

REGULAR MEETING of the ROSS TOWN COUNCIL

THURSDAY, APRIL 13, 2023

Held In-Person and Teleconference via Zoom

1. 5:15 p.m. Commencement.

Mayor Beach Kuhl; Mayor Pro Tem Elizabeth Brekhus; Council Member Bill Kircher, Jr.; Council Member Julie McMillan, Council Member Elizabeth Robbins; Town Attorney Benjamin Stock.

2. Posting of agenda.

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

3. Closed Session.

CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

**Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2):
(One potential case)**

4. 6:00 p.m. Open Session. Council will return to open session and announce actions taken, if any.

Mayor Kuhl announced there was no reportable action taken in Closed Session.

5. Proclamation recognizing Robert Smithton, Ross Citizen Extraordinaire.

Council Member McMillan provided background, stating that former Mayor and Council Member Chris Martin had suggested the Council recognize citizens who would otherwise go unnoticed for doing extraordinary acts to benefit the Town. She and Council Member Robbins saw Robert Smithton every day last year passing by with a bag and a stick picking up trash, and they wished to recognize him.

Mayor Kuhl read and presented a proclamation into the record recognizing Mr. Smithton, and a round of applause followed.

6. Introduction and swearing in of new officer – Magen Hayashi.

Police Chief Pata introduced new Police Officer Magen Hayashi. He provided a brief background of her experience and performed the Oath of Office.

Mayor Kuhl and Council Members welcomed Officer Hayashi, and a round of applause followed.

7. Introduction of Interim Recreation Manager – Michael Langford.

Town Manager Johnson introduced Interim Recreation Manager, Michael Langford and gave a background on Mr. Langford's recreation career experience. She looks forward to working with him while the Town's newly hired Recreation Manager, Maureen Borthwick is on leave.

Mayor Kuhl and Council Members welcomed Mr. Langford to the Town, and Mr. Langford provided brief remarks.

8. Open Time for Public Expression.

There were no public comments.

9. Mayor's Report

This month's meeting comes with the Town fairly quiet with many families out of town because of spring break at the schools. I hope we have substantial remote participation because at least 1 of the subjects on the agenda, the facilities master plan, will have long term effects on the Town. To recap, we are closing our outdated public safety building in 2025, and we are in the process of planning the new facilities. The consultants who are assisting us in developing plans for a new facility are reporting tonight and their written report is available online [here](#).

The estimated costs have not unexpectedly risen considerably since we started this process several years ago and one of the issues will be whether to bear the increased cost of keeping the Fire Department façade along Sir Francis Drake and the Spanish architecture.

Please feel free to weigh in on this issue. We will be letting our staff know our thoughts, but not making any final decisions until probably this summer.

On the flood protection front, I attended a meeting of the San Anselmo Town council, at which the County Water staff reported. What San Anselmo decides to do could affect a number of homes in Ross. The County staff along with the floodplain managers from Ross and San Anselmo are about to meet with Federal Emergency Management Agency staff, whose regulations control the amount of mitigation that must be provided to homeowners affected by changes. The County staff has indicated that they plan to start construction of the Ross aspects of their plan, most notably removal of the fish ladder, in summer 2024. The current staff seems determined to get something done but, after all these years, I think we need to wait and see.

The third issue, not on this month's agenda, is the housing element. We will have a report on the comments received on our draft housing element next month. A draft environmental impact report is currently out for comment and available on the Town website. Our planning director, Rebecca Markwick, will be reporting next month, and we will have a special meeting on May 31 to certify our environmental impact report and adopt the housing element. Any input you can provide us on these issues is appreciated. In the meantime, enjoy the nice weather that seems finally to have reached us.

10. Council Committee & Liaison Reports.

None.

11. Staff & Community Reports.

a. Town Manager

Town Manager Johnson provided the following report:

On April 25th a technician will be here to install hard-wired microphones as these wireless ones have not been performing well. The technician will also move the timer box so that either I or the Town Clerk can manage it instead of the Mayor. And lastly, staff is looking for a way to display a timer on zoom so that speakers can easily see how much time they have left to speak.

April 27th is the Town Council's annual budget workshop. The workshop is scheduled to begin at 9am and end about 2pm. We are combining the usual 2 meetings into 1 so I expect the workshop to last until 2pm. However, do not fear, we will have plenty of food and coffee for you. The agenda packet for the workshop will be published on Friday, April 21.

The agenda for your regular May 11th Town Council meeting will include an update on the housing element project. P&B Director Rebecca Markwick and the Town's housing consultant will go through the State's comments on the draft housing element document that was submitted by the Town of Ross last December.

