

Zara Muren said she and Dennis spoke last month because they care about the quality of their neighborhood. There was a point made that softer balls and rackets could make this sport more acceptable. This is a minor change in sound levels but it is still twice as loud as the sound of tennis at 10 decibels less. Also, many players resist using the softer equipment and the Town cannot enforce this. She does not think this could be informally resolved between neighbors because the neighbor with the court will always have the upper hand and will be at the mercy of the owners' decisions. The American Society of Acoustics summarizes it as delivering chronic, persistent, repetitive exposure to noise that can be harmful to people. If not regulated, this could lead to courts being developed in all neighborhoods, even on moderately sized lots and peaceful enjoyment and nature sounds will be lost. She therefore asked the Council and staff to maintain a place for pickleball where already established in public places, but to protect quiet residential neighborhoods.

Ken Petrilla, Ross resident, said he spoke at the last meeting and is very much in favor of pickleball. He asked to leave what is in place alone because there have been no complaints or problems. Staff could review new applications as done normally and the Council could make its decision on facts, and the Council could also make changes or adjustments as necessary.

Dan Little, Ross resident, said he is not in support of any regulation at this stage, and would prefer the Town Council focus on other things such as climate and emergency services issues, and thinks it is not a problem now. Any problems that exist can be addressed between neighbors and hopes people can continue to enjoy the sport and asked the Town to address complaints on an as-needed basis.

Mayor Kircher returned to Council deliberation.

Mayor Pro Tem McMillan said she is in full support of residents being able to use their properties as they want to unless their use adversely affects other people. She cited the General Plan's requirement for residents' peaceful enjoyment of their property, the ~~role~~ of the Town Council in maintaining the Town's character and serving as stewards of the environment. She then compared the sound from tennis versus pickleball and its ten-fold increase in loudness or 24 times louder than what a tennis ball sounds like.

According to one pickleball proponent in some of her research she conducted, he suggested pickleball courts be built at least 500 feet away from residents. The Town's ordinance is broad and has preclusion for unnecessary sounds or noises that are annoying to persons of ordinary sensitivities, which are loud or which are so harsh or so prolonged, unnatural or unusual in their intensity as to occasion discomfort to inhabitants of this town or any number thereof. There are other examples where the Town regulates behavior causing noise. Most recently, the Ross Town Council adopted an ~~O~~peration of ~~G~~enerators ~~P~~olicy to ensure generators would not exceed the Town's noise standard of 55 decibels at the property line, and she cited additional things the Town regulates such as musical instruments, amplified noise, roosters, and loud animals.

Some have said pickleball is like swimming pools or barking dogs, but swimming pools are at normal conversation levels which is around 60 decibels, and -if kids are yelling and they can be quieted down by parents. The Town has an interesting document on the Town's FAQs list on the Town's website on barking dogs which states, "Please be considerate of your neighbors. If there is a chronic problem, contact the Ross Police Department and they will attempt to resolve the situation. The Marin County Animal Control Department will be contacted and a citation may be issued should the problem remain unresolved." ~~S~~Therefore, ~~s~~he is encouraged that there is quieter pickleball equipment that is available which would reduce the sound to 60 decibels which should be encouraged. People should want to use that equipment to respect their neighbors and to keep things quiet in town. She also thinks people should only want to play during certain hours.

The Lagunitas Country Club restricts their hours from 9 a.m. to 6 p.m. to be considerate of their neighbors. She thinks the Town should explore sound barriers, but she does not think they are effective where there is a change in elevation because sound travels up. The bottom line thus far today is the Town has received no complaints about existing tennis courts being used as pickleball courts, has not received complaints about the Lagunitas Country Club, Branson School, Town courts, or private tennis courts. Instead, the Town has received ~~an~~ overwhelming support from residents to allow pickleball to remain in town on existing courts and residents have cited recreation, mental health, physical, and social benefits of this emerging, popular, and fun sport especially for aging adults.

