

DRAFT REGULAR MEETING of the ROSS TOWN COUNCIL

THURSDAY, MARCH 14, 2024

Held In-Person and Teleconference via Zoom

1. 6:17 p.m. Commencement.

Mayor Elizabeth Brekhus; 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. Mayor Brekhus announced there was no reportable action from the Closed Session.

3. Mayor's Report

The election results have yet to be officially announced, which may seem unusual as we refrain from swearing in or extending congratulations to Bill Kircher, Teri Dowling, and Mat Salter. Nonetheless, the posted election results overwhelmingly indicate that they have been elected to the Council by Ross residents. The new Council members will be sworn in at the April 25 budget meeting, during which the Council will determine the financial objectives for the upcoming year.

Serving on the Council offers a profound experience, broadening one's perspective on who represents the Town of Ross and providing opportunities to connect with individuals one might not encounter otherwise.

On Tuesday evening, I had the pleasure of dining with former Council members Carla Small, Katie Hoertkorn, and Rupert Russell. It was a delightful reunion, allowing us to reminisce about past Council events. Each of these individuals contributed significant time volunteering to govern the Town, each with their own distinct priorities.

I recalled Carla's persistent advocacy for ensuring that garages remained functional as garages rather than morphing into additional living space. While her stance often brought to mind the ping pong table occupying my own garage, unused for years, Carla's rationale stemmed from her desire for consistency in zoning regulations and the treatment of residential remodels.

Katie's concern over the Town's finances was palpable and justified. She highlighted the lack of an investment policy upon joining the Council, noting that Town investments were managed akin to a personal savings account. Although no funds were missing, the Town's financial practices fell short of best practices, prompting Katie's dedicated efforts to institute reforms.

Rupert's advocacy for reducing impervious surfaces to mitigate flooding was deeply rooted in his personal experience of property inundation. His push for exceptions for basement attics and streamlined rebuilding regulations following disasters stemmed from firsthand knowledge of the challenges residents faced.

Each Council member brings their unique goals, expertise, and experiences to the table, shaping their vision for Council priorities. Despite Ross's small size, we have been fortunate to maintain a committed group of volunteers dedicated to managing the Town.

4. Council Committee & Liaison Reports.

Council Member McMillan reported on the preliminary results of Measure E; renewal of the Ross Public Safety Parcel Tax on the March 5, 2024 Ballot.

As of last night, 730 votes had been counted. Measure E received 561 yes votes and 169 no votes; This means Measure E is passing at 76.85%. There are about 13,000 more ballots to count and more results will be posted tomorrow afternoon, but we are certain that Measure E will pass!

There are many we need to thank for this tremendous result.

First and foremost, my Measure E Co-chair, Elizabeth Robbins, who worked tirelessly starting in December 2023 to ensure this would pass.

Second, thanks go to Teri Dowling, who stepped up and was in front of the Ross Post Office nearly every day in February and early March. Thanks also to the other councilmembers who helped out at the post office and distributed yard signs.

We thank those who joined our Supporter List, which ultimately exceeded 200 Ross residents.

We thank all those who agreed to place a yard sign in their front yard.

There are a few key individuals who went beyond the call of duty to ensure Measure E's success:

- Jude Rice, a 6th grader at Ross School, who, along with Ross School Principal Maria Lubamarsky, designed the Measure E website
- Cynthia Wollam, who designed our Measure E mailer, and
- Elizabeth Gorek, who hosted our Informational Meeting at her art studio on the Ross Common

Finally, Elizabeth and I personally visited with many Ross groups to promote Measure E and explain why it was critical for our Town, and we thank these for allowing us to present to them:

- RPOA
- Ross School Board
- Ross PTO
- Ross Auxiliary
- Ross Foundation
- Age Friendly Ross

5. Staff & Community Reports.

a. Town Manager

Town Manager Johnson provided the following updates:

On March 1, Chief Pata and Town Clerk Cyndie Martel participated in a tabletop exercise organized by Marin County OEM and several government agencies that focus on cybersecurity. It was excellent training for two of our key employees. You'll hear more about cybersecurity during an upcoming meeting when staff will make a presentation to the Council regarding the Town's recent and planned information technology related improvements.

The next Advisory Design Review group meeting will be held on March 19th. Please note that starting on this date the ADR meetings will start at 6pm.

Chief Pata is holding a "Coffee with the Chief" event at Crown & Crumpet on Friday, March 22, 10:30am to noon.

The County's OEM has confirmed that a full-scale test of the AlertMarin mass notification system will occur on **Saturday, March 23rd at 10:00am**. The upcoming test will be the first time the system has been tested at this level. Essential for emergency preparedness, this test helps improve communication systems. Some key messages are:

- All who work or live in Marin should register for local emergency alerts.
- Register at AlertMarin.org to receive the test alert.
- Verify your ability to sign-in to your AlertMarin account.
- Don't miss this chance to update your AlertMarin account with current contact details.

