

REGULAR MEETING of the ROSS TOWN COUNCIL
THURSDAY, OCTOBER 8, 2015

1. 6:00 p.m. Commencement.

Present: Mayor Katie Hoertkorn; Mayor Pro Tempore Carla Small; Council Member P. Beach Kuhl; Council Member Elizabeth Brekhus; Council Member Elizabeth Robbins; and Town Attorney Greg Stepanicich.

2. Posting of agenda.

Town Clerk Linda Lopez reported that the agenda was posted according to government requirements.

3. Minutes – September

Mayor Hoertkorn asked for a motion.

Council Member Brekhus moved and Mayor Pro Tempore Small seconded, to adopt the Regular Meeting Minutes of September 10, 2015 as amended. Motion carried unanimously.

4. Demands.

The demands were met.

5. Open Time for Public Expression - None

6. Introduction of Postmaster Roosevelt Sargent III.

Town Manager Joe Chinn introduced new postmaster Roosevelt Sargent III and indicated that he will be a very good fit for the community. The Council welcomed Postmaster Sargent and appreciated his presence at the Council meeting.

7. Mayor's Report.

Mayor Hoertkorn reported that the Town Dinner is a reminder of the Town's strong community spirit and traditions. And last Friday's Town Dinner at MAGC was a resounding success - over 500 people attended! Many thanks to Mike Armstrong, Ross Recreation Manager, and his team, Council Member Elizabeth Brekhus, MAGC and all the volunteers who helped to make the dinner such a memorable and remarkable event. Mark your calendar now for the last week in September for next year's Town Dinner. Congratulations to Ross resident Teri Dowling for being named as the new chair for the Marin Commission on Aging. Teri has represented Ross for the last four years on the Commission and is spearheading a survey of adults 60+ to complete a needs based assessment: <https://www.surveymonkey.com/r/agingsurvey2016>.

The Fee Study for the Building and Planning Department, authorized by the Council in March, is on track for completion by the end of this year. This study, led by Town Manager Joe Chinn, is very important. The study will determine what fees need adjustment, ensuring fairness and accuracy for both applicants and residents, who have had to subsidize the building and planning

October 8, 2015 Minutes

process. Ross's reputation is a charming community to raise a family, replete with lovely, well kept homes, an excellent school, a strong sense of true community, and a high walkability factor are among its many attributes. However, the Town receives complaints about a wide variety of quality of life issues: noise from leaf blowers or heavy construction on weekends, overgrown vegetation impeding sidewalk access, sidewalks needing repair, people not picking up after the dogs, etc. Please do your part to help keep this community we share truly charming and enjoyable to all. Once again, Mayor Hoertkorn will be in front of the Post office on November 11th from 1:00 p.m. - 2:30 p.m. to receive any community input prior to the next Council meeting.

8. Council Committee Reports.

Council Member Brekhus announced that Public Works would schedule a meeting very soon.

9. Liaison Reports.

a. Town Manager.

Town Manager Joe Chinn reported that he is recruiting for a planning manager. Several applications have been received. This week the Town cleared the obstructions in Corte Madera creek between the Public Works courtyard to the fish ladder. General notices have been sent out to property owners on how to prepare for the flood season.

b. Marin Art & Garden Center.

Diane Doodha, MAGC representative, reported that the Town Dinner was well received and was a community building success. Enhanced supervision of the children is a topic of conversation. The Ross Society has returned to MAGC. Marin Society of Artists (MSA) will be moving to San Rafael and MAGC wishes MSA continued success. Marin Master Gardener's just completed their two-day, "Grow it, Eat It" workshop. A second program will target second graders, which started in October and helps children understand habitat and various components of habitat. Also a full-time executive director was hired at MAGC, and will be introduced to the Council at the November Council meeting.

c. Ross Property Owners Association – No report.

d. Ross School.

Michael McDowell, Ross School Superintendent, reported that Ross School received some of the highest scores in the State. They have some excellent specialist programs, such as advanced Spanish. They are working with Stanford University on mathematic special development. Last year they developed a five-year strategic plan that included: content; engaged in creative problem solving; confident in learning and compassion with others; and high levels of collaborations. Also, wonderful activities with outdoor education and community education programs have been well received.

Mayor Pro Tempore Small enjoyed having student counsel attend their meetings last year and provide a report. She felt it is important that the young community realize how accessible their government is and should be and hoped their participation continues.

10. Consent Agenda.

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

- a. **Town Council consideration of adoption of Ordinance No. 667, an Ordinance of the Town of Ross amending Title 15 “Buildings and Construction” of the Ross Municipal Code, adding Chapter 15.46 “Expedited Review of Small Residential Rooftop Solar Energy System Permits.”**

Mayor Hoertkorn asked for a motion.

Council Member Brekhus moved and Council Member Robbins seconded, to approve the Consent Calendar as submitted by staff. Motion carried unanimously.

End of Consent Agenda.

11. Public Hearings on Planning Applications.

Public hearings are required for the following planning application. Staff anticipates that this item may be acted upon quickly with no oral staff report, Council discussion, or public comment. If discussion or public comment is requested for any item, the Council may consider the item later in the agenda. The Council will act on each item separately.