A special Town Council meeting has been scheduled for Wednesday, May 31st at 6pm for the purpose of discussing the final draft of the Housing Element document and its final EIR.

b. Ross Property Owners Association.

Marcia Skall, RPOA, said at their meeting on Monday, RPOA presented information to the Town Manager about their budget and partnership on many projects which she described. She reported RPOA is working with the Historical Society for a Walk About Town and announced the Ross Auxiliary's Spring Fling was successful.

12. Consent Agenda.

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

a. Minutes: 3/9/23

b. Demands.

c. Town Council to approve and authorize Town Manager to execute a Consulting Services Agreement with Harrison Engineering Inc. to provide engineering design, regulatory permitting, and environmental services for the Bolinas Drain extension project in an amount not-to-exceed \$237,500.

d. Town Council to authorize the Town Manager to execute Contract Amendment No. 3 for BKF Engineers in the amount of \$32,250 for additional scope of work items related to the Laurel Grove Safe Pathways Project Phase 2.

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

End of Consent Agenda.

13. Public Hearings on Planning Projects - Part 1.

a. 1 El Camino Bueno, Design Review and a Variance and Town Council consideration of Resolution 2296.

David Bilsker, 1 El Camino Bueno, A.P. No. 072-162-14, Zoning: R-1:B-A, General Plan: VL (Very Low Density), Flood Zone: X (Moderate Risk).

Project Summary: The applicant requests approval for Design Review, and a Variance to allow for the construction of a new 8-foot stamped concrete wall along Sir Francis Drake. The new stamped stone pattern wall will replace the existing wood fence.

Recusal: Council Member Kircher recused himself from participating on this matter and left the dais.

Assistant Planner Alex Lopez-Vega gave the staff report and overview of the request for design review and a variance for 1 El Camino Bueno.

Mayor Pro Tem Brekhus asked and confirmed that the project plan did not have a condition requiring the applicant grow a vine to soften the appearance of the wall, and Mr. Lopez-Vega stated staff will add this condition.

Council Member McMillan asked if there were any other 8-foot walls along Sir Francis Drake Boulevard besides the Hunt's 8-foot wall, voicing concern with a precedent. Director Markwick said she was unfamiliar with the walls along Sir Francis Drake, but the Hunt's wall was initially controversial at its ADR hearing but now people love it.

Mayor Kuhl opened the public hearing. He asked and confirmed there were no public comments, closed the public hearing, and suggested a motion.

Mayor Pro Tem Brekhus moved and Council Member McMillan seconded, to adopt Resolution 2296 approving 1 El Camino Bueno for Design Review and a Variance to allow for the construction of a new 8-foot stamped concrete wall along Sir Francis Drake, as amended, to require the addition of vines to the 8-foot wall. Motion carried unanimously (4-0; Kircher recused).

Noted as Present:

Council Member Kircher returned to the dais and was noted as present.

b. 2 Pomeroy Road, Design Review and Demolition and Town Council consideration of Resolution No. 2297.

Erica and David Bell, 2 Pomeroy Road, A.P. No. 072-023-15, Zoning: R-1:B-5A, General Plan: VL (Very Low Density), Flood Zone: X (Moderate Risk).

Project Summary: The applicant requests approval for Design Review, and a Demolition Permit. The project includes replacing old windows for new windows, the project also includes replacing the existing siding from T-11 to western red cedar shingles. A demolition permit is required to alter more than twenty-five percent of exterior wall coverings of a residence.

Assistant Planner Alex Lopez-Vega gave the staff report and overview of the request for design review and a demolition permit.

Mayor Kuhl opened the public hearing. He asked and confirmed there were no public comments, closed the public hearing, and asked for a motion.

Council Member Robbins moved and Council Member Kircher seconded, to adopt Resolution No. 2297 approving the request for Design Review and a Demolition Permit at 2 Pomeroy Road. Motion carried unanimously (5-0).

c. 50 Wellington, Design Review and Variance and Town Council consideration of Resolution No. 2298.

Elizabeth and Patrick Quigney, 50 Wellington, A.P. No. 072-154-09, Zoning: R-1: B-10, General Plan: ML (Medium Low Density), Flood Zone: X (Moderate Risk).

Project Summary

The applicant requests approval for Design Review, and a Variance. The applicant is requesting to renovate the rear yard and remove and replace landscape structures at the single-family residential property. The applicant proposes an arbor structure, a custom outdoor kitchen, and a fireplace structure. The existing impermeable stone patio will also be removed and replaced with a new permeable stone patio. New concrete walls and planters are proposed to soften the existing wood walls and provide for denser privacy planting. The project also includes replacing the existing auto gate and adding a trash enclosure. All improvements are proposed in the rear and side yard setback, therefore a Variance is required to allow for the construction of new landscape structures within the side and rear yard setbacks. The home is currently under renovation and the property owners would like to make the landscape improvements during the construction.