Also, on March 23 at 8:30am is the Ross Valley Little League season kick off parade that starts at MAGC.

On March 30, the Ross Auxiliary is holding their Spring Fling event at MAGC from 10:30am to 12:30pm.

We are hosting a reception for the public on Thursday, April 4th, at 5pm in our lobby area just outside of the Council Chambers. The purpose of the reception is to honor our two retiring Councilmembers, Elizabeth Brekhus, and Beach Kuhl, who have each served on the Council for 12 years. Please join us!

And finally, on Thursday, April 25th there will be a special Town Council meeting starting at 9am. The current council will be asked to accept the results of the election and the new Town Council Members will be sworn in. Next, the Council will make its appointments for the Mayor

and MPT roles and then its appointments to various committees and regional boards. The Council's annual budget workshop will follow and will end by 2pm.

b. Ross Property Owners Association – Heather Potts

Treasurer's Report (Mathew S)

- RPOA and Auxiliary are in a strong financial position, enabling us to take on projects in support of the community.
- In communications with the town regarding the 2024 Budget for projects such as Holiday Decorations and Lights on the common, Hanging Flowers, new banners for light poles, Live on the Common series, Winterfest, Spring Fling and Turkey Trot (community events), and upgrades to the Post Office, including new lighting and a new table.

Membership Report (Mathew S & Marcia S)

- Marcia Skall is leading the drive for members to join in 2024, and is sending a members solicitation letter out soon.

Board Members and Officers

- We have two new Board Members - Pete Solar and Andy Mascheroni. Pete and his wife Gabby have two young boys at Ross School. Pete works as a Project Manager for large construction companies. He will take on the Treasurer position as well. Andy and his wife Julie, have two adult sons and he is a co-owner of Mascheroni Construction. Andy swam the Trans Tahoe Relay about 20 times and ran the New York City Marathon a few times while in his 60's.

Ross Auxiliary Update (Heather & Alex)

- Spring Fling: March 30, Clara Ditter and Jenny Dunn
 - 10:30am - 12:30pm -NOW MOVED TO MAGC
- Spring Dinner: April 20, 2024
 - The cocktail party will be at Lordeaux's again
 - Tickets are on sale for \$300 each (Tickets were \$275 in 2022)
 - Ticket sales end 3/20, 80 Tickets Sold
 - Holding discounted cocktail only tickets for the Age-Friendly Community for \$175.

Age-Friendly Ross (Marcia, Diane Doodha and Diane Rudden)

Ross Age Friendly Valentine's Day Luncheon was a huge success at Marin Art and Garden Center with 60 RSVPs. Beach was a wonderful MC. RPOA contributed the "Favor" - a very sweet notebook with a cover designed by Cedars.

RPOA Business – Old + New Projects:

- Lighting Project: Anthony and Jeff have made great progress on the project to revamp the Post Office lighting, but are waiting to commit until Christa is able to confirm the US Post Office has renewed the lease.

- Hanging flowers (Jeff) - We have placed an order for new flower baskets to be delivered in late March or April. The cost estimate is \$3,000.
- New Table for Ross Post Office (Tom) - Tom Gafney has spearheaded adding another table to the Post Office. The carpenter suggested a couple of improvements including more sturdy legs and a back splash on the table. Construction is underway. Price is approx. \$4,000. Double the size of the other one. (Tom, Jeff)
- Live on the Common (Elena) - April 19, 2024. Taylor Swift tribute with the artist who will be playing her in an upcoming documentary. Along with food and beverage vendors, Andrew's Camp will again provide entertainment for children and the Fred Hollows Foundation to present preventable blindness has been invited.
- Historical Walks - (Diane) Diane Doodha will be communicating with Cindy on the next steps.
- Ross Rec Permit fees (Jeff) - working with Maureen to see if Ross Rec fees can be updated and adjusted to mirror neighboring town rates and offer a discounted rate for non-profits, school groups, or other charitable organizations.

2024 New Projects

- Upgrade the Ross Common and stage electrical grid.

6. Consent Agenda

The following items will be considered in a single motion, unless removed from the consent agenda. Council Member McMillan asked that the reference to FireSafe Marin in the Audit report be updated to Marin Wildfire Prevention Authority.

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

- a. Minutes: Revised Meeting, February 15, 2024.**
- b. Demands.**
- c. Town Council review of the information provided in the 6th Cycle Housing Element Update, Annual Progress Report (APR) and General Plan APR for 2023 and authorize its submittal to the Governor's Office of Planning and Research and to the State Department of Housing and Community Development.**
- d. Town Council adoption of Resolution No. 2405 opposing Initiative No. 21-0042A1, the California Business Roundtable's (CBRT) "Taxpayer Protection and Government Accountability Act".**
- e. Town Council approval of the Town Hall Parking Lot Accessibility Improvement Project and authorize staff to advertise for construction bids.**

f. Town Council approval of the Town of Ross Draft Annual Financial Report for the Fiscal Year Ended June 30, 2023 with no findings.