- a. **70 Ivy Drive, Design Review and Basement Exception No. 2007, and Town Council consideration of adoption of Resolution No. 1916.**

James and Brett Collins, 70 Ivy Drive, A.P. No. 73-143-23, R-1:B-10 (Single Family Residence, 10,000 sq. ft. min. lot size), Medium Low Density (3-6 Units/Acre). Public hearing for the Town Council to consider Design Review and Basement Exception for a proposed enclosure to be used as habitable space of an existing and previously recognized understory space for the property at 70 Ivy.

Contract Planner Ali Giudice summarized the staff report and recommended that the Council approve Resolution No. 1916, conditionally approving design review to allow an enclosure of 316 sq. ft. of understory space at 70 Ivy Drive.

Mayor Pro Tempore Small knows the difficulty of driving up Ivy Drive and suggested adding more detail to the condition in regard to truck traffic. Contract Planner Giudice explained that the applicant provided a construction management plan, and staff agreed to add such detail as part of their submittal package. Mayor Pro Tempore Small believed it is important since it is a private road that all homeowners have the contact number to all contractors, so the issue can be resolved before it is a problem.

Mayor Hoertkorn opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and brought the matter back to the Council for action.

Mayor Hoertkorn asked for a motion.

Council Member Brekhus moved and Mayor Pro Tempore Small seconded, to approve Resolution No. 1916 as revised. Motion carried unanimously.

End of Public Hearings on Planning Applications.

Administrative Agenda

12. Town Council consideration/action to limit parking on East Road.

Police Chief Erik Masterson summarized the staff report and recommended that the Council direct the Chief of Police to establish one side of East Road for prohibited parking. The uphill side of East Road is recommended to be prohibited from parking.

Mayor Pro Tempore Small visited the area and pointed out that it is not painted red around the fire hydrant. North is red on one side, and when looking at making those turns, the fire hydrant should be painted red so that it is clearly identified. Police Chief Masterson noted that it is clearly noted in the vehicle code that individuals are not allowed to park near a fire hydrant.

Council Member Robbins hates to paint additional areas red if it is not needed. Police Chief Masterson recommended posting a sign in regard to “no parking” rather than painting the curb red.

Council Member Kuhl asked staff about enforcement, and if this will be an enforcement problem. Police Chief Masterson felt more than likely they will receive calls for violations, which will send the message.

Mayor Hoertkorn opened the public hearing on this item.

Carol Kuhn, East Road resident, brought this matter to the attention of the Police Chief after a fire truck had difficulty getting down the road to investigate an issue. She felt since the fire truck is the first responder, they should not have impeded access to the streets. The Town installed a sign requiring the 12-foot clearance between vehicles, but it has not solved the problem. She appreciated the fact that her neighbors made efforts to change their parking habits to improve the situation, but it is difficult to monitor the traffic. While they do not look forward to more signage or a red curb in front of her home, she felt safety should be the primary concern.

There being no further public testimony on this item, the Mayor brought the matter back to the Council for direction.

Council Member Kuhl felt it should be done on a test basis to see if it works. Mayor Pro Tempore Small agreed and believed a red curb would be beneficial. Paint the subject area and keep an eye on the other areas. Council Member Robbins believed if it is a safety issue, one or two signs would be best rather than painting the curb red. She felt the neighbors should decide whether to install more signage or paint the curb red. Council Member Brekhus expressed concern that a number of streets have this exact issue and did not want this condition all over Town. It would be appropriate to have Chief Mills discuss the impacts. She desired further investigation before the Council makes a determination. Mayor Hoertkorn agreed it is a safety issue so it must be done and noted support.

The majority of the Council supported the measure.

End of Administrative Agenda.

Public Hearings on Planning Projects

13. 128 Winding Way, After-the-Fact Amendment to Landscape Plans for Hillside Lot Permit, and Variance & Design Review No. 1919, and Town Council consideration of adoption of Resolution No. 1914.

Norman and Mette Hardie, 128 Winding Way, A.P. No. 72-250-03, R-1:B-5A (Single Family Residence, 5 acre min. lot size), Very Low Density (.1-1 units per acre). Town Council consideration of an after-the-fact amendment to the landscape plans submitted for hillside lot permit, design review, demolition permit, and variance application approved by the Town Council on July 11, 2013. This item was continued from the April 9, 2015 Town Council meeting. The amendment would permit already-installed landscape stairs.

Contract Planner Leann Taagepera summarized the staff report and recommended the Council approve Resolution No. 1914, conditionally approving the after-the-fact amendment to the landscape plans submitted for hillside lot permit, design review, demolition permit, and variance application approved by the Council on July 11, 2013, File No. 1919 for 128 Winding Way. Also, staff recommends that the minutes from the April 9, 2015 Council meeting be amended to conform to the final motion to the audio recording of the meeting and delete the condition regarding removal of the stairs.

Council Member Kuhl asked staff if the steps reach the paved area of the road. Contract Planner Taagepera responded that the steps reach the dirt and gravel area near the asphalt part of the paved road. The 40-foot wide area is a public easement found on the private parcel and the actual paved roadway is much more narrow than that. John Moe, Contract Public Works Director, explained that the paved area is approximately 20 ft. wide and the steps encroach approximately three to four steps, so around 3 ft. plus or minus.