Assistant Planner Alex Lopez-Vega gave the staff report and overview of the request for design review and a variance.

Mayor Kuhl opened the public hearing. He asked and confirmed there were no public comments, closed the public hearing, and asked for a motion.

Council Member McMillan moved and Council Member Kircher seconded, to adopt Resolution No. 2298 approving the request for Design Review and a Variance at 50 Wellington. Motion carried unanimously (5-0).

End of Public Hearings on Planning Projects – Part 1.

Administrative Agenda:

- 14. Town Council to receive a progress report on the Ross Facilities Master Plan Project, discuss alternative concept options presented and provide direction to staff on the three concepts.**

Planning and Building Director Rebecca Markwick gave a presentation, overview, and progress report on the Ross Facilities Master Plan Project. As background, on October 13, 2022 the Town Council approved a consultant services agreement with the KPA Group in the amount of \$162,285 for preparation of the plan. At the February 9, 2023 Council meeting, the KPA Group gave a presentation on findings and 3 concepts, and the Council provided comments and questions regarding various design features.

The KPA group has been working with Town staff to advance the project and refine concepts based on the last meeting. Included in the staff report are an outline of Concepts A, B, and C, as well as cost estimates. All concepts retain Town Hall, add additional parking spaces, retain secured parking for police vehicles, and propose changes to circulation. The KPA Group will go into more detail about each concept and inform the Council on different public outreach options. Staff asks that the Council provide direction on what their preferred outreach is and feedback on each concept after the presentation. P&B Director Markwick then introduced Paul Powers and Matthew Evans of KPA Group, and said there are 2 additional members from their firm on Zoom.

Matthew Evans, KPA Group, gave a PowerPoint presentation on the project, stating the refined concepts portray 3 viable planning options, each of which include a cost range based on 2023 cost parameters and identify favorable and less favorable items for each concept. Concepts A and B plan for a single-story facility and Concept C, a 2-story in its configuration. All concepts shown maintain Town Hall with renovations and include space for 6 units of housing in the existing corporation yard.

Concept A – Maintains the public safety façade with new construction behind and connecting to the rear of Town Hall. Cindy Chen displayed a 3-D aerial view of the concept in terms of massing, scale, and location on the site and Mr. Evans described the concept and refinements made since the last meeting.

Council Member Robbins questioned the main entry plaza area in the front, stating no one would be approaching the building from the front.

Mr. Evans said they were thinking only pedestrians would be entering the building from that section, but this also allows opportunity for the Town to promote something visually appealing or special along Sir Francis Drake and use it as a showcase entrance.

Mayor Pro Tem Brekhus said there are 40 parking stalls in Concept A as compared to the current 24. She asked and confirmed this does not include the 4 secured parking spaces for Police and Public Works which is separate and located in between the trash enclosures and the paramedics facility, that parking for the 6 units is located underneath each unit, and there may be opportunity for increased numbers of spaces here and this will be determined in the final design.

Council Member McMillan referred to the paramedics building and she asked and confirmed the wall will have some detail on it. Mr. Evans added there is ample opportunity for that Public Works wing to incorporate the same architectural style as the façade.

Councilmember McMillan confirmed the paramedics sleeping quarters are in the front on Sir Francis Drake and the bay for the ambulance is behind. She believes it might be better for the paramedics not to be sleeping in the front along Sir Francis Drake, if possible.

Mr. Evans said this might be an issue, as they wanted the paramedics be able to pull in far enough where they would not cause blockage. They also located them for ideal access and improved response time to serve the community as opposed to behind the site.

Mayor Kuhl asked if they could have the ambulance exit in the front of the building and put the living quarters behind.

Mr. Evans said they were hoping to have ambulances back up onto the street while they are pulling out. If the building is moved back it starts affecting the police yard area.

Town Manager Johnson referred to the living space for paramedics, stating part of their building includes a kitchen, living area, storage, etc. so the architects could come up with a way to put that area closer to the street and use insulated windows for quieter space while not working.

Council Member Robbins asked where the main entrance is located for Town facilities.

Mr. Evans said the door to Town Hall would be the door that exists now with staff accessible. There would also be another door that would be behind the tree and 1 on the opposite side that would be accessible from the parking lot.