End of Consent Agenda.

7. Public Hearings on Planning Projects – Part 1.

There are no Public Hearings on Planning Projects – Part 1.

End of Public Hearings on Planning Projects – Part 1.

Administrative Agenda.

8. Town Council discussion to provide feedback and direction to staff on requested Zoning Code Amendments including an exception process for floor area and the applicability of demolition permits.

Planning and Building Director Roberta Feliciano gave the staff report and overview of requested Zoning Code Amendments, including an exception process for floor area and the applicability of demolition permits. She described requests by Council Members Brekhus and McMillan at the April 13, 2023 meeting to review the need for a project to replace exterior siding and bring it before the Council. Subsequently, on May 11, 2023, Mayor Kuhl and Council Member Brekhus requested that Town staff explore options for providing an exception process for floor area and return at a future Town Council meeting for discussion.

Director Feliciano then described components of RMC Chapter 18.50.020 relating to demolition permits, how some Marin County cities handle demolition permits, and gave the following options for the Council to take:

1. Amend the Zoning code to clarify that RMC Chapter 18.50, Demolition of Structures, does not apply to maintenance, repair and/or replacement of exterior surfaces; or
2. Amend the Zoning code to increase the twenty-five percent alteration of exterior wall coverings threshold; or
3. Amend the Zoning code to permit the town planner to approve demolition permits that meet a certain threshold of exterior surfaces; or
4. Keep the existing Zoning code and require demolition permits for exterior wall coverings be processed under a Minor Exception Permit.

She then described Chapter 18.48: Variances, Exceptions and Adjustments, spoke about the Town's receipt of four applications requesting a variance to exceed allowable FAR, and said two of the four applications were approved by the Town Council. She then described how some Marin County cities handle variances, exceptions, and adjustments as well as findings and the following options for the Council to take:

1. Amend the Zoning code Chapter 18.48: Variances, Exceptions and Adjustments to include Exception to Floor Area; or

2. Keep the existing Zoning code and require a variance for additional floor area requests.

Staff requests comments, feedback, and direction from the Town Council on the specific Zoning Code Amendments regarding Chapter 18.50: Demolition of Structures, and Chapter 18.48: Variances, Exceptions and Adjustments.

Council Member Robbins said one option was that the neighbors would have to agree. She thought the Town has a system in place for evaluating a property based on the merits of the property and not necessarily the opinion of a neighbor, and asked if it is appropriate or a requirement for a neighbor to weigh in.

Town Attorney Ben Stock stated neither of the proposals before the Council are asking for neighbors' consent. The only one that touches upon a neighbor is when the Council is considering a variance or an exception for the FAR. It is whether or not there is enough bulk character for the parcel in the neighborhood and whether or not there is substantial privacy available to residents of adjoining neighbors. In that context, the Council would need to find there is injury to the neighbor from the variance.

Council Member McMillan clarified that Director Feliciano referred to fencing of between 6 and 7 feet high which would need the consent of the adjoining neighbor; however, this is not in the staff report.

Director Feliciano said as part of the minor exception process, one example is a fence. An applicant would talk to their neighbors about it because it is a shared fence on each of their properties. In this case, as part of the minor exception process there is neighborhood outreach, but it is not necessarily a requirement.

Council Member Robbins asked and confirmed the Council was going to take each topic separately.

Council Member McMillan referred to demolition permits and said if the Council allows the change to the Zoning Code to eliminate demolition of structures regarding exterior surfaces, she assumes this would save applicants quite a bit of money, as well as staff time and Council review.

Director Feliciano confirmed, stating applicants would just need a building permit.

Mayor Brekhus said if someone wanted to switch from stucco to shingles she confirmed that under the proposal applicants would not have to come before the Council. She asked if they wanted to go from stucco to stucco but add 20% more windows. Director Feliciano said this would still be exempt as long as they are not going over the 25% threshold, and this would also just require a building permit.

Mayor Brekhus said when she did her remodel, her architect said they were allowed to increase windows a little bit, but they need to be very close. Under the old ordinance, if applicants were not changing 25% of their exterior walls, they could increase window size as part of that.

Director Feliciano said the ordinance talks about the exterior wall coverings but not the windows. So, if applicants are not increasing any of the windows beyond the 25%, a building permit would only be needed.

Mayor Brekhus asked and confirmed that if the 25% threshold is exceeded, the project would move onto the ADR review; however, in this case, wall coverings include siding, stucco, and not windows so she does not see it as a change to that.

Mayor Brekhus opened the public comment period.

Stephen Sutro, ADR member, said he thinks in the design review section there is something that also states that if removal of more than 25% it must go to the ADR. He thinks it is great if this is a trigger the Council wishes to keep because if someone is removing a lot of surface area, which may constitute enough change, that the design should be considered at that time. But he does not think it is proper to include it in the demolition standards just because every jurisdiction uses wall studs and framing members to speak of demolition. They do so purposely because it relates to the opportunity to come up to code, to come to current tax roll levels for assessment which is proper and germane to those subjects.