Council Member Brekhus indicated after a lot of meetings and a lot of discussion as to what the encroachment ordinance means, it was decided that the wording in the ordinance was that encroachment was not something that interferes with the public right-of-way. Adoption of the ordinance was done with the idea that we would not go onto private land with a public right-of-way that we don't need to drive on or need a sidewalk, but require the property owner to clear it. She is perturbed by the idea that we need an encroachment for these three steps because our adoption of the ordinance was done with the idea that we wouldn't do that unless there was a needed public use. Staff indicated this would not be an encroachment, but there are private improvements that could be a liability. An encroachment permit is to review the plan and irrevocable encroachment permit is an agreement that the permittee is responsible for the maintenance of those stairs within the right-of-way. There is also an indemnification clause within that agreement. As an alternative option, a condition of approval could be added to require indemnification for maintenance. Contract Public Works Director Moe added that it would be a condition of approval of the building permit, not an encroachment permit.

Town Attorney Greg Stepanicich indicated that review tonight is based upon the need to modify the landscape plan. The question is whether or not to modify or approve the modification of the landscape plan, if denied, stairs have to be removed. If approved, the stairs remain. The Council could add conditions related to indemnification and insurance. The encroachment permit is done separately by staff. Staff's concern is potential liability within the right-of-way. There were

October 8, 2015 Minutes

concerns at the last meeting that whether or not the use of the stairs in general could create liability.

Council Member Brekhus stated that all along Winding Way there are retaining walls and that are in the right-of-way. Would those retaining walls also create liability and require encroachment permits? It is not a bad idea to require insurance, but assuming a homeowner has insurance, requiring that as a condition of approval seems appropriate. She is reluctant to require encroachment permits.

Council Member Robbins thought the property has the right to do what they want in terms of landscaping. Town Attorney Stepanicich added that this project, as approved and amended, requires design review approval, hillside lot approval and a landscape plan are required to be approved. The question is whether the landscape stairs have been approved in a way to require an amendment to the landscape plan. They are looking at design review findings and findings for the Hillside Lot Ordinance. It is a judgment call on the part of the Council. There are findings to allow staff to approve the stairs this evening.

Mayor Hoertkorn opened the public hearing on this item.

Norman Hardie, Winding Way resident, stated that the stone steps are 6.5 ft. away from the paved road. He thanked the Council for their time and effort. He did not establish these steps, they were found in the process. They are the original stone steps from the 1920s. He replaced the bottom 10 risers to make them safer and more aesthetically pleasing. He does not believe the steps are a safety hazard. There are several safety hazards surrounding the property, and in his view, the steps are not one of concerns. They put in gravel to allow the easy flow to the creek. They have not suggested that the Muren's tenant not park on his land. With respect to the encroachment permit, they are puzzled. This does not change how people park. From his own investigation, no one has an encroachment permit for such steps. This is nowhere near the road. He thanked staff for all their hard work on this matter.

Riley Hurd, attorney representing Zara Muren, discussed the encroachment permit, and explained that this is really an impact on his client's property. Very important public parking is being commandeered. In terms of process, fairness, and liability, he asked the Council if they would have approved these stairs in this spot. He submitted a letter and revised findings, which speaks volumes. In regard to liability, he asked where in the code does landscape stairs indicate that they do not have to apply to the building code. The stairs must be built to code. If building on public right-of-way, recognized standards of practice must be followed. The Town is opening itself up for liability and asked that the Council deny this phase of the property.

Maureen Stills, Canyon Road resident, submitted a letter for the Council's consideration. What has been a serious issue is the lack of parking since the construction and installation of this staircase. She relies on street parking for her guests. That part of Winding Way is one of the only areas available to park. As a citizen, she cannot sit by and not voice her objections to people that feel rules and permits do not apply. Governing bodies must do their jobs and enforce regulations.

Zara Muren, Canyon Road resident, explained that this impacts the neighborhood. Public parking is limited on this street. The Council must protect the community with code requirements.

October 8, 2015 Minutes

Community interests are under attack by this application. She asked the Council to protect the community and require removal of the staircase.

There being no further public testimony on this item, the Mayor brought the matter back to the Council for discussion and action.

Council Member Brekhus pointed out that the definition of a building is that it must have a roof. Definition of a structure is very broad, but it excludes driveways and walkways. The definition of a walkway is a path 1 to 4 ft. in width and less than or equal to 18-inches above grade. This in her mind is a walkway. Going back to the encroachment permit, one of the items included is vision with respect to encroachment permit, and the director may waive this requirement including application fees if this does not include a structure. This is not a structure. It is a walkway. She is concerned that so much time has been spent on these lovely steps. She would have approved these steps. She does not understand the objection.

Mayor Pro Tempore Small stated back in 2010 she spent a significant amount of hours on parking complaints. As the Town has grown, parking has become more of an issue. The Town started working on the encroachment permit. The applicant did a beautiful job on his property. Creating the circle driveway and improvements were probably very expensive. If these stairs had been in the landscape plan, she would not have approved them because there have always been issues with parking, neighbors and service individuals. Making these into more permanent stairs on Winding Way implies that those two parking areas now become much more usable for those visiting the Hardie's. It invites the fact that those spaces open to the community are now more limited to that individual. She felt badly that there have been improvements. There have been several concessions for the circular driveway and removal of trees, so she could not support this application before the Council.