Discussion ensued and Council Members confirmed the location of Town staff, Town services, the Council Chambers which is kept locked when not in use, safety, circulation, the range for this concept as \$23 to \$26 million and an additional \$2.5 to \$3.3 million for the public safety façade in Concept B, a request for more green space for employee breaks, lunch or public functions, concerns with loss of 2 parking spaces on Lagunitas, and potential inclusion of a parking study.

Mayor Kuhl opened the public comment period for comments relating to Concept A, and there were no speakers.

Council Member McMillan referred to maintenance costs entailed in maintaining the façade and its expected life span.

Mr. Evans said the estimated cost is \$2.5 to \$3.0 million which is to keep it, and maintenance costs are not significant. If constructed like the rest of the building it would last a long time but they would pay attention to materials and use of the façade if the new construction behind is not the same.

Concept B – Complete replacement of the public safety facility with new construction that will connect to the rear of Town Hall. Changes include the realigned main entrance at Laurel Grove and the entrance-only drive at Lagunitas, and retention and modernization of the Town Hall building. The public safety building would be entirely removed for a new Civic Center tied to Town Hall that creates a continuous, singular, 1-story building to house government functions.

Paramedics are housed in a separate building in a location for optimal access to serve the community. Public Works is housed at the rear of the building, with the yard adjacent. Police are housed at the street-facing portion with additional secured parking adjacent to the apparatus bay for paramedics and the same total building area of 13,250 square feet. Mr. Evans then described the square footages of each building, stated costs are between \$19 and \$22 million, and benefits and less positive considerations of the concept.

Mayor Kuhl asked why the arches could not be retained in this plan and used for an ambulance to go in and out.

Mr. Evans said the arches could be retained as described in Concept A but he was not positive the dimensions are enough for what ambulances are using as their main vehicle, and can investigate that.

Councilmember McMillan asked and confirmed that something could be done with the arches to allow them to look like what there is now.

Mr. Evans then displayed a rendering of what the new Town Civic Center might look like while maintaining the existing architectural style. He confirmed it is still a 1-story building with an increased presence.

Council Member Robbins asked if there is some area for a courtyard with tables where people could eat outdoors.

Mr. Evans pointed to an orange circle located near the entrance which is a courtyard and eating area. This is a little larger in Concept B because the building is moved forward.

Mayor Kuhl asked if people driving will have to make a 135 degree turn to get into the entrance from Lagunitas.

Mr. Evans said while they have not looked at this to determine if it is possible, it is unlikely. Drivers will not be able to enter here and will have to take a left on Sir Francis Drake to the light. He explained the entrance-only is helpful for the paramedics to enter back into the site and those turning right into the site.

Mayor Pro Tem Brekhus suggested taking this to an architect to obtain a real sense of the costs and possibilities before the Council “marries” the concepts being displayed.

Mr. Powers said this is a good question which they have discussed. At this point, they are trying to define questions and answer things such as whether Town Hall should be kept. They think the Town should and this is a decision moving forward the Council can make to the architect and whether to keep the façade or not.

He said there is not much of a decision for the access piece because they must have 2 drives for the Fire Department to get in and out. The question is whether you come off 2 drives off Sir Francis Drake or Lagunitas. If off Lagunitas, they can stay with a 1-story building. To have 2 entrances, they will have to go to a 2-story building. They have separated paramedics out of the building which is a good function from a disruptive standpoint.

He does not think the Council should make its decision on money but how they want the design to perform. Their firm is moving and changing things constantly, and the architect will have their own ideas about this and continue to do the same thing. He clarified it is not necessary for the Council to decide on concepts as there will be a time when a decision is appropriate.

Council Member McMillan asked when the ADR Group would weigh in.

Ms. Markwick said she thinks at any point along the process. They also might want public input and thereafter, look at it conceptually. They can then go out to bid for an architect and ADR would be more involved at that time.

Mayor Kuhl suggested Mr. Evans describe Concept C.

Concept C – This concept is 2 stories in its configuration, the new drive at Laurel Grove is realigned to the intersection, the existing drive currently between Town Hall and public safety remains with renovations between Town Hall and the new government facility. That facility houses all Town government functions instead of the paramedics, and there are 35 parking stalls versus 40 which is still an increase from what exists. They maintain the secured police parking and public works yard, and paramedics are in their own facility with ideal access to serve the community. The entrance drive to Lagunitas is gone and the site circulation is more familiar to what exists now.

Mayor Kuhl asked and confirmed the concept would not fit on the site as a 1-story because of the program needs and especially with the 50-foot distance requirement from the creek.