Mayor Brekhus said she thinks the reason the Council asked for this to be agendaized was because they wanted to save someone a trip to the Council if they wanted to repair or replace siding. But if they do not need a demolition permit but still need to go to the Council, this would not save them any money.

Mr. Sutro confirmed and said the Council would have to change the need for design review as well because it states, "Any project resulting in the removal or alteration of more than 25% of the exterior walls has to come to design review" which means ADR and Council. So, if the Town is trying to avoid that, this does not, and he suggested the Council may wish to change both. It depends if the Council would like to review projects that involve replacement of more than 25% of the siding, which he does not have a strong opinion about. If it is in-kind, he did not think it needed to come before the ADR or Council.

Mayor Brekhus confirmed there were no other speakers and closed the public comment period.

Council Member Robbins asked if there is a downside or consequences if the Council were to approve Option 1 to no longer need a demolition permit.

Director Feliciano said if the Council thinks it is important for someone to maintain existing stucco and siding is not an appropriate replacement, the Council could require replacement to be “in-kind”. However, staff has seen instances where due to being in the high fire severity zone, someone might have wood siding and their home insurance policy is asking them to replace the wood siding with stucco or fire preventative materials.

In those cases, this would not be in-kind because they are going from wood to a stucco material or plaster finish. These are some of the considerations, and based on the process in other jurisdictions, there has been standard in the industry for it just to be a building permit requirement. If an applicant is proposing an addition and replacing 25% of the actual wall, this would require design review and Town Council approval.

Mayor Brekhus reopened the public comment period to allow Mr. Sutro to comment.

Mr. Sutro referred to the FAR topic and said Belvedere is an example of a town that has a special procedure called an exception to floor area that is separate from their variance section, but it is similar. They do not have to make the same findings but they have a set of findings which Director Feliciano has researched and is accurate. When applying for a project in Belvedere, they are encouraged when not breaking other rules to apply for a floor area exception. So, if the Council wishes to make that floodgate more open and wants to see many more applications that ask for exceptions to floor area, this is the consequence.

The ADR group is happy to review more cases of exceptions, but he gets nervous about more subjectivity particularly related to neighbor on neighbor discussions in a Town with so much non-conformance relative to lot size and setbacks.

In Atherton, there are huge lot sizes, the rules are clear and, if met, a person gets to build what they want. But it is hard to do that in Ross because their lots are so irregularly shaped and applying the code rigorously and uniformly is very difficult. If the Town is going to encourage another subjective process, he thinks it will result in more neighbor fights.

There are other ways to change the code to make more square footage available. He thinks a basement exception would be a terrific way to let people have more square footage or very little or no mass imposed upon the public while maintaining green space, and he is happy to champion that at a different time.

Mayor Brekhus reclosed the public comment period. She suggested taking the proposals one at a time, and first consider the demolition permit.

Demolition Permit:

Council Member McMillan said she prefers Option 1, and also the limitation of having it be in-kind or an upgrade to some sort of preventative fire surface, like hardy board. If an applicant is changing the look and feel then she thinks it should go through the ADR and come to the Council.

Mayor Brekhus said she can think of two Mediterranean homes that were improved for the better and look more Ross-like on Shady and on Garden and look great. She would not have an issue with that, but they could see where someone takes a traditional house and makes it more modern and with that, a departure from something the Council may not like. She thinks anything that improves fire protection is fine and thinks this was the original desire to not come to the Council.

Council Member Robbins said it seems restrictive to her and asked why it has to be the same. If someone had stucco and wanted a shingled house, this is not in-kind and they may not be in a fire zone.

Council Member McMillan said the reason she likes in-kind is the presumption that ADR has already reviewed it and has taken into account views of neighbors and character of the neighborhood. If you do not have it in-kind, it seems people could do a lot without any kind of design review or restrictions, and she is not sure the Council wants that.

Council Member Robbins said if they were to do one and it is in-kind there is the option to bring it to the ADR so they could obtain approval because it could be a lovely design and a homeowner should be able to build something.

Mayor Brekhus said she does not have a problem with someone going from stucco to shingle either, but it depends on whether it changes the look of the property.

Council Member Robbins said right now, applicants must go to the ADR to change anything, so this way they can change most things and if not in-kind or fire resistant, they go to the ADR.

Mayor Brekhus said if someone wants to redo their exterior walls and said they do not have to go to Planning because it is in-kind, she asked if staff reviews it before they get a building permit.

Director Feliciano confirmed and said it is routed to the Planning Department either way where staff would review plans for consistency. If it goes to the ADR, there is a fee but also during the plan check when applying for a building permit, it is part of the plan check and the Town's costs would be recovered when doing this.