Council Member Kuhl did not believe this is an encroachment because it is not interfering with the use of the road. It is not appropriate to deny this over steps because a neighbor is concerned about parking. The same parking continues to exist. It is a fact that parking is limited, but it remains the same before and after the introduction of these stairs. He would be inclined to waive the fee and approve the after-the-fact landscaping.

Council Member Robbins would not have picked that design, but it is acceptable. If approved, she would follow the staff's recommendation to have an encroachment permit. She recognizes it is complicated.

Mayor Hoertkorn pointed out that this has gone back and forth for many months. This is a beautiful project. She would not have approved the stairs in the original landscape plan. She is confused about the definition of landscape stairs. These do have access to the road. It is very compelling argument, so she has trouble supporting the stairs.

Town Attorney Stepanicich explained that after reviewing this application, under the residential code, which applies, what is required is that egress from the house has to be to grade. In this case, they are not primary stairs. Only one egress is required from the house. The building official does not believe these are stairs under the residential code because they are not the actual stairs used for egress, which do conform to code requirements for stairs. The term "*structure*" is used

October 8, 2015 Minutes

differently under the building code and zoning ordinance. The conclusion staff has reached, and he concurs legally, is that a building permit is not required for these particular stairs. Therefore, they do not require to be conforming to code requirements.

Council Member Brekhus stated that this is very frustrating. They went round and round about this ordinance and added additional layers.

Mayor Hoertkorn asked for a motion.

Council Member Brekhus moved and Council Member Kuhl seconded, to amend the landscape plan to approve the stairs, and as a condition of approval, require the homeowner to indemnify the Town concerning the stairs, maintain the stairs and the condition of approval can be revoked should the Town ever need this portion of the property that is in the right-of-way; and approve Resolution No 1914 with findings, subject to the conditions as outlined. Motion denied 2-3. Hoertkorn/Robbins/Small opposed.

Council Member Brekhus moved and Council Member Kuhl seconded, to approve the Hardies' steps with an additional requirement that an encroachment permit is required as proposed in the staff report. Motion denied 2-3. Hoertkorn/Robbins/Small opposed.

Council Member Brekhus moved and Council Member Kuhl seconded, to approve 128 Winding Way, After-the-Fact Amendment to Landscape Plans for Hillside Lot Permit, and Variance & Design Review No. 1919, and Town Council consideration of adoption of Resolution No. 1914 as revised with respect to the findings. Motion carried 3-2. Hoertkorn/Small opposed.

Council Member Kuhl recused himself from the next agenda item because he resides within 500 ft. of the property.

14. 15 Brookwood Lane, Variance & Tree Removal Permit No. 2009, and Town Council consideration of adoption of Resolution No. 1915.

Matthew and Niki Webster, 15 Brookwood Lane, A.P. No. 073-311-04, R-1:B-10 (Single Family Residence, 10,000 Square Feet Minimum Lot Size), Medium Low Density (3-6 Units/Acre), Zone AE (High Risk Area with a 1-percent annual chance floodplain). Public hearing for the Town Council to consider Variance and Tree Removal approval. The project includes a single-story 146 square foot addition, 99 square feet of which would be located within the rear setback. The addition would link the existing residence and the detached garage and would function as the new every day entry. Variances are required pursuant to Ross Municipal Code Chapter 18.48 to allow 99 square feet of the new habitable space to be located within 32 and 36 feet from the rear property line and for an increase in Floor Area Ratio (FAR).

Contract Planner Leann Taagepera summarized the staff report and recommended that the Council approve Resolution No. 1915, conditionally approving variance and tree removal for an addition at 15 Brookwood Lane.

Council Member Brekhus stated she was confused by the definition of a roof. She pointed out that staff had only counted the roofed cover to be conservative. She asked staff if the definition

October 8, 2015 Minutes

of a roof requires staff to only count the roofed portion of the pergola. Contract Planner Taagepera responded in the affirmative and indicated only the covered portion is counted, and a porch has to be covered to be included in FAR. Council Member Brekhus inquired if Elise had been contacted to see if that is consistent with what has been done in the past with regard to trellises. Contract Planner Taagepera responded in the affirmative.

Mayor Hoertkorn questioned the pervious surface and desired more of a reduction. Contract Planner Taagepera explained that due to the lot constraints and pool, there is not much more room left.

John Clark, architect, stated that the project has three components, a minor single story addition, internal remodel of the house and site improvements. The lot is not very large, and they want to maximize their space. The owners desired a variety of options for their children to play as well as have a lawn area. They are trying to deemphasize the western/front door area. The two structures are very boxy, with gable end structures and the design is to not compete with that, so they propose cedar siding that will complement the existing structures.