Mr. Evans described pros and cons, stating pros include: Increased building presence from the street; Town Hall completely stand-alone with no connections to the rear; the new 2-story facility is able to maintain the architectural style as existing or apply a new architectural style; there is improved site circulation from the realigned main entrance and exit at Laurel Grove only; the existing circulation drive between Town Hall and the public safety facility is maintained allowing Town Hall to stay completely separate; the Town work efficiencies will improve because all departments are housed in 1 building; paramedics are housed in a separate facility; there is secured parking yard with parking for 4 police vehicles; the new public plaza is adjacent to Town Hall off Lagunitas Boulevard; and the renovation cost to the site are a bit less because there are less changes overall.

Some of the negative attributes of Concept C include: Reduction in setback from Sir Francis Drake; 2-story facility requirements include an elevator and stairwell and maintenance costs over the lift of the building; the public pedestrian entry court is no longer present; and the façade of public safety is not maintained.

Regarding Kittle Park, development opportunities may be considered and incorporated into any concept option chosen, should the Town wish to provide improvements to this area.

Mr. Evans presented inspirational images and ideas for potential improvements for use as a fitness park, a labyrinth, public art, lighted art exhibit, covered patio, or shade structure.

Regarding pros and cons of all concepts, Mr. Evans described the following:

- Concept A – Pros: Façade is maintained; Spanish Colonial Revival architectural style; provide new site circulation. Cons: Expenditure related to the façade; building is at the same location; the life cycle maintenance costs of that façade portion.
- Concept B – Pros: Increased street presence and choice of architectural style; new site circulation. Cons: Reduced setback from Sir Francis Drake; the façade is no longer present.
- Concept C – Pros: Town Hall is completely stand-alone; familiar site vehicular circulation' less complexity to the site renovation due to less changes to the site. Cons: Setback reduction from Sir Francis Drake; requirements of the elevator and stairwell and 2-story circulation; loss of the façade.

Mr. Evans then provided square footages of program area and cost ranges and breakdowns for each concept: Concepts A is 13,200 square feet; cost is between \$23 and \$26 million. Concept B is also 13,200 square feet; cost is between \$19 and \$22 million. Concept C is 13,500 square feet; cost is between \$21 and \$24 million. He then provided a cost breakdown of various building categories and how they relate to Concepts A, B and C.

Mayor Kuhl asked Mr. Evans to provide the Council the document showing the cost range and breakdown for each concept.

Council Member McMillan asked and confirmed with Mr. Evans that maintaining the façade would not mean the construction will take longer.

Council Member McMillan said when they looked at doing modernization of facilities in 2020, the estimate for the administration, paramedics, and police was around \$14 million, and it was similar for the fire station. She asked if Mr. Evans has looked at that estimate and compare it with this estimate.

Mr. Evans said there are significant differences in the site renovation costs. The original estimate did not consider the utilities reconfiguration for PG&E at Laurel Grove, as well as the new entrance drive at Lagunitas.

Town Manager Johnson added that housing was not envisioned on the site and, although these cost estimates do not include the costs for constructing or designing the housing, space is allocated on the site for the 6 units, thereby requiring the need to demolish the public works building. She asked if Mr. Evans could estimate the increased construction costs which were based on 2020 costs.

Mr. Evans said they saw a 25% increase in building costs. Prior to that it was 8% to 9% and so the last 3 years have been devastating. There are many issues happening with contractors scared to bid public projects so they are moving numbers upward.

Council Member McMillan asked if staff could describe for the public the reason it is so necessary to redo these 1920's facilities.

Town Manager referred to the updated property condition assessment report dated August 2, 2020 and the Executive Summary states, "It is difficult to categorize an order of importance the deficiencies in this property. There are current health issues due to the presence of mold, deficiencies in the structure of the building, both pests and structural, deficiencies in ADA accessibility and non-compliance with the Essential Services Act for public safety construction."

Public Works Director Simonitch agreed with these statements and said most recall when Tom Vallee was the Fire Chief, and his comment was that the only thing holding the building up are the termites.

Mayor Kuhl opened the public comment period.

Marcia Skall said as a Boardmember of the RPOA, she has been approached on many issues the Town has been facing and her response is always that the RPOA does not take a political position. She suggested a way for more communication to the public, noting the RPOA has an email blast and could incorporate messages from the Town and they are also working directly with the Ross Age-Friendly Task Force. She suggested the Town Clerk use specific e-blasts about very important meetings or votes and repeat them 3 times. Lastly and personally, she would love to see the Spanish Revival architecture and would love to see some form of arches.