Mayor Brekhus asked and confirmed staff has direction on demolition permits. She then moved on to floor area.

Floor Area:

Council Member Robbins said this is a Pandora's box. Lot sizes are small, homes are different shapes and sizes, and they have a system that has worked fairly well through the years and the understanding is you buy a house and you have a certain FAR that comes with that house. They can remodel it and with any changes to every house there can be a totally different look. So, she is worried about doing anything that changes the FAR.

Council Member Kuhl said he agrees and is concerned that it has been a long time since the Council has had a problem with people changing garages that can have an effect on the FAR. He thinks it is better left alone.

Council Member McMillan said people are also using the ADU to get a lot of extra space so she is not sure it is necessary to change this because they already have the ADU process to add floor area.

Mayor Pro Tem Kircher asked if someone does want additional FAR, whether it is presented as an application for a variance or an exception, he asked what is the difference between the two procedures as far as the applicant is concerned and as far as the Town is concerned.

Director Feliciano said right now, there is no exception process for FAR. It has strictly been processed as a variance. She thinks variance findings are more stringent in that it requires a physical hardship. In the two instances where variances to the floor area were approved, it was one where it was on a hillside and their entrance was on the second floor. In order to allow a safer entry into the home, the Town Council approved a variance to their FAR so they can enlarge the entry. There are times when someone might want more floor area and those are not necessarily approved.

In terms of adding an exception process, it changes the findings. The Council would not be making variance findings. The Council would make exception findings, and she asked if the Town Attorney had any comments.

Town Attorney Stock said the variance findings are also dictated by State law and some cities have an exception process to come up with findings they think are necessary for that type of category of use, so the Town has more flexibility in designing the actual findings instead of the variance findings when going through the exception process and create that process.

Mayor Pro Tem Kircher said he has heard from residents who are younger and trying to live in Ross, that it is very expensive and they get as much house as they can and have young children and need more room. They run up against these impediments to adding FAR, and frankly having raised children, he is somewhat sympathetic to that. But the Town does not want mansions or to overdo it. They have problems with hillside properties and impervious surfaces and, as Council Member McMillan pointed out, many people are now resorting to ADUs. So, if the Town has ADUs plus exceptions, then they get more massive structures. But he is concerned about younger families who are struggling to have enough room to raise their families.

Mayor Brekhus said when she was looking to remodel and trying to see if she had any extra floor area, the only option she was given was a JADU, which would not be a JADU. Then it felt like she was going to apply for something which immediately opened the space and would be part of her house.

She likened it to a game the Town is asking residents to play and, if someone felt it was unethical, they would not do it but then they realize this is the game the Town wants them to play. This is the flipside and she agrees and understands the concern that once the Town puts in an exception, it is a slippery slope. However, she also thinks they need to recognize that the reason why they have as high as 90% non-conforming homes is because they build as they build, and they like what has been built. Their whole Zoning Code is like having an anxiety attack where the Town does not like how people build, yet their homes do not conform to the zoning already.

On one hand, they want diversity of housing stock, not have every three-bedroom turn into a four- or five-bedroom home, but on the other hand, the way the Council used to do it is they looked at what the addition was and they decided was it a big problem for anyone, and it was subjective. They allowed homes to have variances. When the Council used to do an approval, they used to see all of the approvals for the property which were helpful because they could see how variances were decided upon before, and they were handed out like candy. So, if the Council wants to get back to the practice of making the decisions she will not deny the other concern that the Town will get more of those. Already, Ross residents who are remodeling are increasing floor area, and the question is whether the Town wants them to play the game of ADUs and JADUs or not.

Council Member McMillan said about 10 years ago, there were many issues with the hillside lot ordinance. You could get more square footage if there was an excellence of design which meant if you are a friend of mine I think your design is excellent. If you are not a friend of mine, your design is terrible.

She reviewed about 15 years of decisions on hillside lot ordinances and there was no rhyme or reason. It was totally subjective and very unfair. So, she does not want to create a situation where the Council is opening the flood gates and introducing more subjectivity because it feels like initially they will make people happy, but ultimately, it is going to be a disparate treatment

and the Council will be back here in five years saying this is a very unfair process.

Council Member Robbins said the sense is that people move to Ross because it is a beautiful town, nicely built, and to say they can make all of these exceptions to FAR means lots of things will be built very differently, and it may not be as desirable a town.

On top of that, there are ADUs and JADUs so people do have that option. It is sort of a game, but it is legal and has all of a sudden become a very appealing way to increase FAR of the property. With that available now and the slippery slope and Pandora box-like element if the Council starts to play around with FAR, she thinks they should keep things the way they are. Regarding the one project mentioned it was clear that property would benefit from increased FAR. It was not a lot, did not hurt the neighbors, and this is the sort of review at the ADR and Council level where that determination could be made. She thinks the Town has a system that has worked well and she would stick with that.