Michael Erskin, landscape architect, explained that his mandate was to create more usable areas for the family and introduce lawn area. They are basically re-characterizing the site, reinforcing the new entry and introducing a new pedestrian courtyard to provide way finding. They will be removing the trellis as discussed in the staff report and removing brick paving on the site throughout. Removing the small shed in the front yard where the new courtyard is proposed. They will be maintaining the privacy buffer by keeping the current screening on the south side of the property as well as introduce new strategic plans, bushes and trees on that side. The new planting on the street side right-of-way is all-native, with select screening along the front of the driveway. They will maintain more transparency as recommended by ADR. Fence height has been lowered and will be transparent. Additionally, they moved the corner fencing further back to maintain the character of the corner and keep landscaping around the trees. They will remove nine trees, and of nine, none are designated as protected. Most trees are not suitable and two trees are very close to existing structure and are beginning to compromise the foundation of the existing structure. In terms of new paving, they reduced the amount of paving in relation to the amount of paving that exists today. Earth tone paving is proposed as well as more permeable pavers on the driveway. Some paving on the courtyard and landings off the side of house could be changed to permeable as well.

Architect Clark added that they are reducing lot coverage on the overall net 2.5%, which is essentially a trade off with the two trellises. This application has a 3.4 reduction in impervious surface. With the entry court, driveway and two door landings, they were able to reduce to that by 14.7%. The floor area is an overall increase of 0.8%. The entry trellis acts as a front porch, which satisfies the front porch floor area and off sets 146 sq. ft. addition by 80 sq. ft. reducing it to 66. The propose addition is a single-story link between a two-story house and a one story garage. It can be argued that the removal of that front trellis has a greater impact on the mass and bulk of the house than the addition of the length between two existing structures. They are two requesting two variances, a rear yard and floor area. This project will not negatively impact any adjacent neighbors, and letters have been submitted. In terms of special privilege, 47% of the surrounding lots are over 20% FAR and 20% of those lots are over 30% FAR. This subject property is the fourth smallest property. This project does not take this property out of the

October 8, 2015 Minutes

context of the Ross neighborhood. In the past FAR considerations were based on what is appropriate for the individual home, street, neighborhood and Town of Ross. They are proposing to add 0.8% FAR. The proposed project remains appropriate to the scale of structures onsite, creates a safer and more functional entry to the street, does not impact adjacent neighbors and improves the property while preserving the Ross scale and neighborhood context. They hope the Council makes the findings to grant the variance.

Mayor Hoertkorn opened the public hearing on this item, and seeing no one wishing to speak, the Mayor closed the public portion and brought the matter back to the Council for discussion and action.

Mayor Pro Tempore Small stated that there was a more extensive plan earlier, and this is a very difficult lot and this is a great design. Some of the bulk and mass present will appear less. She believed they have done an excellent job with this project and design and appreciated the reduction in regard to the surfaces.

Council Member Robbins asked why they are trying so hard to decrease the impervious surface areas. She expressed concern for those in wheelchairs and elderly individuals who are not able to even walk on such areas. Mayor Hoertkorn explained it is due to flood concern. Mayor Pro Tempore Small noted that every little bit helps. If everybody in every community worked on decreasing runoff on their site it would have a very significant cumulative effect.

Council Member Robbins found the first calculations for impervious surfaces acceptable. It is a lovely project and it is an improvement. Council Member Brekhus noted support for the project as well.

Mayor Hoertkorn asked for a motion.

Council Member Brekhus moved and Council Member Robbins seconded, to approve 15 Brookwood Lane, Variance & Tree Removal Permit No. 2009, and Resolution No. 1915. Motion carried 4-0. Kuhl recused.

Council Member Kuhl reconvened his position on the Town Council.

15. 155 Laurel Grove Avenue, Design Review & Second Unit Permit No. 2008, and Town Council consideration of adoption of Resolution No. 1917.

Javier Soltero and Emily Morris, 155 Laurel Grove, A.P. No. 72-112-09, R-1:B-A (Single Family Residence, one acre minimum lot size), Medium Low Density (3-6 units per acre). Public hearing for the Town Council to consider Design Review, and Second Unit permit for proposal to demolish 79 square feet of the existing building and construction of 1,312 square feet of additions, which include additions to the main level of the existing residence and construction of a new one story second unit structure at the northwest corner of the property.

Contract Planner Ali Giudice summarized the staff report and recommended that the Council approve Resolution No. 1917, conditionally approving design review and second unit permit to allow a total of 1,233 sq. ft. of new floor area including a 626.5 square-foot second unit with a

October 8, 2015 Minutes

276.5 square-foot garage at 155 Laurel Grove. Staff also clarified that in the staff report the impervious surface total is 5,598. On page 2 of the staff report, the private driveway provides access to three other lots, not four. The proposed color is a light grey, not light brown. Under the Resolution pages 10 and 14, the setback is more than 40 ft. Page 3 under Item No. 2, regarding additions to single family residence, that addition is located 15.75 ft. from the easement.

Council Member Robbins asked if a side yard setback is typically 15 ft. Contract Planner Giudice explained from the edge of the portion of the addition is 15 ft., but total setback from the centerline of that driveway is 25 ft.