Mayor Kuhl and Council Members recapped next steps based on discussion as: Conduct more public outreach, conduct a survey, hold another meeting, discuss retaining an architect, desire for Spanish Revival architecture, retaining and remodeling Town Hall, desire for a courtyard with benches, tables and plantings at the front, ensure style is consistent with Town Hall and Post Office, a suggestion to use Kittle Park as a gathering place for staff and public, and for the Council to narrow down concepts to 1 or 2.

Mayor Kuhl concluded the item and he and Council Members thanked the consultants for their presentation.

End of Administrative Agenda.

Public Hearings on Planning Projects – Part II.

15. 34 Poplar Avenue, ADU construction over existing garage and patio and Town Council consideration of Resolution No. 2299.

Jeff and Cassie Shouger, 34 Poplar Avenue, A.P. No. 073-272-05, Zoning: R-1:B-7_5, General Plan: ML (Medium Low Density), Flood Zone: AE (Floodway).

Project Description

The applicant is requesting approval to construct a new 710 square foot ADU over the existing garage and patio. The proposed ADU, will be located behind the main house over the existing garage and patio. The garage and main house are not connected, however the new ADU will be connected to the main house by an entryway. The new ADU and will have a balcony with metal guardrails, and six skylights matching the design of the primary house. Due to the location of the proposed ADU, the Accessory Dwelling Unit does not meet the four-foot side yard setback, therefore requiring an ADU Permit.

Assistant Planner Alex Lopez-Vega gave the staff report and overview of the request for a variance for construction of a 710 square foot ADU over an existing garage and for an additional 76 square feet to the existing garage to support the ADU, and patio at 34 Poplar Avenue.

On July 11, 2022 the ADR Group reviewed the project and some members indicated the second story bulk extended too far forward towards Redwood Drive, and the applicant moved the ADU back 3'9". On February 15, 2023 the ADR Group recommended approval and had some modifications and suggestions. One member thought the mass was too close to Redwood Drive. Some members discussed the idea of a hip roof to reduce the mass, and the applicant worked with an ADR member to make design changes based on comments, which he described.

Staff received 3 emails in support of the project for neighbors at 16 and 18 Redwood Drive who have the most direct view of the project, and a neighbor at 19 Redwood Drive. Staff requests the Town Council adopt Resolution 22-99 approving the ADU permit and a variance permit for the subject property, as described.

Mayor Pro Tem Brekhus asked and confirmed with Ms. Markwick that staff amended the Resolution which add findings for the variance for lot coverage, as well as the floor area.

Town Attorney Ben Stock announced that the applicant presents for up to 15 minutes, then the Council takes public comments, and an applicant rebuttal period follows.

Mayor Kuhl called on the applicant for a presentation.

Tristan Warren applicant, representing Cassie and Jeff Shouger, stated they have met everyone out at the site and, in the interest of time, they can answer any questions.

Mayor Kuhl opened the public hearing, and there were no speakers. He closed the public hearing and returned the matter to the Council.

Council Member Robbins moved and Mayor Pro Tem Brekhus seconded, to adopt Resolution No. 2299 to construct a new 710 square foot ADU over the existing garage and patio at 34 Poplar Avenue. Motion carried unanimously (5-0).

16. 28 Walnut Avenue, Demolition and Design Review and Town Council consideration of Resolution No. 2300.

John and Gabrielle Bressack Gantus, 28 Walnut Avenue, A.P. No. 073-171-03, Zoning: R-1:B-10, General Plan: ML(Medium Low Density), Flood Zone: X (Moderate Risk).

Project Summary: The applicant requests approval of Demolition and Design Review applications. The project includes remodeling and a renovation of the existing single-family home, removing the office and deck in the side yard setback, replacing the various roof structures with one coherent roof design, and demolition of the carport at Walnut Avenue. New landscaping and hardscape is also being proposed throughout the property.

Planning and Building Director Rebecca Markwick gave the staff report and overview of the request for approval of demolition, design review and non-conformity permit applications which includes remodeling and renovation of the existing single-family home, removing the office and deck in the side yard setback, replacing the various roof structures with one roof design, and demolition of the carport at 28 Walnut Avenue.

The ADU is not part of the Council's review as it is subject to ministerial approval. She clarified there are 2 covered and 1 uncovered parking spaces. She described the ADR Group's review in January, February and March, public comments received in support and in opposition, and staff recommends the Town Council adopt Resolution 23-00 approving demolition, design review, and non-conformity permit for 28 Walnut Avenue.

Council Member McMillan questioned the bridge linking the ADU to the house and asked what staff's recommendation was in terms of it being open or enclosed, being there, or not being there.

