

SPECIAL MEETING MINUTES of the ROSS TOWN COUNCIL

WEDNESDAY, JANUARY 24, 2024

Held In-Person and Teleconference via Zoom

1. 4:00 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.

3. Town Council recommendation to Waive First Reading, Read by Title Only, and Re-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 February 15, 2024.

Planning Consultant David Woltering gave the staff report and PowerPoint presentation, as well as an historical account of the matter, noting this item was continued from the January 11, 2024 Council meeting. He described the request of the Council to re-introduce Ordinance 724, amending and adding language to Chapters 18.16 and 18.40 to facilitate Workforce Housing for Staff and Faculty at the Branson School to implement the 2023-2031 6th Cycle Housing Element.

At the December 14, 2023 Council meeting, at which this ordinance was formally introduced, Branson School representatives indicated concerns including requesting assurance that parking could be provided for the housing units being proposed on the campus and that the development standards for the proposed housing satisfy objective criteria requirements. The proposed ordinance identifies the opportunity for 10-11 lower income housing units on the campus for faculty and staff. Based on the concerns presented by the Branson representatives, staff returned to the Council at its January 11th meeting with proposed amendments to address the concerns. The Branson representatives continued to have concerns regarding the language and the Council continued the item from the January 11th meeting to the January 24th Special Town Council meeting.

Mr. Woltering indicated staff and the Town Attorney had continued to work with Branson representatives and, at this time, are providing for consideration further clarifications and amendments, he believes Branson representatives' support.

Mr. Woltering then provided an overview of the proposed amendments as contained in the staff report and ordinance, and staff's recommendation to waive the first reading, read by title only, and re-introduce Ordinance 724, and direct staff to return for the second reading and adoption on February 15, 2024.

Council Member Kuhl asked if the Town faces any time limits for getting this done.

Town Attorney Ben Stock stated that in order to obtain certification by the State, of the Town's Housing Element, all zoning actions must be taken by the end of January, 2024.

Mayor Brekhus said she had a meeting with Town Attorney staff, who indicated the amendments could be done in February and at the time the Town presents the Housing Element to HCD, they would have to act on any ordinances at that time.

Mr. Stock clarified that to have the Town's Housing Element certified, the Town must have the zoning actions done. However, further revisions to the Housing Element are needed. Therefore, if the Council members desire to take more time with this ordinance, they could. However, it is preferable to have the first reading of this ordinance done this January.

Mayor Brekhus opened the public comment period, and there were no speakers. She closed the public comment period.

Mayor Brekhus referred to height, stating the maximum height is to be 30 feet which is consistent with the R-1 zoning or the height of the tallest structure within 250 feet of the particular proposed housing site, which she thinks is a bit arbitrary as a standard because the Town has some 3-story buildings near Branson. Therefore, she wondered if just the 30-foot limit should apply. It sounds like the intent was to provide context for the neighborhood, and Branson representatives were concerned that if the tallest structure within 250 feet was a single-story structure they would be limited to a one-story building. However, 30 feet gives them 2 stories, and if 250 feet is used, there are homes across the street that are 3 stories.

The second provision of her concern relates to the setbacks language which describes meeting the R-1 zoning requirements or 90% of existing. Mayor Brekhus did not like this provision, and provided an example on Hilgert which has a garage right on the property line. If they have a zero setback for the garage, she asked if 90% of zero is still zero, which means Branson can build those Hillgirt properties right up to the setback. She did not think the Council knows enough about the different sites and thinks they should just use the R-1 zoning requirement. She also thinks the language is poorly worded and open to interpretation.

Her final concern relates to standards for articulations. One of the proposed options is called “setbacks.” This term did not seem appropriate in this section. An upper story setback/offset sets back from the first story, but the stand-alone word “setbacks” does not seem to apply in this section.

Council Member Robbins shared that her edit has to do with parking. She believes it makes sense to have up to 2 parking spaces per unit, but make it clear these are for the exclusive use of the occupants of those buildings and their guests, and not for other students, faculty, or staff parking. She suggested stating, “The 2 parking spaces are for the use of residents only and not for non-residents, or other faculty, staff, students, and vendors.”

Council Member McMillan confirmed the intent that units are allowed to have guests, and she suggested changing the word “occupants” to possibly “occupants and their guests.”