Council Member Kuhl said there is one other thing the Council should be thinking about which is that he understands the State is going to be looking over their shoulder about whether they are doing what they said they would do for the Housing Element. He is a little concerned about the use of ADUs being made now which is not necessarily really for the purpose that ADUs are designed. So, he thinks they should be very careful about doing things that might result in the State not liking the way the Town is proceeding. Therefore, he would leave things the way they are.

Mayor Pro Tem Kircher said again he is sympathetic to young families but he is also sympathetic to the argument that if the Council opens the flood gates they introduce subjectivity which is not a good thing. He supposes they already have State laws that require non-discretionary approval of ADUs and that is a State policy and not the Town's policy. They are complying with it and relying on it to meet RHNA numbers, but it is a situation they already have. In light of that, he will vote in favor of keeping the Town's policy the way it is, subject to some future reconsideration depending on what happens.

Mayor Brekhus said she thinks this is agendaized as a discussion item, and there has been sufficient direction to staff to bring back something for further consideration on the demolition permit, including looking at design review. She was not sure the Planning Department's practice would be to bring it to the ADR. She would not be opposed to having that discussion and asked how other Council Members felt; whether it should come back strictly to the Council or have the ADR also look at that code language change.

Council Member Robbins voiced support to obtain the ADR's input. Mayor Brekhus agreed and concluded the item.

End of Administrative Agenda.

Public Hearings on Planning Projects – Part II.

9. **65 Wellington Avenue, Design Review, Nonconformity Permit, Hillside Lot Permit and Town Council consideration of Resolution No. 2401.**

Sutro Architects, APN 072-071-08, Zone: R-1:B-10, General Plan: ML (Medium Low Density), Flood Zone: X (Minimal Risk)

Project Description:

The applicant requests approval from the Town Council for Design Review, Nonconformity Permit, and Hillside Lot Permit. The project will renovate the existing single-family residence consisting of interior and exterior remodel, which includes reconfiguring the front stairs of the home and adding a 17 square-foot (SF) porch with an overhang. The project will also convert the existing basement into a JADU and transfer the floor area to construct a 260 SF new primary suite on the second level that will be over existing space. The project will add a new roof that will match the existing. The exterior of the house will be painted navy blue with a creamy white trim. Additionally, the project will reconfigure parts of the front yard landscape, implement retaining walls, and install a new 6-foot gate.

Assistant Planner Alex Lopez-Vega gave the staff report and overview of the request for Design Review, Nonconformity Permit, and Hillside Lot Permit at 65 Wellington Avenue. The project was reviewed by the ADR group and members supported the project overall; however, they provided feedback focusing on architectural details, mainly the front porch addition, the garage door, and improving the front entry gate.

In response, the applicant updated the project plans to include the addition of a small sloping roof adjacent to the addition and new columns on the entry porch. The applicant also changed the garage doors' appearance to create the illusion of two doors and a new entry gate door.

On January 11, 2024 Town staff met with the project applicant on-site to address neighbors' concerns related to the construction management plan and vegetation management plan. As a result, staff painted the curbs red at the intersection of Wellington and Baywood, starting at the stop sign and 20 feet back. The applicant is also required to remove the Podocarpus trees and shrubs along Baywood to bring better visibility and safety to the intersection. Carpooling will be mandatory for contractors and subcontractors to limit the number of vehicles on Wellington and Baywood Avenue. Police will also routinely drive through the area to enforce illegal parking. If any neighbors have concerns about parking or traffic, they can call the non-emergency line at 415-453-2727 to report any issues.

An updated construction management plan was provided for review by Town staff. The plans include relocating the portable toilet and areas for material storage. The project architect is present tonight and will discuss the construction management plan in greater detail. He also pointed out that a pre-construction meeting with the property owner, project contractor,

architect, Ross Valley Fire Department, and Town staff is required prior to issuance of a building permit to review the construction and traffic management plan, as well as conditions of approval for the project.

Tonight's public hearing is to consider Resolution 2401 approving design review, hillside lot Permit, and a nonconformity permit at 65 Wellington Avenue, and staff can answer questions.

Council Member Robbins asked and confirmed there is no new building in the right-of-way for this project.

Mayor Brekhus called on the applicant for a presentation.

Stephen Sutro, designer, said he shared a PDF presentation to display and pointed to the two renderings of the project. He described the project's interior renovation but with some exterior changes, paint, refreshing the exterior, a JADU at the garden level intended to be a separate space, change at the front entrance to create a cover at the front door, addition at the bedroom level in transference to the JADU square footage, changes at the gate and front steps and garage doors, and planting changes required by the Fire Department.

He said the project conforms to all setbacks, FAR, lot coverage, and height limit planning regulations. There is a small increase in impervious surface area which will be offset by a small bio-retention area of 5 square feet. A non-conformity permit is required because a lot of the building currently exists in the side yard. He pointed to the rendering showing the house's non-conforming area in the side setback. The new square footage is highlighted in blue, so the entirety of the addition is in the buildable area.