Ms. Markwick said 2 ADR members were in support of it and 2 ADR members were not in support of it. It was challenging to review the project and not look at the ADU in terms of massing. She thinks the project fits into the context of the neighborhood and the mass and bulk fits in as well with the bridge.

Mayor Kuhl called on the applicant for a presentation.

Phoebe Bressack, project architect, thanked the Council Members for visiting the site in the last few days. They previously agreed to work with both adjacent neighbors for the type, height, and location of permanent privacy fencing, as well as to coordinate their new and edited landscaping with their input. They are aware of the Ivy Drive Road Association restrictions, agree that all construction activity will take place coming from Walnut Avenue and to the property, which their long driveway and lower off street parking space will accommodate, as there is no legal street parking on upper Walnut Avenue.

After the first ADR meeting in response to comments about the ADU for the second meeting, they modified the west wing roof structure to reduce the wall height closest to that property line, moved part of the building further away, as well as reduced the adjacent roof volume to demonstrate that they listened to the ADR comments, even though the ADU is no longer a subject for ADR review. When the ADU project is reviewed ministerially for its planning permit it will show their most recent change at the request of their west neighbor's, the Sole's, where they are moving the entire west wing. The closest point is 8 feet that their building wall will be to the property line.

She stated Chris and Marnie Sole have emailed Ms. Markwick to confirm they have reached this compromise. A positive benefit of this wider side yard is that now they have space beyond the 5 foot fire department restriction on planting zone to add some landscape.

Tilda Thompson and Bob Archer are their east neighbors and are in support of this project. Because they have been to 3 ADR meetings there is a great deal of information about this project in the packet, including a history of the review process to date. At the first meeting, comments were mostly about the ADR with little feedback about the rest of the project. The second ADR brought constructive criticism about the project under review for the Council tonight which, when incorporated, produced a recommendation for approval to the Council at that third meeting. They believe they have a better project now than when they started.

There was consensus for the total approval, but without consensus was the connecting bridge between the west and east wings beneath which you can access an upward path to the family outdoor entertaining space at the rear. Because of the ADU shifting away from the Sole's, that element became smaller and is now about 135 square feet.

Ross's design guidelines are to have buildings that fit in the community. Their neighborhood is the upper part of Walnut which is where the minor street relationship moderate slope map ends and their neighborhood are the 4 houses on their side of the street. The Sole's home on the west is larger than 4,000 s.f. Their project, including the ADU that they will not discuss is 3,600 square feet. The Thompson/Archer residence on the right is 2,400 s.f., and the Livermore at 24 Walnut is larger than 6,000 s.f. 28 Walnut is consistent with neighborhood style, scale, lot location, color, materials, and they believe it will be a good fit to the neighborhood and an asset to the Town.

Mayor Kuhl asked and confirmed there were no questions of Council Members.

Mayor Kuhl opened the public hearing.

Catherin Wagner, neighbor, said she lives across the street and unlike Tilda Thompson to the east and Chris and Marnie Sole to the west, she is right to the south of a huge slope. She is a tenant and not a property owner. She met with the owners and gave a list of comments related to drainage, hillside stability, and the fact the lower carport is an old carriage house that has never been used for cars before. This new use looks right into their kitchen window right across the street.

They reached out to the owners and the architect twice to meet and no emails or phone calls were returned and feel completely ignored. She voiced concerns about the structure supporting the hill, no environmental review showing stability, and are concerned this has not had property engineering or review. The rain has carved out a groove in the driveway and they want to shift it so it goes past the storm drain. Water will come down in a completely different way and she asked for more study on the project.

Tilda Thompson, neighbor next door, said she is supporting the project, has sat in on all design review meetings, and does not agree with the architects that it is massive. She thinks it has to do with the fact it is located uphill but it will basically be the same house there now with the addition of the ADU. The bridge is very interesting and creative and you can walk under it and into the backyard, which is a plus.

Regarding the issue of privacy mentioned, she thinks the plan is very extensive as far as landscaping and she is sure it will be implemented. They want as much privacy as everyone else and a lot can be done with planting. She believes the owner has reached out to all neighbors and was surprised to hear Catherin's comments. She voiced her support, thinks it is nice the building is not being demolished and it will be a nice addition to the neighborhood.

Carlos Hilton, 10 Olive or 29 Walnut, said his main concern is that the carport was never used as a garage or carport and was always a workshop. All water comes down through 2 storm drains given heavy rains, and removing the structure will change the way the water flows in. His kitchen is right below that and if the mud slide and water starts coming into his house it will be horrible. He asked that the Town Council not approve the plan the way it is proposed.