Leo Marmol, architect, stated that original house was built in 1953 and one addition on record in 1984. The setbacks for the property are 25 ft. for front yard setback, 15 ft. for side yard setback and 40 ft. for rear yard setback. Allowable FAR is 20%. Existing FAR is 12.5%. They are proposing an addition of 3.5%, for a total of 16% FAR. Project consists of two aspects. First is alteration of existing home with minor expansions. The additions are along the northern and southern portions of the home. Sustainable design has been integrated into the project. The proposed second unit provides 620 sq. ft. of habitable space and 276 sq. ft. is an attached one-car garage, for a total of 903 sq. ft. The site has numerous mature significant trees. Vehicular access occurs from shared driveway to the north, which is an easement. Vegetation will screen the accessory structure from views. A low fence is being provided within the project for containment. The materials for accessory structure will complement the palette of the existing home. Acrylic plaster to match the existing finish is proposed along with a dark grey color. Wood siding with semi-transparent stain and wood windows to match the main house. A materials board was then submitted to the Council for their consideration. The project was presented to the ADR Group and they requested that they change the designation to residential second unit to help Town achieve its housing goals. Several neighbors surrounding the project approved the plans. 117 Laurel Grove resident had concerns about location of second unit and main house being close to shared driveway. On September 2nd, the homeowners and design team met, reviewed the project and discussed the concerns. In response to ADR and neighbors comments, they agreed to relocate the residential second unit. It was moved 4 ft. to the south and 2 ft. to the east. He submitted a drawing showing the shift for the Council's consideration. On September 30th, the homeowners and team met with neighbor to discuss revised location of second unit. The neighbor expressed additional concern about the one-car garage and safety hazard from the shared driveway. On October 1st, a third email was submitted reaffirming past objections in regard to safety. In response to concerns, they performed a number of studies since last site meeting. A diagram was created showing that the site distances meet the guidelines. This is not a roadway, but a driveway being traveled at slow speeds. They created an additional rendering showing the vegetation. In conclusion, they feel the project is appropriate in scale and design and fully adheres to all Town guidelines and is consistent with the Ross municipal code. Based on the neighbors concerns regarding safety, they propose a minor modification to the garage approach and landscape screening. They want to open up the driveway to further accommodate visibility even though it is not required or requested by Town Engineer, just by suggestion they will pull the landscape back more to increase the visibility as a response to the neighbors concerns. They suggest maintaining the 10-foot visibility as recommended.

October 8, 2015 Minutes

Council Member Robbins stated that people want the screening and by opening it up, it will not be screened. She felt the more screening, the better. Architect Marmol explained that the neighbor expressed concern for safety, so they are trying to be responsive.

Council Member Kuhl wanted to know how far up the driveway the entrance to 117 Laurel Grove is from the proposed driveway. Jason Davis, architect, approached the diagrams and explained the distances for the Council. He explained the before and after appearance of the driveway. Mayor Pro Tempore Small understands the concern from the 117 Laurel Grove resident, but the resident at 115 Laurel Grove had issues with viewing the house, and expressed concern for making a change for one person that will impact another person who is closer. Architect Davis is happy to talk to the 115 Laurel Grove resident, but did not believe there would be any problem with opening up the view. It is a difficult position because they are trying to mediate between neighbor concerns. Council Member Brekhus felt the 115 Laurel Grove resident must be informed of any changes proposed.

Mayor Hoertkorn opened the public hearing on this item.

Jim Birchenough, Laurel Grove resident, appreciated the neighbor's willingness to engage in discussion and flexibility to balance the screening and safety concerns. They have talked to lower drive neighbors and they have different concerns. He has small children, so this is a safety concern. He believed the measurement was taken from the edge of the road. There is a crescent shape that most turn into and go around the stone pillar, and the edge of the garage is not seen. It is a concern for emergency personal, delivery people, and his children. The more it is screened the greater the safety concern. He questioned 15 ft. from the edge of the driveway from the nearest point of that structure. There is a 15 ft. setback at some point. The closest edge is closer than 15 ft. from the edge of the driveway. They agree with the second unit, the applicant has every right to build on their property, but the second unit should be facing in. More of their property is fronting onto their driveway and the easement for the driveway should be respected. The neighbors are trying to balance the concerns for appearance and safety.

Architect Marmol noted that page 7 shows the original driveway proposal and page 13 shows the revised driveway proposal. They are using the Town's guidelines for access onto a public right-of-way. They suggest, based on neighbor concerns, opening up the throat of that driveway to meet Town standards as if they were exiting onto a roadway.

Mayor Pro Tempore Small desired a better sense of the second unit. She wanted to see the other side without the landscaping. Architect Davis presented such architectural drawings for the Council's review. He stated that they are pushing the structure forward to avoid the drip line. Even if the garage was pulled back deeper, the issue is as one backs out of the driveway. It is not a safety issue until one enters the roadway. Pulling the garage back would make it less visible.

There being no further public testimony on this item, the Mayor brought the matter back to the Council for discussion and action.

Council Member Robbins commented on the driveway and did not agree the driveway should be so wide. It is a very beautiful area, and a wider driveway would impact the attractive appearance. There are so many streets in this Town that are narrow and steep, and those are the streets to

October 8, 2015 Minutes

worry about. This is a lovely, wide driveway. People must be reasonably careful and did not see a major safety concern. There is no need to open the driveway up. She found the original proposal acceptable.

Mayor Hoertkorn asked for a motion.