The project requires a non-conformity permit because they are altering a non-conforming structure and changing the nature of the front entrance by creating the porch which is in the setback. The bulk of the house stays the same and there will be no change in the silhouette that faces the neighbor. He then presented a slide showing circled areas of the project of the bedroom addition, front porch, front gate, garage doors, and the trees that will be removed from all around the side.

He then described the front entrance which has a small eave with no rain protection and its feeling of substandard-ness for functional and aesthetic reasons. He described the JADU which occupies most of the garden level with access by a door at the bottom of the stair around the corner which serves the family and/or for housing stock purposes. The garage stands at the property line with encroachment into the right-of-way with the stone walls that wrap around to the left and around the corner of Baywood, which is where all vegetation is currently planted.

They have worked with Rich Simonitch to ensure that can be permitted with a recorded encroachment permit retroactively and the Fire Department thinks the Podocarpus is a big fire

hazard as well as a safety hazard. He then displayed a picture of the existing stairs on the face of the garage where there is spillage into the right-of-way, so they are retracting the steps and will design the gate with a new section and stone wall that matches the stone wall which is set in plain on the property and not in the right-of-way. Also, there is a low retaining wall that wraps around the corner and this has been there for a long time, where they can apply for a retroactive encroachment permit, though it is not part of this project to undergo any work there.

He then presented examples of garage doors, and the ADR asked them to upscale them to carriage looking doors which fits in with the neighborhood and is of high quality. The exterior materials are stained the same with a color change of charcoal composition shingles, a dark navy color with off-white trim. There is some grass in the front yard that is sloping and they are grading it down a bit behind the fence for more usable space. Imbedded in the Podocarpus are some Magnolia trees which do not get a lot of light, which are spindly and meet the Fire Department standards, which will stay. A planting plan of low shrubs will meet Fire Department requirements in front of the fence and to keep the Magnolia trees which hopefully will thrive.

He pointed to the property dashed line and said the curved, historic wall extends into the right-of-way. The ADR meeting was helpful. They pointed out trim details added to the porch, asked them to wrap the eave around on the second floor which the house had and he appreciated their suggestions. The rest of the ADR meeting consisted of neighbors presenting complaints about the construction and the management plan. They are aware of no questions or concerns any neighbor has about the design, so their concern stems from construction along a very narrow road, with little parking, and legitimate concern about activity in this neighborhood.

They also will have a dumpster there for 14 days because it encroaches into the navigational right-of-way a bit. Mr. Simonitch will ask for a specific encroachment permit for the dumpster and the rest of the refuse will land on the front lawn behind the front gate. The space in front of the garage will be reserved so people can drop off and pick up things there. Also, the neighbor to the left of the diagram was concerned with the porta-potty location near their entrance, and determined this can be put behind the fence on the front lawn screened. Lastly, a carpool stipulation is being made mandatory for the project.

Council Member McMillan said she thinks the neighborhood is suffering from construction fatigue and she just heard that perhaps the project will not start until Spring of 2025.

Mr. Sutro said Heather and Matt Potts are here and have said this is what they would do to allow everyone to recover from fatigue and because it also works for them.

Mayor Brekhus asked how it is that floor area is being reduced. The JADU is not counted, but she asked what is going away and what is being added. Mr. Sutro said it is because the JADU is absorbing more square footage than the addition. He also confirmed the porch does not count because it is less than 10 feet per the code.

Council Member McMillan asked if during construction they could park vehicles in the garage. Mr. Sutro said he was unsure. There is a small staging area on the front lawn, some of which is taken up by refuse and the porta-potty. So, materials stacked to be placed can go there or they can go likely in the garage to be protected from rain. He thinks it depends on the staging of the project, but definitely not for the entire length of the project.

Council Member McMillan asked if the neighbor closest to the encroachment on the side had any issue with the project.

Heather Potts, owner, clarified that those were the Wells, and they wrote in support of the project.

Mayor Brekhus opened the public comment period.

Linda Brown, 7 Baywood, said she was concerned about parking and the dangers she has already encountered as a result of work vehicles from the project across the street. She is delighted that the owners have agreed to carpool people and for making it mandatory.

Elinor Mann, 8 Baywood, said she wrote a letter today and what has been said tonight has answered many of her questions. Her biggest concern was related to the carpool and sees it will be mandatory which is great; however, she questioned the details, such as the number of cars that can be parked on sections. She also asked how this gets enforced and asked what neighbors can do to live with the possibility or likelihood of there being non-compliance with the construction management plan, hours of operation, etc. In the past, with neighborhood construction, neighbors just tolerated it, so they do have construction fatigue. She did not think it is right to call police who have other things to do, but workers were working until 7PM and moving large equipment. She finally called at 6PM and reached her limit with frustration, and hopes the plan is enforceable.