Council Member McMillan questioned timing concerns related to taking action on this ordinance.

Mr. Stock said if the Council can suggest specified edits, the members could still introduce the ordinance today. If it takes more thought in drafting, staff would suggest continuing the item to the next meeting and to give direction to staff on drafting those further edits.

Mayor Brekhus stated she spoke with Town Attorney staff asking if the Council could make edits at this meeting and adopt the ordinance as such.

Council Member McMillan said her concern is how Branson representatives will respond to further edits which could possibly unravel this again.

Mayor Brekhus noted this has been a consultant/staff negotiation with Branson representatives and that the Council does not abdicate its responsibility to do zoning to staff or to Branson. She would like to get it right. She knows they can come back and change objective standards, but that is a harder lift. So, if there are some modest edits to make it a better ordinance for residents that will live next to these structures, now is the time.

Council Member McMillan said she just wants to be mindful of what the timing is, how Branson will respond, and she did not want to drag this out. She wondered if the Town Attorney had thoughts about how Branson representatives will respond to modifications.

Mr. Woltering offered in terms of the articulation, the word “setbacks” could simply be removed. The other areas of articulation are more clear and more typical. He would agree that setbacks in that menu is probably not appropriate and should be struck. In terms of thinking about parking, under Item E; Parking, it states “Two dedicated parking spaces per unit by right” and after that there could be additional language that states, “for residents and their guests.”

Regarding the matter of zoning setbacks and the 90% of existing provision, the applicable R-1-B-6 setbacks are front 25', side 15', rear 40'. He does not think the intent was to look at properties in the vicinity, but if there is an existing structure on the Branson property and there is an established setback and they are proposing to replace it or modify it, he thinks this is more the intent and not the surrounding area.

Mayor Brekhus said if you are going to take down a residence and rebuild, to her that is not what the proposed language says. It says "...or not be less than 90% of the existing setbacks of the nearest existing structure."

She cannot envision every single potentially applicable property, but she can envision the two on the fields on Hillgirt. She thought about the nearest residence and believes it belongs to Marta and Curtis. She knows they have one garage that has a zero setback. She did not think the Town should create a new standard without going around and looking to understand what the standard is that they are creating.

Council Member Robbins suggested it say, "The nearest existing structure on the Branson campus", whichever is less, to clarify the intent. This way you are starting with Branson buildings and they have the same setbacks, then it could be interpreted that the setback must be 90% of that or at a minimum.

Mayor Brekhus said this does not remove the problem because the nearest structure to the Hillgirt one is probably one up the hill, and she does not know what those setbacks are. Why was the Town introducing a standard they know nothing about? She suggested striking that language. If it is the nearest structure on the Branson campus then Hillgirt can look at something up on Circle and say whatever the substandard setback is there, they get to use it.

Mr. Woltering said the motivation for proposing the 90% provision was to address existing circumstances. In terms of the R-1-B-6, again, the setbacks are front 25', side 15', rear 40'. An option could be to use the R-1 setback standards only, as they provide a clear and objective standard.

Council Member McMillan asked if it would be 90% of the existing R-1? Mr. Woltering said the intent was to look at an existing circumstance and try to work with that.

Mayor Brekhus noted if an additional substandard setback would be created if they compare to a neighbor. She understands the idea but does not think it is a good idea and they should stick with the zoning.

Council Member Robbins asked if these houses can be built with the Town's current zoning. If something is being torn down and built again, she asked if that size and shape generally stays.

Mr. Woltering said he does not see an issue with using the standard in the R-1-B-6 zoning district. As the Mayor mentioned, in terms of knowing specific portions of property being considered for development, this is yet to come. But this is an objective standard.

Council Member Robbins said if the school said maybe there is a cluster of 3 units and they need a special setback, she asked if the Council has the ability to offer a variance, or is this it.

Mr. Woltering emphasized the intent at this time is to provide objective standards and eliminate discretionary review.

Mayor Brekhus said if they wanted to come before the Council and ask for an exception to be allowed to do that, the Town could say “yes” then. The goal is not to prevent housing on the campus, but they will not have any review in the future with these standards. There are 10-11 properties on the Branson campus subject to these standards. She stated she did not know if some of these homes even know the Council is having this discussion. To create a situation where you deviate from setbacks or height standards, seems inappropriate, but she understands the reason, which was in the context of the neighborhood.