Council Member Robbins moved and Council Member Kuhl seconded, to approve 155 Laurel Grove Avenue, Design Review & Second Unit Permit No. 2008 and Resolution No. 1917. Motion carried 4-1. Small opposed.

Mayor Hoertkorn recused herself from the next agenda item in order to avoid the appearance of a conflict.

16. 9 Woodside Way, Variance, Design Review, Demolition & Tree Removal Permit No. 1997, and Town Council consideration of adoption of Resolution No. 1918.

Amalfi Woodside LLC, 9 Woodside Way, A.P. No. 073-232-02, R-1:B-10 (Single Family Residence, 10,000 sq. ft. min. lot size), Medium Low Density (3-6 units per acre). Public hearing for the Town Council to consider Demolition Permit, Design Review, Variance (setback and FAR), and Tree Removal Permit to allow demolition of more than 25% of the floor area of the existing residence, relocation of the log cabin portion of the existing building within the rear yard setback and construction of a single-family residence and associated tree removal and grading, access, landscape improvements at 9 Woodside.

Contract Planner Ali Giudice summarized the staff report and recommended that the Council approve Resolution No. 1918, conditionally approving demolition permit, design review, variance, and tree removal permit to allow demolition of more than 25% of the floor area of the existing residence, relocation of a 418 square-foot log cabin within the rear yard setback and construction of a single-family residence resulting in an FAR of 21.6% and associated tree removal and grading, access, landscaping improvements at 9 Woodside. Staff modified the following conditions of approval:

- Condition No. 4 – Adequate screening on the north, east and south boundary properties shall be provided. Boundary landscaping shall be mature landscaping and shall be at least 10 ft. in height at installation to provide screening of the cabin.
- Condition No. 5 – The log cabin shall not be used as habitable space and shall not have electricity, plumbing or mechanical installed at any time.
- Condition No. 3 – Requires submittal of noise study to demonstrate the pool equipment will not result in excessive noise.

Council Member Brekhus asked what staff makes of the architectural historians reports. Contract Planner Giudice explained that they take the consultation and make a recommendation to the Town Council. With an opposing submittal, staff will sometimes request a peer review. The applicant did actually submit an appeal of that initial report and requested that be postponed until a decision is made from the Council tonight. The applicant submitted a variance request for the cabin after the appeal was filed as a solution.

Town Attorney Greg Stepanicich stated that if the Council decided not to preserve the cabin, after considering both reports and made a determination on historic resources. If preference is to not

October 8, 2015 Minutes

relocate the cabin then this should be continued to next meeting and appeal would be brought forward with the continued application and the Council could consider both reports and determine historic significance. The Council has seen both reports and the public should have an opportunity to comment on both reports.

Council Member Kuhl added if the Council thinks it is not a historic structure, then they should continue the matter. Town Attorney Stepanicich responded in the affirmative.

Council Member Brekhus suggested as a policy matter to discuss late submissions. She is not entirely sure she can conclude it is historic or not because others are better suited to make that determination.

Council Member Kuhl asked staff if they could approve the project and eliminate the requirement that the cabin be moved. Town Attorney Stepanicich stated due to the nature of the record other supporting substantial evidence must be presented that this is not a significant resource. Council Member Kuhl added that it is in such bad shape it is not realistic to preserve. Town Attorney Stepanicich noted that some sort of engineering evidence is required.

Council Member Brekhus pointed out that the report indicated the cabin is not in a deteriorated condition, which is ludicrous. She could put her finger through the structure. Council Member Kuhl felt the majority of the Council agreed this is in poor condition and should not be preserved.

Mayor Pro Tempore Small suggested tabling the log cabin discussion, but the Council could have a discussion on other items. Council Member Brekhus stated there is some discussion about having the log cabin peer reviewed, which means hire a third historian, but it would be hard for another historian to change her view on this matter. She is confused about having a third historian.

Town Attorney Stepanicich stated that a peer review is a judgment call. It is protocol to have a peer review when there are competing reports to come to a resolution on that issue. Evidence is needed from an engineering perspective. In terms of feasibility, he must discuss with staff to determine how that is addressed for the Council's review.

David Katzibue, architect, briefly reviewed the project and carefully worked with neighbors and was before the ADR Group three times. The major item was that the community wanted all the trees to remain, so they were able to organize the structure. They lowered the height of their great room, which was a substantial change. In addition, they were able incorporate more of a second story and pull the end of the house away from the end neighbor by 14-foot 6-inches, so they are now 29 ft. 6-inches, which was a substantial modification to help the neighbors privacy. Having done that, the result was reducing the height and pulling in the length of the great room window area, which was reduced by 25%. Those are the major points that occurred during the ADR Group review. He then presented architectural drawings for the Council's review. It is clearly a site that gently slopes from the street to the rear. They have organized the massing so that the lower level starts on grade and that is where the major living space is positioned. They are cutting into the hillside for the utility and other first floor features, which helps reduce the mass and impact to the neighborhood. They incorporated the use of natural materials such as earth tone wood siding and stone veneer for site features. They are using natural copper for the fascia. In

October 8, 2015 Minutes

addition, they are incorporating a green roof. That was also something they worked out at the ADR meetings, which is a substantial element to their design. They tried to create a design and solution that did not require a variance, but due to the log cabin, a variance is needed. He then presented a materials board for the Council's consideration.