She referred to her pictures regarding encroachment into the right-of-way for the planters. She said now that the huge trees on the Baywood side will be cut down, she asked if there needs to be a planter so wide and asked if it could be pulled back which would open up the visibility for the intersection.

Dan, via Zoom, thanked the Potts and appreciates the efforts with carpooling and said he completely understands what it is to push the project out to 2025 which is not easy. He looks forward to cooperating with the owners moving forward.

Rebuttal – Applicant

Stephen Sutro, designer, pointed out that the encroachment along Baywood is very low. There is a low stone wall of 2-3 feet, and a bit of shrubbery that slopes up to the open picket fence. It is a

significant feature of the property, is symmetrical around the pool, has been there for a long time, with attached mature landscaping, and it would be a very material thing to push that out of the right-of-way and it does not pose a visual navigation problem in terms of its height. He would ask Mr. Simonitch whether this is necessary because there are many encroachments into the public right-of-way in Ross and also not all of the official legal right-of-way is necessary for the navigation required. Sometimes the Fire Department finds it necessary to request people evacuate and move things out of the right-of-way to widen it, but he did not believe this was the case.

Mayor Brekhus closed the public comment period and rebuttal and asked for deliberation.

Council Member Robbins said she thinks it was clear the design is accepted and the main challenge is the construction plan. She understands the neighborhood is suffering from construction fatigue, but the rules for this project should not be any different from any other project. If in the end the owners wanted to start it this year, she did not think the Town could restrict that.

Regarding the low wall encroaching into the right-of-way is not part of this project so she did not think it should be addressed now. At some point, the Town should address all encroachments and move anything for parking for fire safety reasons, and have some guidelines and process given to allow for time to remove things.

Council Member McMillan echoed Council Member Robbins' comments, but she also lives in the neighborhood and is suffering from construction fatigue, and thinks the Town is doing a better job of managing traffic and parking. She is confident with this project Town staff will work out a detailed construction management plan and there are ways for neighbors to address concerns. She appreciates the applicant is willing to continue the project for a year which will help.

There are many issues that have come up with this application which are not relevant to the application itself, and it is too bad that those issues have been mingled and apologized to the applicant for having to undergo this scrutiny. She thinks the police need to work better to ensure drivers are actually stopping at the stop sign at Baywood and Wellington and spoke about a vehicle blasting through and coming around her. So, while not part of this project, she separately asked for better enforcement here by police. She fully supports the project and is willing to make a motion to approve the project.

Council Member Kuhl said he has also suffered from construction activities of neighbors, said this is something that will occur in town when people want to improve their properties. The Town must do its best to minimize problems, but he thinks this is not the time to do it. The non-emergency phone number is available for neighbors to use and encouraged people to use it if concerns exist. The Town will do the best it can to insist on conditions to minimize problems. Otherwise, he will vote in favor of it and thinks it is a great project.

Mayor Pro Tem Kircher said he is in favor, and would like to second the motion.

Mayor Brekhus added that she loves a blue home and thinks it is a pretty addition to the neighborhood. If the planter with new plantings is a visibility issue, this does not mean the Council cannot review it. They have in the past voiced support of approval.

Council Member McMillan moved and Mayor Pro Tem Kircher seconded, to adopt Resolution No. 2401 approving 65 Wellington Avenue Design Review, Nonconformity Permit, Hillside Lot Permit. Motion carried unanimously (5-0).

End of Public Hearings on Planning Projects – Part II.

10. No Action Items: (Mayor)

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

- 1) Council Member Robbins referred to existing meetings that affect Council dates stating on June 6th there is a RVPA meeting as well as a May 2nd meeting, and she asked that the Council meeting be pushed back one week.

Town Manager stated two Council Members can request staff to bring back the schedule. She suggested holding the meeting on Thursday, June 13th, and Mayor Brekhus suggested agendizing it for the next meeting.

Regarding the Council schedule item, Council Member McMillan also asked staff to compare how other jurisdictions are handling this issue.

- 2) Council Member Robbins also stated she received concerns regarding noise from pickleball but not on the Town courts, but a possible sports court where people are playing pickleball. Some towns have outlawed pickleball unless the court is 600 feet from a property line. The Council item should be whether to discuss the Town's noise ordinance, specifically considering restrictions on playing pickleball on a tennis court.

Council Member McMillan moved to agendize an item for the April 4, 2024 meeting for "Council Schedule Changes", which will require a resolution.

Council Member McMillan moved and Council Member Robbins seconded, to agendize an item for the April 4, 2024 to discuss "Council Schedule Changes". Motion carried unanimously (5-0).

11. Open Time for Public Expression.

There were no public comments.

12. Adjourn Meeting

The meeting adjourned at 7:55 p.m.

13. Return to Closed Session

Mayor Brekhus announced there was no reportable action taken in Closed Session. The meeting adjourned at 8:59 p.m.

ATTEST:

Cyndie Martel, Town Clerk

Elizabeth Brekhus, Mayor

DRAFT