Council Member Robbins said she thinks it is reasonable to stick with the standards the Town has knowing there could be an exception and Branson is able to build the 10-11 units with the current standards.

Town Manager Johnson asked if the Mayor was proposing that on page A-3 under A; Building mass, orientation, scale, and articulation when it states, “Minimum yard requirements, i.e., setbacks for new multi-family residents shall be those found in the R-1 district of the Town code” and to eliminate the rest.

Mr. Woltering stated to further clarify, he suggested stating “the R-1-B-6 District.” Mayor Brekhus and Council Members agreed.

Mayor Brekhus said the paragraph above that should just state, “The height of the new multi-family residence shall not exceed that of the height for structures in the R-1 District, except as set forth in Section 18.16.060.”

Mr. Woltering said he understands the Mayor’s perspective, and to be more precise and objective: 1) the R-1 standard up to 30 feet does do that, 2) on A-3 under the last full paragraph, strike the word “setbacks”. It would read “pitched roofs, wall offsets, ~~setbacks~~, upper story setbacks, balcony setbacks and/or changes in wall and roof planes” and 3) change the phrase under E; Parking, after By Right which would say “By right for residents and their guests.” He confirmed this would also include service people.

Council Member Kuhl asked if a representative of Branson is attending the meeting, and Mayor Brekhus stated she did not want to reopen the public comment period.

Council Member Kuhl said once the Council passes whatever they approve, he asked if Branson can do anything about it if they do not like something the Council has done.

Mr. Woltering noted this is the first reading of the ordinance and if approved, the ordinance would come back for a second reading and actual adoption on February 15th.

Council Member McMillan said were the Council to make these changes without hearing from whoever has their hand raised via Zoom, she asked if Branson would have another opportunity to go to HCD and try to negotiate this ordinance with HCD staff.

Mayor Brekhus said Branson has already gone to HCD but that does not mean they get to negotiate the Town's ordinance.

Mr. Stock clarified that any member of the public has an opportunity to have discussions with HCD and present their objections to the Town's Housing Element and implementing zoning ordinances.

Council Member McMillan said she would be inclined to hear public comments on changes just proposed.

Council discussion ensued, and Mayor Brekhus believes the proposed changes are appropriate. She said she was told the idea of adding the R-1 standard for height was because Branson representatives were concerned they would be limited to one-story, if the nearest structure within 250 feet were a single story structure. They felt okay when it was moved to 30 feet, but the provision regarding the nearest structure within 250 feet remained, which the Mayor believes goes beyond what the height is.

The second issue is the modification to the proposed setback provision, which she did not think Mr. Woltering's interpretation was susceptible under the language. So, she cannot imagine changing that. Lastly, she cannot believe the parking item should be an issue, given that it is clarifying what the parking is for the residents and their guests.

Council Member Robbins agreed and said there should be a right to have parking at 2 spaces per unit.

Council Member Kuhl said once HCD approves the Town's Housing Element, he asked what rights would Branson or any resident to comment on it at that point.

Mayor Brekhus said they would not be able to. Council Member Robbins said, however, if there are building plans that require variance from the regulations, this could go before the Council.

Mr. Woltering said as a reminder in terms of HCD comments to the Town, the idea which precipitated this discussion was to make sure the Town proposes objective design and development standards which is the focus.

Mayor Brekhus moved and Council Member Kuhl seconded, to waive First Reading, read by title only, and re-Introduce Ordinance 724, with proposed edits clarifying under Section 18.40.220 A. the maximum height of new multi-family structures shall not exceed the allowed height for structures in the R-1 District of 30 feet; the minimum yard requirements, ie., setbacks, shall be those in the R-1 Zoning District; and that the word "setbacks" in the last full paragraph shall be removed; and change Subsection E. to read "...by right for residents and their guests, and, otherwise, 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 February 15, 2024. Motion carried unanimously (5-0).

4. Adjournment.

Mayor Brekhus adjourned the meeting at 4:48 p.m.



Elizabeth Brekhus, Mayor

ATTEST:



Cyndie Martel, Town Clerk