John Martin, architect, explained that this house is unusual since the main living space is at ground level. From a landscape perspective, the house will be immersed in the primary growth. It is northeast facing and it is in the grove. Through ADR review they had discussions about privacy and separation of the two neighboring properties. They proposed substantially large plant materials to screen out all perimeter views. Originally the house and site occupied 10,422 sq. ft. or 42% was impervious and the new house is 7,221 sq. ft., which is slightly less than the staff report. After a site meeting with Council talking about impervious area, they decided to turn the driveway into a pervious surface, so they are now below 30% impervious surface.

Riley Hurd, attorney representing the applicant, procedurally they would love feedback on the design if this is continued to address the cabin issues. He prepared a deed restriction that create a 15-foot high and 10-foot deep screening that is to remain in perpetuity along the property lines shared with 10 Thomas and 11 Woodside. He is calling this, which seems to be the new contemporary Marin design, it is a site driven design. If this is continued for the cabin, he wrote a detailed appeal, it was more about the fact that the cabin is not historic.

Council Member Robbins did not believe 10-foot high trees would be able to grow in that area since it is so dark from the redwood trees. Attorney Hurd added that it is essentially present now. It is very screened.

Council Member Brekhus discussed A1.4 in regard to paths, retaining walls and planters and it is hard to determine the height. Also, the barbeque pit is in the middle of the redwoods, which is a massive fire hazard in her view. Attorney Hurd stated that the 6-foot height limitation on walls is found only in the Hillside Lot Ordinance. There is a section that applies to flatland homes and it is called "*fences and walls*" and it sets out height limitations to fences only. That being said there is an exception process that allows fences up to 7 ft. with minor exceptions. If it is a policy in Ross to use that fence section and apply it to walls, all retaining walls meet that standard. Mayor Pro Tempore Small suggested having that matter clarified by the next meeting.

Architect Martin stated that they anticipate removing the barbeque. He presented an exhibit to the Council outlining the paths and retaining walls for their consideration. The elevation from the street to front walls in all cases is below 4 ft. As one descends, the soil drops down with another retaining wall near the garage 3.5 ft. in height. A walkway connects the garage to the front entry. There is a low fountain at the entry and that is the ground level of the retaining wall. Council Member Brekhus asked if that garbage structure is within the 15-foot setback. Architect Martin responded that on the west side of the house there is an enclosure. It is an open structure. Council Member Brekhus discussed the overhang that also goes into that 15-foot setback, is the overhang not considered going into the setback. Contract Planner Giudice responded that there is an exception in that regard.

Council Member Brekhus discussed the upper deck and asked if that is counted as FAR. Contract Planner Giudice responded that upper story deck is not counted for FAR, but it is counted as lot

October 8, 2015 Minutes

coverage. Staff agreed to further investigate before the next meeting. Mayor Pro Tempore Small noted that decks were allowed under 10 ft., but if it exceeded, then it started being counted as FAR. Council Member Brekhus wanted staff to double check before the next meeting.

Mayor Pro Tempore Small opened the public hearing on this item.

Mike Wood, Woodside Way resident, requested whether they could extend the deed restrictions going across the front of the house and establish a maintenance agreement in regard to the green roof. Brekhus stated solar panels can make for a changed situation and she is not sure of any solution. She likes the green roof because it is much more attractive, but it is a dilemma in regard to solar panels. Town Attorney Stepanicich stated that the law has changed that they could not put any barriers in regard to solar panels being installed. He agreed to give it some thought before the next meeting.

Lee Notowich, Woodside Way resident, stated that this project has come a long way since ADR review. His concerns are basic, noise and privacy. He wanted to make sure the home is properly screened. He is real sensitive to the light. He submitted an email and wanted everyone to understand the rules and regulations in regard to hours of operation. He wants them to have a great project, but they must respect the surrounding neighbors.

There being no further public testimony on this item, the Mayor Pro Tempore brought the matter back to the Council for discussion and action.

Mayor Pro Tempore Small believed if the applicant provided a model at the next meeting it would answer several questions of the Council. She felt a model would be beneficial.

Council Member Robbins did not believe a peer review of the cabin is needed and felt the Council should have some discretion about the cabin since it is dilapidated. She is not sure they should require deed restrictions on the shrubbery. Also, the green roof should be at the owner's discretion, she is concerned about requiring some of this greenery.

Mayor Pro Tempore Small asked for a motion.

Council Member Kuhl moved and Council Member Brekhus seconded, to continue 9 Woodside Way, Variance, Design Review, Demolition & Tree Removal Permit No. 1997, and Resolution No. 1918. Motion carried 4-0. Hoertkorn recused.

End of Public Hearings on Planning Projects.

Mayor Hoertkorn reconvened her position as Mayor on the Town Council.

17. No Action Items:

a. Council correspondence

- Email from Barry Wade in regard to slope calculation
- Review material boards onsite

b. Future Council items

October 8, 2015 Minutes

- WUI Map

18. Adjournment.

Mayor Hoertkorn moved to adjourn the meeting at 10:12 p.m.

Kathleen Hoertkorn, Mayor

ATTEST:

Linda Lopez, Town Clerk