligation to do mitigation but that it is Ross's obligation.
- b. **Future Council items** – None.

18. Open Time for Public Expression.

There were no public comments.

19. Adjournment.

Mayor Pro Tem Kircher adjourned the meeting at 8:50 p.m.



Elizabeth Brekhus, Mayor

ATTEST:



Cyndie Martel, Town Clerk