Ellis Raskin, via Zoom, said he represents Keith Lord and was owner of the property immediately across the street on Walnut. This matter came before the ADR Group 3 times and each time the design was substantively identical, except for a few minor changes. They had assumed after the March meeting that the project applicants would further revise the project, given there was not support from a majority of ADR members. There was a 2/2 split where 2 supported and 2 opposed the bridge. A third member had previously said at the February meeting, "The mass of the project is too large." "He agreed with the comments about the bridge; that it adds bulk and mass." Given there were 3 members who were not in support of the project, they were surprised to see it was moving forward tonight. Also, 3 business days after the agenda was posted they reached out the project applicant and asked for a meeting. They were denied the opportunity to have any further communications or an opportunity for compromise.

They submitted extensive letters to the Council that highlight reasons why this project is not consistent with applicable development standards. The big issue is that the City is relying on an incorrect CEQA exemption, specifically citing Subdivision E of the Class III exemption which only applies to “accessory appurtenant structures, including garages, carports, patios, swimming pools, and fences.” The ADU is being considered under a separate application so by its very terms, the CEQA exemption is inapplicable, and he asked the matter to be continued so the City can cite the correct exemption here. A Mitigated Negative Declaration is probably required here given the likelihood of substantial environmental impacts. Lastly, this project is clearly out of scale and scope with the character of the neighborhood and will create a domino effect with the rest of the Town, and he urged the Council to continue the item tonight.

Robert Archer, via Zoom, said he lives at 26 Walnut Avenue next door to the project and he supports the plan. He attended all 3 design review meetings, thinks the applicant has been responsive to the design considerations and other changes that have merit, and has responded to concerns that had merit. They met with the applicant on landscaping and agree to work together on both sides of the fence to achieve privacy. He is very confident it will work out and asked for approval.

Rebuttal - Applicant

Phoebe Bressack, architect, said she is very concerned with Catherin’s concerns about the water moving through the site. It is one of the reasons they wanted to keep the bridge open underneath so the current water path will continue in the same way. They are in no means moving any of the storm drains. It is only the west wing that was moving. At the time when this was first verbalized she spoke with Ms. Markwick who said that site engineering will be part of the building permit application and it is not appropriate for the planning application.

The Council received the letter from Mr. Raskin and her response. She does not feel they are being intractable but being asked very late in the game to talk about something there was much opportunity for which was not taken advantage of previously, and they respectfully disagree with his interpretation of the governing laws.

Mayor Kuhl then closed the public hearing.

Council Member McMillan said in looking at conditions of approval, Condition 9F does require that a drainage design plan be submitted and comply with the Town’s stormwater ordinance. While it is premature to have that now, it will be something staff reviews prior to issuing the building permit.

Mayor Pro Tem Brekhus said she is seeing the bridgeway to the ADU more and more on projects and thinks it is a nice element. She also likes the glass look because it adds beauty to a building and makes it a more functional, whole residence and development and it is more attractive. She knows the ADU is a change, was pleased to hear the applicant worked with the neighbor to accommodate the roof modification, and thinks the project overall is consistent with the Town's design standards. The applicant is below the FAR and so she thinks the scale and mass is reasonable. The drainage is addressed by the building department which is a strict requirement.

Council Member McMillan added that the front yard setback is 25 feet and house itself is 80 feet from the front property line. If the applicant had pushed the house very close to the street she could see how people would be upset about additional massing, but the applicant has done a good job of keeping the footprint of the original house and keeping the large front setback.

Council Member McMillan moved and Council Member Robbins seconded, to adopt Resolution No. Resolution No. 2300 for approval of Demolition and Design Review applications at 28 Walnut Avenue. Motion carried unanimously (5-0).

End of Public Hearings on Planning Projects – Part II.

17. No Action Items:

a. **Council correspondence** – None

b. **Future Council items** – Mayor Pro Tem Brekhus referred to the rule for a 5-minute rebuttal as well as rules for a roll call vote, and asked to consider review of Town protocols. Council Member McMillan voiced support of this.

Council Member McMillan referred to the 2 Pomeroy project and questioned why a hearing had to be held for siding and windows. Ms. Markwick said staff can bring back amendment of the demolition section of the zoning Ordinance, stating there is a way to allow staff to approve a certain percentage of demolition but because it was 100% it had to come to the Town Council. Mayor Pro Tem Brekhus voiced support to bring this back.

18. Adjournment.

Mayor Kuhl adjourned the meeting at 8:35 p.m.



Beach Kuhl, Mayor

ATTEST:



Cyndie Martel, Town Clerk