However, the Town has received concerns about proposed pickleball courts where no tennis or sport court currently exists and sound impacts that could be intensified by steep canyon walls. So, she thinks the Lagunitas Country Club and Branson School are fine. If there is an issue, when reviewing their use permits, the Town Council can impose conditions if necessary. The Town courts that are a pilot program have been wildly successful and no complaints have been received. The Town has also not received complaints about private courts. She thinks the Town should encourage people to voluntarily use quieter equipment and be respectful when they play so that their neighbors are not bothered by this noise. If the Town receives complaints, they should revisit this issue and explore either doing use permits for pickleball courts to ensure the balance of recreation and neighbors' needs are kept fairly even. However, she does not think they need to do that now.

In terms of the proposed courts where there are no sport courts now or pickleball or tennis courts now, this is where the real issue is and where the Council's discussion needs to be focused. We They need to balance the needs and rights of the property owners with neighbor concerns. They should consider the location, grade, neighbors' concerns, and look at new courts on a case-by-case basis. The Town allows gas leaf blowers if contiguous neighbors sign off on the proposed need for a gas leaf blower. She thinks the pickleball courts in undeveloped areas should be a similar sign-off, which she would like to explore as something to include as a requirement.

She thinks the Council could automatically allow new courts that are 250 feet or more from a property line and have a sliding scale of conditions for review for a new court in terms of equipment, sound mitigation, hours of use and that neighbors would sign-off on it. She thinks it is important to preserve the environment and character of the town and she does not think they want pickleball courts all over the town and there is a need to strike a balance.

Council Member Robbins said if neighbors sign off, she asked if it would be acceptable to put a pickleball court anywhere.

Mayor Pro Tem McMillan said she would like to explore this as an option of something they could do, similar to the gas leaf blower situation.

Mayor Kircher said if this is not possible, he asked if the Council should then consider the noise generated by the court as part of the approval process.

Mayor Pro Tem McMillan said she thinks courts should be approved where neighbors sign off. If they do not, then the applicant will have a higher burden to show they will meet the 55 decibels noise standard from the General Plan.

Mayor Pro Tem McMillan compared this issue referred to hillside lots that have already been developed and believes that most had courts have already been developed, but said it is the new areas where people could wildly disrupt neighbors on steep canyons where sound travels. The Town Council could impose conditions, require a noise study, ensure the noise as measured meets the noise ordinance, and this would be a fair balance of private individual property rights of all residents with and without the courts. She then asked Ms. Feliciano and Mr. Stock if they feel they have enough guidance and feedback from the discussion to craft something that strikes that balance and then bring it back to the Council.

Council Member discussion ensued regarding the difficulty in measuring noise, complaints, neighbor sign-off, applicants going to the ADR and Council, requiring a noise study, measurement from the property line, sound traveling up through steep canyon properties, burdening applicants with the cost of noise studies, the Town not doing anything now and the chance for many applications for pickleball or sports courts, the Town's existing noise ordinance as a tool to use for noise exceedances, the measurement technique for pickleball noise, agreement that no Council Member wants to regulate existing courts, whether to include neighbor approval and ADR review, regulating starting and stopping hours of play, whether to require review ahead of time and applicants coming before the ADR so as to address noise measurement, location of court, obtaining neighbor support, and working out issues in advance, vested rights once a court is built, requiring CUPs and conditions of approval, sound barrier walls and situations where they do not work for neighbors at a higher elevation, inclusion of an appeal process, and the applicant's burden to convince neighbors that sound will not be annoying or constant.

Town Attorney Stock said he would have to research whether you can allow neighbors to have the ability to say "yes" or "no" to a use on someone else's property which he will need to explore. Based on this conversation, one other option to capture comments is to have a process for neighborhood outreach as a factor but not the sole deciding factor of whether to issue the permit similar to where variance findings are made.

Ms. Feliciano spoke to outreach and said as it stands, during the ADR process, one of the checklist items is that the applicant conduct neighborhood outreach. There is no radius, it does not specify it must be only contiguous, and they can outreach to as many neighbors as they want or as few neighbors as they want. Part of the ADR's recommendation to the Town Council takes into account the comments that they get from their neighbors which is included in the packet as to whether neighbors support or oppose the project. Part of the conditions of approval for a project is that the project must comply with all requirements, standards, and policies of the RMC, General Plan, County of Marin, State and Federal laws. The condition of approval provides the Town Council with authority to either revoke or modify any permit the Council has approved if it does not meet or comply with the General Plan policy related to noise.